ACTS
OF THE
FORTY-FIFTH
LEGISLATURE
OF
WEST VIRGINIA

REGULAR SESSION
1941
INCLUDED IN THIS VOLUME ARE ALL THE ACTS OF THE 1941 REGULAR SESSION OF THE FORTY-FIFTH LEGISLATURE, AND, ALSO, ALL CONCURRENT AND JOINT RESOLUTIONS ADOPTED, AS WELL AS ALL SENATE AND HOUSE RESOLUTIONS ADOPTED BY THE RESPECTIVE BODIES.

THERE WERE 199 SENATE BILLS AND 424 HOUSE BILLS INTRODUCED DURING THE SIXTY-DAY SESSION, WHICH CONVENED ON JANUARY 8, 1941. OF THE 623 BILLS INTRODUCED, 59 SENATE BILLS AND 99 HOUSE BILLS PASSED BOTH HOUSES. HOWEVER, ONE BILL (H. B. NO. 320) WAS VETOED BY HIS EXCELLENCY, THE GOVERNOR, WHICH LEFT A TOTAL OF 157 NEW LAWS ENACTED BY THIS SESSION OF THE LEGISLATURE.

THERE WERE 25 SENATE CONCURRENT RESOLUTIONS AND 30 SENATE RESOLUTIONS OFFERED, OF WHICH 10 SENATE CONCURRENT RESOLUTIONS AND 26 SENATE RESOLUTIONS WERE ADOPTED. EIGHT HOUSE JOINT, 33 HOUSE CONCURRENT AND 46 HOUSE RESOLUTIONS WERE OFFERED, OF WHICH 1 HOUSE JOINT, 21 HOUSE CONCURRENT AND 42 HOUSE RESOLUTIONS WERE ADOPTED.

ADVANCE COPIES OF THE ACTS OF THIS SESSION OF THE LEGISLATURE WERE DISTRIBUTED AS DIRECTED BY HOUSE CONCURRENT RESOLUTION NO. 32. NO PROVISION IS MADE FOR FREE DISTRIBUTION OF THIS VOLUME, EXCEPT THOSE FURNISHED THE MEMBERS OF THE LEGISLATURE.

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J. R. ALIFF, CLERK,
HOUSE OF DELEGATES.
## TABLE OF CONTENTS

### ACTS AND RESOLUTIONS

Regular Session, 1941

### GENERAL LAWS

#### AGRICULTURE

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>County farm bureaus; employment of county agricultural and home demonstration agents</td>
<td>1</td>
</tr>
<tr>
<td>2.</td>
<td>Extension of liens to secure agricultural loans from federal agencies</td>
<td>3</td>
</tr>
</tbody>
</table>

#### AIRPORTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.</td>
<td>Construction, operation and maintenance of airports in this state by municipalities of an adjoining state</td>
<td>4</td>
</tr>
</tbody>
</table>

#### APPROPRIATIONS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.</td>
<td>Appropriation for J. E. Murray for damages</td>
<td>5</td>
</tr>
<tr>
<td>5.</td>
<td>Appropriation for memorial to Booker T. Washington</td>
<td>6</td>
</tr>
<tr>
<td>6.</td>
<td>General appropriations (Budget Bill)</td>
<td>8</td>
</tr>
</tbody>
</table>

#### BONDS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.</td>
<td>Issuance and sale of ten million dollars of bonds for state road construction purposes</td>
<td>77</td>
</tr>
<tr>
<td>8.</td>
<td>Purposes, including colleges, and amount of indebtedness for which bonds may be issued by political subdivisions</td>
<td>84</td>
</tr>
</tbody>
</table>

#### COLLEGES

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.</td>
<td>Changing name of New River State College to that of West Virginia Institute of Technology</td>
<td>87</td>
</tr>
<tr>
<td>10.</td>
<td>Use of funds realized from sale of certain properties held for the use of West Liberty State Teachers College for capital improvements</td>
<td>88</td>
</tr>
</tbody>
</table>
# TABLE OF CONTENTS

## CONSTITUTIONAL AMENDMENT

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>11. Submitting to the voters the “Good Roads Amendment” to the Constitution, designating purposes for which state revenue derived from motor vehicles or motor fuels may be used</td>
<td>89</td>
</tr>
</tbody>
</table>

## COUNTY OFFICERS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>12. Additional bonds required of county clerks for protection of general school fund and state conservation funds</td>
<td>93</td>
</tr>
<tr>
<td>13. Compensation of assessors and deputies</td>
<td>94</td>
</tr>
<tr>
<td>14. Duties and salaries of county commissioners</td>
<td>96</td>
</tr>
<tr>
<td>15. Powers of county courts with respect to construction of waterworks, water mains, sewer lines and sewage disposal plants</td>
<td>101</td>
</tr>
<tr>
<td>16. Salaries of assistants and stenographers or clerks to prosecuting attorneys</td>
<td>102</td>
</tr>
<tr>
<td>17. Signing of orders for payment of money out of county treasury by the president and clerk of the county court, and by the sheriff by mechanical device</td>
<td>106</td>
</tr>
<tr>
<td>18. Signing of orders for payment of money out of school funds by the president and secretary of the board of education, and by the sheriff</td>
<td>107</td>
</tr>
</tbody>
</table>

## COURTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>19. Division of state into judicial circuits, and fixing time for holding regular terms of court in the eighth, tenth, eleventh and twenty-fourth circuits</td>
<td>109</td>
</tr>
<tr>
<td>20. State Court of Claims established</td>
<td>112</td>
</tr>
</tbody>
</table>

## CRIMES AND PUNISHMENT

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>21. Indeterminate sentence for felony, except for offenses committed by convicts in the penitentiary</td>
<td>124</td>
</tr>
<tr>
<td>22. Selling pool tickets and chance vouchers in pool rooms</td>
<td>126</td>
</tr>
<tr>
<td>23. Unlawful sale of used, second-hand, rebuilt, repossessed, etc., watches and clocks</td>
<td>127</td>
</tr>
</tbody>
</table>

## CRIMINAL PROCEDURE

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>24. Indictments for embezzlement, allegations and proof; description of United States currency in prosecutions for larceny</td>
<td>128</td>
</tr>
</tbody>
</table>

## DANGEROUS WEAPONS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>25. Who may carry dangerous weapons; bond required and liability thereon</td>
<td>130</td>
</tr>
</tbody>
</table>
# Table of Contents

## Declaratory Judgments

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>26. Uniform Declaratory Judgments Act</td>
<td>131</td>
</tr>
</tbody>
</table>

## Domestic Relations

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>27. Adoption of minor child or adult</td>
<td>135</td>
</tr>
<tr>
<td>28. Marriage out of state to evade law</td>
<td>140</td>
</tr>
</tbody>
</table>

## Education

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>29. Allocation of state aid to public schools</td>
<td>140</td>
</tr>
<tr>
<td>30. Boards of education authorized to employ county directors of instrumental music</td>
<td>142</td>
</tr>
<tr>
<td>31. Certification of teachers</td>
<td>142</td>
</tr>
<tr>
<td>32. Child dismissed, suspended, or expelled from school for failure to comply with lawful requirements and regulations, to be treated as unlawfully absent</td>
<td>148</td>
</tr>
<tr>
<td>33. Election, qualifications, term, traveling expense and duties of county superintendents and assistant county superintendents</td>
<td>149</td>
</tr>
<tr>
<td>34. Free textbooks for use in schools of state</td>
<td>152</td>
</tr>
<tr>
<td>35. State aid for schools—Values to apply in computing foundation program, and adjustments when average school attendance reduced by epidemics, etc.</td>
<td>157</td>
</tr>
<tr>
<td>36. Teachers’ retirement system</td>
<td>159</td>
</tr>
<tr>
<td>37. Teachers’ salaries, basic and advanced</td>
<td>173</td>
</tr>
<tr>
<td>38. Teaching of Americanism and temperance in schools of the state</td>
<td>176</td>
</tr>
</tbody>
</table>

## Elections

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>39. Announcement, certification and posting of candidacies</td>
<td>178</td>
</tr>
<tr>
<td>40. Certificate nomination of candidates</td>
<td>180</td>
</tr>
<tr>
<td>41. Corrupt and pernicious election practices</td>
<td>184</td>
</tr>
<tr>
<td>42. Non-partisan nomination and election of county school board members</td>
<td>187</td>
</tr>
<tr>
<td>43. Permanent registration of voters</td>
<td>195</td>
</tr>
<tr>
<td>44. Integrating election machinery throughout state and subdivisions with system of permanent registration</td>
<td>216</td>
</tr>
</tbody>
</table>

## Embalmers and Funeral Directors

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>45. Examination, licensing and registration of embalmers and funeral directors</td>
<td>232</td>
</tr>
</tbody>
</table>
TABLE OF CONTENTS

FACE-AMOUNT CERTIFICATES

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>46.</td>
<td>Registration and sale of face-amount certificates</td>
<td>244</td>
</tr>
</tbody>
</table>

GAME, FISH AND FORESTRY

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>47.</td>
<td>Purchase or sale of game, birds, fish or frogs</td>
<td>248</td>
</tr>
</tbody>
</table>

HOUSING AUTHORITIES

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>48.</td>
<td>Aid of housing authorities by state public bodies</td>
<td>250</td>
</tr>
<tr>
<td>49.</td>
<td>Amending housing authorities law</td>
<td>254</td>
</tr>
<tr>
<td>50.</td>
<td>Housing authorities to undertake development of projects to provide proper dwellings for persons engaged in national defense activities</td>
<td>268</td>
</tr>
</tbody>
</table>

INSURANCE

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>51.</td>
<td>Deposit of securities with the state treasurer by life insurance companies for protection of policyholders</td>
<td>274</td>
</tr>
<tr>
<td>52.</td>
<td>General powers of indemnity companies</td>
<td>275</td>
</tr>
<tr>
<td>53.</td>
<td>Life insurance contracts by minors fifteen years of age, validated</td>
<td>276</td>
</tr>
<tr>
<td>54.</td>
<td>Powers of automobile mutual insurance companies</td>
<td>277</td>
</tr>
<tr>
<td>55.</td>
<td>Standard provisions of group family expense accident and health insurance policies</td>
<td>279</td>
</tr>
<tr>
<td>56.</td>
<td>Taxable premiums, fees, dues and assessments of foreign automobile mutual insurance companies</td>
<td>282</td>
</tr>
<tr>
<td>57.</td>
<td>Valuation of life insurance policies by insurance commissioner</td>
<td>283</td>
</tr>
</tbody>
</table>

JURIES

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>58.</td>
<td>Record of allowance, and payment of compensation of jurors</td>
<td>285</td>
</tr>
</tbody>
</table>

MILITARY FORCES AND STATE DEFENSE

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>59.</td>
<td>Establishment of West Virginia State Guard</td>
<td>287</td>
</tr>
<tr>
<td>60.</td>
<td>Leave of absence for persons holding public office or position of public trust entering military service of the United States; reassumption of office or position</td>
<td>292</td>
</tr>
<tr>
<td>61.</td>
<td>State and local Councils of Defense</td>
<td>294</td>
</tr>
</tbody>
</table>

MINES AND MINING

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>62.</td>
<td>Certificates of competency and qualifications for coal miners; miners' examining boards</td>
<td>297</td>
</tr>
<tr>
<td>63.</td>
<td>Mine inspection and rescue work</td>
<td>302</td>
</tr>
</tbody>
</table>
# Table of Contents

## Money Due the State

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>64. Collection and deposit of money due the state</td>
<td>305</td>
</tr>
</tbody>
</table>

## Municipalities

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>65. General powers of municipal councils; extra-territorial operations of such powers</td>
<td>308</td>
</tr>
<tr>
<td>66. General powers of municipal councils; extra-territorial operation of such powers</td>
<td>312</td>
</tr>
<tr>
<td>67. Improvements of streets, sidewalks and alleys, and sewer construction</td>
<td>317</td>
</tr>
<tr>
<td>68. Incorporated municipalities authorized to adopt ordinances relating to repair, closing and demolition of dwellings and buildings unfit for human habitation</td>
<td>323</td>
</tr>
<tr>
<td>69. Municipal boards exercising jurisdiction over municipal sewage systems, public utilities, library and park boards</td>
<td>325</td>
</tr>
<tr>
<td>70. New method of street paving proceedings to be liberally construed and method cumulative</td>
<td>327</td>
</tr>
<tr>
<td>71. Payment of funds from liquor control commission’s receipts for state aid to municipalities</td>
<td>328</td>
</tr>
</tbody>
</table>

## Prison-Made Goods

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>72. Sale of prison-made goods on open market unlawful; exception</td>
<td>330</td>
</tr>
</tbody>
</table>

## Public Assistance and Public Welfare

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>73. Amending child welfare law</td>
<td>331</td>
</tr>
<tr>
<td>74. Amending public assistance law</td>
<td>343</td>
</tr>
<tr>
<td>75. Proceedings against a child under child welfare law not evidence against child; effect of adjudication</td>
<td>352</td>
</tr>
</tbody>
</table>

## State Boards, Commissions, Departments and Offices

### Adjutant General

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>76. Adjutant General authorized to pay Ernest Hurt for injuries received while in the West Virginia National Guard</td>
<td>353</td>
</tr>
</tbody>
</table>

### Attorney General

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>77. Number and salaries of assistants to the Attorney General</td>
<td>354</td>
</tr>
</tbody>
</table>

*Amended and reenacted by Chapter 66 of this volume.*
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>78.</td>
<td>Board of the School Fund—Investment of fund; extension for payment of principal and interest; adjustments and compromises of loans</td>
<td>355</td>
</tr>
<tr>
<td>79.</td>
<td>State Planning Board created</td>
<td>358</td>
</tr>
<tr>
<td>80.</td>
<td>Qualifications, appointment, term of office and salary of commissioner of labor</td>
<td>362</td>
</tr>
<tr>
<td>81.</td>
<td>Interstate Commission on pollution of the waters of the Potomac River Drainage Basin</td>
<td>363</td>
</tr>
<tr>
<td>82.</td>
<td>Liquor Control Commission—Use of operating and reserve fund; transfers to operating fund; investment of reserve fund</td>
<td>369</td>
</tr>
<tr>
<td>83.</td>
<td>State Road Commission authorized to make settlement with M. L. McNeely for damages</td>
<td>370</td>
</tr>
<tr>
<td>84.</td>
<td>State Road Commission authorized to make settlement with Ray Wildman, administrator of the estate of H. L. Wildman, deceased, for injuries resulting in the death of said H. L. Wildman</td>
<td>371</td>
</tr>
<tr>
<td>85.</td>
<td>State Road Commission authorized to pay claim of Harry Love for damages</td>
<td>373</td>
</tr>
<tr>
<td>86.</td>
<td>State Road Commission authorized to pay Clay County Board of Education for damages to a school bus</td>
<td>374</td>
</tr>
<tr>
<td>87.</td>
<td>State Road Commission authorized to pay Norwood Dingess for damages to a truck caused by the collapse of a highway bridge</td>
<td>374</td>
</tr>
<tr>
<td>88.</td>
<td>State Road Commission authorized to reimburse Portia Hamrick for repair of a car damaged by a state road truck</td>
<td>375</td>
</tr>
<tr>
<td>89.</td>
<td>State Road Commission authorized to settle the claim of Lee Hill, administrator of Lee Hill, Jr., for injuries resulting in the death of Lee Hill, Jr.</td>
<td>376</td>
</tr>
<tr>
<td>90.</td>
<td>State Sinking Fund Commission—Investment of sinking funds; where bonds and interest payable; substitute paying agent</td>
<td>379</td>
</tr>
<tr>
<td>91.</td>
<td>Department of Public Safety authorized to pay Trooper M. C. Yoak for loss of his furniture during a flood, while he was detailed to flood duty</td>
<td>381</td>
</tr>
</tbody>
</table>
TABLE OF CONTENTS

STATE BOARDS, COMMISSIONS, ETC. (Continued)

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>92. Department of Public Safety authorized to settle claim of Velma Jane Valentine for damages</td>
<td>382</td>
</tr>
<tr>
<td>93. Department of Public Safety—Pension fund board, and payments from pension fund</td>
<td>384</td>
</tr>
<tr>
<td>94. Department of Public Safety—Personnel, companies and platoons, appointment, qualifications, salaries and bond of members</td>
<td>387</td>
</tr>
<tr>
<td>95. Superintendent of the Department of Public Safety—Appointment, minimum age, salary and bond</td>
<td>389</td>
</tr>
</tbody>
</table>

**State Treasurer**

96. State treasurer custodian of securities, charge for exchange and substitution | 390 |

**Unemployment Compensation**

97. Amending unemployment compensation law | 392 |
98. Department of Unemployment Compensation authorized to make a refund to the Raleigh-Wyoming Mining company for overpayment of contribution | 411 |
99. Limitation on contributions for unemployment compensation when remuneration exceeds three thousand dollars | 412 |

**Workmen's Compensation**

100. Compensation commissioner authorized to reopen case of Alex Turoczy | 414 |
101. Compensation commissioner authorized to reopen case of A. F. Dean | 415 |
102. Compensation commissioner authorized to reopen case of Bennie Belle | 416 |
103. Compensation commissioner authorized to reopen case of Boyd Johnson | 418 |
104. Compensation commissioner authorized to reopen case of E. R. Robinson | 419 |
105. Compensation commissioner authorized to reopen case of F. M. Mason | 420 |
106. Compensation commissioner authorized to reopen case of G. T. Ayers | 422 |
107. Compensation commissioner authorized to reopen case of Herbert or Hobert Morris | 423 |
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>108. Compensation commissioner authorized to reopen case of Ivan Carson</td>
<td>425</td>
</tr>
<tr>
<td>109. Compensation commissioner authorized to reopen case of Leo Daciek</td>
<td>426</td>
</tr>
<tr>
<td>110. Compensation commissioner authorized to reopen case of Mose Adkins</td>
<td>427</td>
</tr>
<tr>
<td>111. Compensation commissioner authorized to reopen case of M. W. Dunning</td>
<td>428</td>
</tr>
<tr>
<td>112. Compensation commissioner authorized to reopen case of Okie E. Knight</td>
<td>429</td>
</tr>
<tr>
<td>113. Compensation commissioner authorized to reopen case of P. E. Scott</td>
<td>431</td>
</tr>
<tr>
<td>114. Compensation commissioner authorized to reopen case of Pete Cronig</td>
<td>433</td>
</tr>
<tr>
<td>115. Payment by state compensation commissioner for medical, hospital treatment, artificial limbs and other mechanical appliances; contracts by employer with hospitals, physicians, for medical, dental, hospital services, etc. to employee illegal</td>
<td>433</td>
</tr>
<tr>
<td>116. Greenbrier Valley Fair designated as “The State Fair of West Virginia”</td>
<td>435</td>
</tr>
<tr>
<td>117. Collection and enforcement of property taxes</td>
<td>436</td>
</tr>
<tr>
<td>118. Entertainments exempt from state license taxes</td>
<td>509</td>
</tr>
<tr>
<td>119. Exemption of commodities under consumers sales tax</td>
<td>510</td>
</tr>
<tr>
<td>120. Exemptions from inheritance and transfer taxes</td>
<td>512</td>
</tr>
<tr>
<td>121. Payment of personal income tax</td>
<td>513</td>
</tr>
<tr>
<td>122. Rates of tax on net incomes of residents of state</td>
<td>514</td>
</tr>
<tr>
<td>123. Refund by tax commissioner of gasoline taxes improperly paid by Osborne Brothers Mill</td>
<td>515</td>
</tr>
<tr>
<td>124. Tax on gasoline</td>
<td>516</td>
</tr>
<tr>
<td>125. Use of debt levies for current expenses</td>
<td>518</td>
</tr>
<tr>
<td>126. Repeal of act requiring trade-marks on jewelry, silverware, etc.</td>
<td>519</td>
</tr>
</tbody>
</table>
## TABLE OF CONTENTS

### VETERANS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>127. Commitment of veterans to Veterans Administration or other agency of the United States government</td>
<td>520</td>
</tr>
<tr>
<td>128. Preference rating of veterans on written examination on non-partisan merit basis</td>
<td>522</td>
</tr>
</tbody>
</table>

### LOCAL LAWS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>129. Barbour County Court authorized to reimburse J. N. Forman</td>
<td>524</td>
</tr>
<tr>
<td>130. Barbour County Court authorized to reimburse Charles Zinn, administrator of Roscoe D. Zinn</td>
<td>525</td>
</tr>
<tr>
<td>131. Berkeley County Board of Education and State Sinking Fund Commission authorized to transfer funds</td>
<td>526</td>
</tr>
<tr>
<td>132. Boone County Board of Education authorized to settle claim of James Midkiff for damages</td>
<td>527</td>
</tr>
<tr>
<td>133. Cabell County Court authorized to provide for care and maintenance of abandoned public cemeteries</td>
<td>528</td>
</tr>
<tr>
<td>134. Cabell County Court and City of Huntington empowered to acquire, operate, etc., a sewage disposal plant, airport and other public facilities</td>
<td>528</td>
</tr>
<tr>
<td>135. Clay County Court authorized to lay levy for repair of county jail, courthouse, courthouse yard, and to purchase furniture</td>
<td>531</td>
</tr>
<tr>
<td>136. Fayetteville authorized to transfer funds from municipal bond fund to its general fund</td>
<td>533</td>
</tr>
<tr>
<td>137. Fayette County Court authorized to employ a stenographer</td>
<td>534</td>
</tr>
<tr>
<td>138. Gilmer County Board of Education authorized to settle claim of Rolla Yerkey for damages</td>
<td>535</td>
</tr>
<tr>
<td>139. Greenbrier County Board of Education authorized to settle the claim of Mabel Fulwider for damages</td>
<td>535</td>
</tr>
<tr>
<td>140. Jefferson County Board of Education authorized to settle claim of Mrs. W. P. Engbrecht</td>
<td>536</td>
</tr>
<tr>
<td>141. Kanawha County Court authorized to pay Salvation Army for hospital services</td>
<td>536</td>
</tr>
<tr>
<td>142. Lewis County Court empowered to expend funds for fire-fighting apparatus and equipment</td>
<td>537</td>
</tr>
<tr>
<td>143. Logan County Court empowered to establish public parks, playgrounds, athletic fields, and recreational centers</td>
<td>538</td>
</tr>
</tbody>
</table>
# Table of Contents

## Local Laws (Continued)

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>144.</td>
<td>Marion County Court to cooperate with federal work projects administration in publication of historical works</td>
<td>545</td>
</tr>
<tr>
<td>145.</td>
<td>Mercer County Four-H Camp</td>
<td>545</td>
</tr>
<tr>
<td>146.</td>
<td>Morgantown—Certain other municipalities authorized to consolidate with</td>
<td>546</td>
</tr>
<tr>
<td>147.</td>
<td>Nicholas County Court authorized to lay a levy for construction of a county jail and an addition to the courthouse</td>
<td>555</td>
</tr>
<tr>
<td>148.</td>
<td>Ohio County Board of Commissioners authorized to reimburse the Wheeling-Ohio County Airport Association</td>
<td>556</td>
</tr>
<tr>
<td>149.</td>
<td>Peterstown authorized to convey real estate to the Monroe County Board of Education</td>
<td>557</td>
</tr>
<tr>
<td>150.</td>
<td>Pocahontas County Court authorized to acquire lands, erect and maintain a hospital as a memorial to soldiers and sailors of the World War</td>
<td>558</td>
</tr>
<tr>
<td>151.</td>
<td>Raleigh County Court empowered to establish public parks, playgrounds, athletic fields and recreational centers</td>
<td>561</td>
</tr>
<tr>
<td>152.</td>
<td>Raleigh County Criminal Court—Regular and special terms</td>
<td>568</td>
</tr>
<tr>
<td>153.</td>
<td>St. Albans authorized to compromise and settle with owners of property unpaid sewer and paving assessments</td>
<td>568</td>
</tr>
<tr>
<td>154.</td>
<td>Summers County Court authorized to construct and equip a Four-H Camp</td>
<td>569</td>
</tr>
<tr>
<td>155.</td>
<td>West Union authorized to transfer surplus from town's sinking fund account to its general fund</td>
<td>570</td>
</tr>
<tr>
<td>156.</td>
<td>Wetzel County Court authorized to pay for publication of delinquent tax lists</td>
<td>571</td>
</tr>
<tr>
<td>157.</td>
<td>Wetzel County Court authorized to expend funds for Four-H camp and recreation center</td>
<td>571</td>
</tr>
</tbody>
</table>

## Resolutions

### House Concurrent Resolutions

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Raising a joint assembly to open and publish election returns</td>
<td>573</td>
</tr>
<tr>
<td>2.</td>
<td>Providing for a joint assembly to hear the biennial message of the Governor</td>
<td>573</td>
</tr>
<tr>
<td>3.</td>
<td>Providing for a legislative recess</td>
<td>574</td>
</tr>
<tr>
<td>4.</td>
<td>Inviting Mrs. Eleanor Roosevelt to address the Legislature</td>
<td>574</td>
</tr>
</tbody>
</table>
# Table of Contents

## House Concurrent Resolutions (Continued)

<table>
<thead>
<tr>
<th>Number</th>
<th>Resolution</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Distribution of 1940 Blue Book to schools and Boys' State</td>
<td>575</td>
</tr>
<tr>
<td>6</td>
<td>Providing for a joint assembly to hear an address by the Governor</td>
<td>576</td>
</tr>
<tr>
<td>13</td>
<td>Requesting an appropriation for a memorial to Booker T. Washington</td>
<td>576</td>
</tr>
<tr>
<td>17</td>
<td>Concerning Post No. 1 of the American Legion</td>
<td>577</td>
</tr>
<tr>
<td>19</td>
<td>Concerning state park in Wood or adjoining counties</td>
<td>578</td>
</tr>
<tr>
<td>22</td>
<td>Granting permission to introduce a bill authorizing town of Peterstown to convey real estate</td>
<td>579</td>
</tr>
<tr>
<td>23</td>
<td>Granting permission to introduce bills relating to veterans of Spanish American war</td>
<td>579</td>
</tr>
<tr>
<td>24</td>
<td>Authorizing legislative study of damages caused on highways by financially irresponsible automobile owners and operators</td>
<td>580</td>
</tr>
<tr>
<td>25</td>
<td>Granting permission to introduce a bill providing for levy for improvement of Nicholas county jail and courthouse</td>
<td>581</td>
</tr>
<tr>
<td>26</td>
<td>Creating an interim legislative committee</td>
<td>581</td>
</tr>
<tr>
<td>27</td>
<td>Concerning the death of the Honorable Homer B. Woods</td>
<td>583</td>
</tr>
<tr>
<td>28</td>
<td>Granting permission to introduce bills relating to uses of operating and reserve fund of the Liquor Control Commission, and to the custody and investment of the Workmen's Compensation fund</td>
<td>584</td>
</tr>
<tr>
<td>29</td>
<td>Granting permission to introduce a bill providing for submission to voters of “Good Roads Amendment”</td>
<td>585</td>
</tr>
<tr>
<td>30</td>
<td>Granting permission to introduce a bill authorizing compensation commissioner to reopen the case of Ben Ross</td>
<td>585</td>
</tr>
<tr>
<td>31</td>
<td>Granting permission to introduce a bill relating to allocation of state aid to public schools</td>
<td>586</td>
</tr>
<tr>
<td>32</td>
<td>Authorizing printing and distribution of acts of this session of the Legislature</td>
<td>586</td>
</tr>
<tr>
<td>33</td>
<td>Raising a joint committee to notify the Governor that the Legislature was ready to adjourn sine die</td>
<td>589</td>
</tr>
</tbody>
</table>

## House Joint Resolution

6. Proposing “Good Roads Amendment” to the constitution, designating purposes for which revenue derived from motor vehicles or motor fuels may be used | 589 |
TABLE OF CONTENTS

HOUSE RESOLUTIONS

<table>
<thead>
<tr>
<th>Number</th>
<th>Resolution</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Election of Clerk, Sergeant-at-Arms and Doorkeeper</td>
<td>590</td>
</tr>
<tr>
<td>2.</td>
<td>Adopting rules for the House of Delegates</td>
<td>590</td>
</tr>
<tr>
<td>3.</td>
<td>Raising committee to notify Senate that House was organized</td>
<td>591</td>
</tr>
<tr>
<td>4.</td>
<td>Raising committee to notify the Governor that the Legislature was organized</td>
<td>591</td>
</tr>
<tr>
<td>5.</td>
<td>Authorizing publication of Legislative Manual</td>
<td>591</td>
</tr>
<tr>
<td>6.</td>
<td>Authorizing appointment of attaches</td>
<td>592</td>
</tr>
<tr>
<td>7.</td>
<td>Appointment of assistant janitors</td>
<td>595</td>
</tr>
<tr>
<td>8.</td>
<td>Extending sympathy to Delegate Waugh on death of mother</td>
<td>596</td>
</tr>
<tr>
<td>9.</td>
<td>Providing for mailing list for House Journals</td>
<td>596</td>
</tr>
<tr>
<td>10.</td>
<td>Authorizing appointment of delegates to Fifth General Assembly</td>
<td>597</td>
</tr>
<tr>
<td>12.</td>
<td>Payment of expenses of delegate to meeting of Interstate Commission on Crime</td>
<td>598</td>
</tr>
<tr>
<td>14.</td>
<td>Payment of janitor service preparatory to opening of session</td>
<td>599</td>
</tr>
<tr>
<td>15.</td>
<td>Extending condolences to Delegate Duff on death of son</td>
<td>600</td>
</tr>
<tr>
<td>16.</td>
<td>Reserving gallery for members of families and friends of Delegates</td>
<td>600</td>
</tr>
<tr>
<td>17.</td>
<td>Payment for services preliminary to opening of session</td>
<td>601</td>
</tr>
<tr>
<td>18.</td>
<td>Authorizing appointment of additional attaches</td>
<td>601</td>
</tr>
<tr>
<td>19.</td>
<td>Concerning Dr. Harriet B. Jones, a former member</td>
<td>602</td>
</tr>
<tr>
<td>20.</td>
<td>Authorizing payment of expenses of delegate to meeting of Interstate Commission on Crime</td>
<td>603</td>
</tr>
<tr>
<td>21.</td>
<td>Providing for furnishing and use of room 200-G</td>
<td>603</td>
</tr>
<tr>
<td>22.</td>
<td>Approving report of Committee on Elections and Privileges, seating Delegate Janes</td>
<td>604</td>
</tr>
<tr>
<td>23.</td>
<td>Authorizing payment of mileage of members</td>
<td>605</td>
</tr>
<tr>
<td>25.</td>
<td>Concerning death of the Honorable John W. Blizzard, a former member</td>
<td>608</td>
</tr>
<tr>
<td>26.</td>
<td>Concerning the birthday of Mrs. Walker</td>
<td>609</td>
</tr>
<tr>
<td>27.</td>
<td>Authorizing payment of expenses of Committee on Penitentiary</td>
<td>609</td>
</tr>
</tbody>
</table>
## TABLE OF CONTENTS

### HOUSE RESOLUTIONS (Continued)

<table>
<thead>
<tr>
<th>Number</th>
<th>Resolution Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>28.</td>
<td>Raising a committee to investigate Lakin State Hospital and The West Virginia Industrial School for Boys</td>
<td>610</td>
</tr>
<tr>
<td>29.</td>
<td>Congratulating Delegate Cresap on wedding anniversary</td>
<td>611</td>
</tr>
<tr>
<td>30.</td>
<td>Raising a committee to investigate the Charleston Police Department</td>
<td>612</td>
</tr>
<tr>
<td>31.</td>
<td>Relating to teaching of industrial arts</td>
<td>613</td>
</tr>
<tr>
<td>32.</td>
<td>Requesting the Budget Commission to submit an amendment and supplement to the budget bill for the Charleston Colored Children’s Shelter</td>
<td>614</td>
</tr>
<tr>
<td>33.</td>
<td>Congratulating Delegate Righter on anniversary of his birth</td>
<td>615</td>
</tr>
<tr>
<td>34.</td>
<td>Thanking Inwood Fruit Growers Club for apples</td>
<td>616</td>
</tr>
<tr>
<td>35.</td>
<td>Requesting legislative correspondents to arrange a Third House</td>
<td>617</td>
</tr>
<tr>
<td>37.</td>
<td>Authorizing the Committee on Rules to arrange a special calendar</td>
<td>618</td>
</tr>
<tr>
<td>38.</td>
<td>Memorializing the Congress to extend provisions of the Coal Stabilization Act</td>
<td>618</td>
</tr>
<tr>
<td>39.</td>
<td>Memorializing the Congress to pass act providing for federal inspection of coal mines</td>
<td>619</td>
</tr>
<tr>
<td>40.</td>
<td>Relating to loaning House furniture and equipment</td>
<td>620</td>
</tr>
<tr>
<td>41.</td>
<td>Concerning the illness of P. G. Cutlip</td>
<td>621</td>
</tr>
<tr>
<td>42.</td>
<td>Authorizing printing of Journals and Bills</td>
<td>622</td>
</tr>
<tr>
<td>43.</td>
<td>Authorizing payment of expenses of delegates to meetings of Council of State Governments</td>
<td>623</td>
</tr>
<tr>
<td>44.</td>
<td>Concerning the death of the Honorable Carney M. Layne</td>
<td>623</td>
</tr>
<tr>
<td>45.</td>
<td>Authorizing Clerk to purchase presents for members of the press and others</td>
<td>624</td>
</tr>
<tr>
<td>46.</td>
<td>Raising a committee to notify Senate that House was ready to adjourn sine die</td>
<td>625</td>
</tr>
</tbody>
</table>

### SENATE CONCURRENT RESOLUTIONS

<table>
<thead>
<tr>
<th>Number</th>
<th>Resolution Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Authorizing payment of legislative expense in advance of appropriation</td>
<td>625</td>
</tr>
<tr>
<td>2.</td>
<td>Providing for a legislative recess</td>
<td>625</td>
</tr>
<tr>
<td>Number</td>
<td>Resolution</td>
<td>Page</td>
</tr>
<tr>
<td>--------</td>
<td>-----------------------------------------------------------------------------</td>
<td>-------</td>
</tr>
<tr>
<td>6.</td>
<td>Reserving parking space on Capitol grounds for automobiles of members</td>
<td>626</td>
</tr>
<tr>
<td>9.</td>
<td>Adopting joint rules of the Senate and House of Delegates</td>
<td>626</td>
</tr>
<tr>
<td>10.</td>
<td>Concerning the death of the Honorable William M. LaFon</td>
<td>627</td>
</tr>
<tr>
<td>15.</td>
<td>Requesting the Governor to appoint a committee to study the tax system of West Virginia</td>
<td>628</td>
</tr>
<tr>
<td>18.</td>
<td>Requesting the State Board of Education to investigate methods for ascertaining aptitudes and talents of free school pupils</td>
<td>629</td>
</tr>
<tr>
<td>20.</td>
<td>Authorizing the payment of 1939 printing bills</td>
<td>630</td>
</tr>
<tr>
<td>21.</td>
<td>Requesting the State Road Commission to improve State Route No. 20</td>
<td>631</td>
</tr>
<tr>
<td>25.</td>
<td>Authorizing payment of expenses of Legislature after close of session</td>
<td>632</td>
</tr>
</tbody>
</table>

**SENATE RESOLUTIONS**

1. Authorizing appointment of committee to notify House that Senate was organized ........................................... 633
2. Raising a committee to notify the Governor that the Legislature was organized ........................................... 633
3. Adopting rules of the Senate .................................................................................................................. 634
4. Concerning the illness of Senator Jimison ................................................................................................. 634
5. Authorizing payment for janitor service preparatory to opening of session ............................................ 634
6. Concerning the illness of Senator Smith .................................................................................................... 635
7. Authorizing Clerk to mail Journals and Bills .............................................................................................. 635
8. Authorizing appointment of delegates to meeting of Council of State Governments .................................. 636
9. Authorizing the appointment of attaches .................................................................................................. 637
10. Concerning illness of Honorable Frank C. Millender .................................................................................. 639
11. Fixing per diem of assistant janitors ........................................................................................................ 639
12. Authorizing the appointment of pages ........................................................................................................ 640
13. Payment for services preliminary to opening of session ........................................................................... 640
14. Concerning the illness of Senator LaFon .................................................................................................... 642
<table>
<thead>
<tr>
<th>Number</th>
<th>Resolution</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>15.</td>
<td>Expressing sympathy to Senator Hussion on death of his brother</td>
<td>642</td>
</tr>
<tr>
<td>16.</td>
<td>Amending standing rules of the Senate</td>
<td>643</td>
</tr>
<tr>
<td>17.</td>
<td>Concerning the death of the Honorable Morris P. Shawkey</td>
<td>645</td>
</tr>
<tr>
<td>19.</td>
<td>Requesting the Budget Commission to submit an amendment and supplement to the budget bill for the Charleston Colored Children's Shelter</td>
<td>647</td>
</tr>
<tr>
<td>20.</td>
<td>Concerning the illness of Senator Martin</td>
<td>647</td>
</tr>
<tr>
<td>24.</td>
<td>Authorizing the Committee on Rules to arrange a special calendar</td>
<td>648</td>
</tr>
<tr>
<td>25.</td>
<td>Concerning the illness of Senator Bibb</td>
<td>648</td>
</tr>
<tr>
<td>26.</td>
<td>Relating to the privileges of the floor</td>
<td>649</td>
</tr>
<tr>
<td>27.</td>
<td>Providing for janitor service after adjournment of session</td>
<td>649</td>
</tr>
<tr>
<td>28.</td>
<td>Extending per diem of pages</td>
<td>650</td>
</tr>
<tr>
<td>29.</td>
<td>Extending per diems of officers and attaches to complete work of session</td>
<td>650</td>
</tr>
<tr>
<td>30.</td>
<td>Raising a committee to notify the House that the Senate was ready to adjourn sine die</td>
<td>652</td>
</tr>
</tbody>
</table>
# LEGISLATURE OF WEST VIRGINIA

MEMBERS, OFFICERS AND STANDING COMMITTEES

REGULAR SESSION, 1941

## SENATE

### OFFICERS

President—BYRON B. RANDOLPH, Clarksburg  
President Pro Tempore—JOHN H. GREENE, Williamson  
Clerk—A. HALE WATKINS, Fairmont  
Sergeant-at-Arms—CALVIN W. HALL, Hamlin  
Doorkeeper—J. T. GARRETT, Hurricane

<table>
<thead>
<tr>
<th>District</th>
<th>Members</th>
<th>Address</th>
</tr>
</thead>
</table>
| First    | James Paull (D)  
Thomas Sweeney (R) | Wellsburg  
Wheeling |
| Second   | A. Emerson Doak (R)  
D. B. Ealy (R) | Sistersville  
Moundsville |
| Third    | Dan B. Fleming (D)  
L. J. Morris (D) | St. Marys  
Grantsville |
| Fourth   | B. Cleo Casto (D)  
E. Ray Reed (R) | Kenna  
Clay |
| Fifth    | A. M. Martin (D)  
C. H. McKown (D) | Barboursville  
Wayne |
| Sixth    | John H. Greene (D)  
William Mitchell (D) | Williamson  
Welch |
| Seventh  | Luther R. Jones (D)  
John J. Pelter (D) | Madison  
Logan |
| Eighth   | Roy F. Jimison (D)  
S. H. Robertson (D) | Kayford  
Clendenin |
| Ninth    | T. E. Bibb (D)  
Ward Wylie (D) | Beckley  
Mullens |
| Tenth    | W. Broughton Johnston (D)  
H. S. Ellison (D) | Princeton  
Union |
| Eleventh | John H. Bowling (D)  
Arnold M. Vickers (D) | White Sulphur Sp'gs  
Montgomery |
| Twelfth  | Fred C. Allen (D)  
W. C. Cooper (D) | Marlinton  
Webster Springs |
| Thirteenth | George Jackson (D)  
Byron B. Randolph (D) | Jane Lew  
Clarksburg |
| Fourteenth | Harry Friedman (D)  
C. Howard Hardesty (D) | Grafton  
Fairmont |
| Fifteenth | A. L. Helmick (R)  
G. O. Young (R) | Thomas  
Buckhannon |
| Sixteenth | J. A. Proctor (D)  
George H. Williams (D) | Berkeley Springs  
Romney |

- Hold-over Senators who will serve in the 1943 Legislature.
- Appointed February 17, 1941, to fill the vacancy caused by the death of Senator William M. LaFon, on February 4, 1941.
- Appointed July 16, 1941, to fill the vacancy caused by the resignation of Senator William J. Hussion.
- Appointed June 11, 1941, to fill the vacancy caused by the death of Senator Earl H. Smith, on May 28, 1941.

(D) Democrats  
(R) Republicans  

| Total | 32 |
Standing Committees of the Senate

RULES

Messrs. Randolph (Mr. President) (Chairman ex officio), Paull, Greene, Hussien and Helmick.

PRIVILEGES AND ELECTIONS

Messrs. Jackson (Chairman), Ellison, Bowling, Cooper, Jimison, Johnston, Vickers, Reed and Helmick.

THE JUDICIARY

Messrs. Paull (Chairman), Wylie, Casto, Jimison, Johnston, McKown, Vickers, Ellison, Greene, Jackson, Williams, Cooper, Smith, Mitchell, Martin, Helmick, Ealy and Sweeney.

FINANCE

Messrs. Hussien (Chairman), Allen, Bowling, Bibb, Greene, Martin, Mitchell, Morris, McKown, Pelter, Proctor, Robertson, Smith, Jones, Fleming, Young, Doak and Reed.

EDUCATION

Messrs. Smith (Chairman), McKown, Cooper, Martin, Pelter, Robertson, Williams, Fleming, Mitchell, Jones, Wylie, Helmick, Ealy and Doak.

COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Morris (Chairman), Casto, McKown, Vickers, Allen, Fleming, Jimison, Doak and Ealy.

ROADS AND NAVIGATION

Messrs. Pelter (Chairman), Bowling, Casto, Cooper, Hussien, Jackson, Johnston, Ellison, Martin, Morris, Vickers, Fleming, Greene, Mitchell, Ealy, Young and Doak.

BANKS AND CORPORATIONS

Messrs. Allen (Chairman), Morris, Proctor, Robertson, Pelter, Wylie, Jimison, Ealy and Young.
PUBLIC BUILDINGS AND HUMANE INSTITUTIONS

Messrs. Fleming (Chairman), Hussion, Smith, Jimison, Wylie, Jones, Greene, Mitchell, Martin, Johnston, Pelter, Ealy and Young.

THE PENITENTIARY

Messrs. Jimison (Chairman), Bowling, Morris, Proctor, Wylie, McKown, Allen, Ealy and Doak.

RAILROADS

Messrs. Williams (Chairman), McKown, Pelter, Proctor, Wylie, Jones, Mitchell, Helmick and Sweeney.

MILITIA

Messrs. Mitchell (Chairman), Jones, Paull, Smith, Hussion, Robertson, Martin, Helmick and Reed.

FEDERAL RELATIONS

Messrs. Bibb (Chairman), Jackson, Vickers, Martin, McKown, Robertson, Jones, Sweeney and Reed.

INSURANCE

Messrs. Johnston (Chairman), Cooper, Martin, Vickers, Mitchell, Casto, Williams, Sweeney and Young.

AGRICULTURE

Messrs. Proctor (Chairman), Allen, Bowling, Ellison, Morris, Robertson, Williams, Young and Doak.

MINES AND MINING

Messrs. Cooper (Chairman), Mitchell, Morris, Pelter, Hussion, Smith, Vickers, Helmick and Sweeney.

MEDICINE AND SANITATION

Messrs. Wylie (Chairman), Allen, Bowling, Bibb, Cooper, Greene, Fleming, Ealy and Young.

LABOR

Messrs. Jones (Chairman), Bibb, Casto, Hussion, Williams, Wylie, Mitchell, Young and Doak.

CLAIMS AND GRIEVANCES

Messrs. Casto (Chairman), Ellison, Paull, Wylie, Jackson, Proctor, Robertson, Sweeney and Reed.
SENATE COMMITTEES

FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS
Messrs. Ellison (Chairman), Casto, Morris, Allen, Bowling, Fleming, Greene, Reed and Doak.

PUBLIC LIBRARY
Messrs. Robertson (Chairman), Bibb, Paull, Jones, Bowling, Ellison, McKown, Helmick and Ealy.

PUBLIC PRINTING
Messrs. Greene (Chairman), Cooper, Bibb, Ellison, Jimison, Johnston, Fleming, Helmick and Sweeney.

EXAMINE CLERK’S OFFICE
Messrs. Vickers (Chairman), Jackson and Doak.

TEMPERANCE
Messrs. Martin (Chairman), Casto, Pelter, Bibb, Fleming, Smith, Williams, Helmick and Sweeney.

FORESTRY AND CONSERVATION
Messrs. Bowling (Chairman), Cooper, Robertson, Allen, Morris, Williams, Proctor, Casto, Jackson, Jones, Ellison, Young and Reed.

REDISTRICTING
Messrs. Fleming (Chairman), Vickers, Jackson, Jimison, Proctor, Paull, Bibb, Ealy and Reed.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE SENATE
Messrs. McKown (Chairman), Jimison, Bibb, Johnston and Reed.

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE SENATE
Messrs. Randoph (Mr. President) (Chairman ex officio), Greene and Helmick.

INTERSTATE COOPERATION
Messrs. Johnston (Chairman), Jones, Williams, Allen and Sweeney.
## HOUSE OF DELEGATES

### OFFICERS

**Speaker**—MALCOLM R. ARNOLD, Bloomingrose  
**Clerk**—J. R. ALIFF, Fayetteville  
**Sergeant-at-Arms**—LAFAYETTE GRANER, Wheeling  
**Doorkeeper**—GROVER C. COMBS, Man

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(R) Republicans ................................................. 20
(D) Democrats .................................................. 74

Total ............................................................. 94

* Died March 4, 1941. His widow, Mrs. Winifred D. Woods, was appointed to fill the vacancy on March 10, 1941.
Standing Committees of the House of Delegates

AGRICULTURE
Messrs. Milleson (Chairman), Boggs (Vice Chairman), Alexander, Bush, Casey, Foster, Harless, Hatten, Heishman, King, Knight, Lilly, Maddy, McElwee, Meredith, Righter, Smith (of Calhoun), Hickman, Powell, Schaeffer and Staats.

ARTS, SCIENCE AND GENERAL IMPROVEMENTS
Messrs. Maddy (Chairman), King (Vice Chairman), Amos, Blankenship, Brawley, Evans, Harless, Huffman, Lilly, Marcum, Matthews, McClung (of Kanawha), Paul, Righter, Ballard (of Monroe), Ewing (Cuyler E.) and Rogers.

BANKS AND CORPORATIONS
Messrs. Matthews (Chairman), McElwee (Vice Chairman), Augustine, Bass, Boggs, Brawley, Bush, Downs, Eddy, Ewing, (James R.), McClung (of Kanawha), Paul, Perry (of Kanawha), Righter, Russek, Schupbach, Smith (of Calhoun), Taylor, Mrs. Walker, Messrs. Winters, Ewing (Cuyler E.), Hickman, Moore, Powell and Rairden.

CLAIMS AND GRIEVANCES
Messrs. Cole (Chairman), Mills (Vice Chairman), Alexander, Amos, Ewing (James R.), Gentry, Jackson, Lilly, Mace, Marcum, McClung (of Kanawha), McCoy, Neely, Paul, Ross (of Mercer), Smith (of Calhoun), Thomas, Winters, Janes, Nichols, Reed and Yoho.

COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS
Messrs. Meredith (Chairman), Hall (Vice Chairman), Bass, Cochran, Eddy, Gentry, Hansbarger, Harless, Hatten, Jones, Knight, Lilly, Mace, Neely, Righter, Simpson, Thomas, White, Ewing (Cuyler E.), Nichols, Staats and Waugh.

EDUCATION
Messrs. Perry (of Logan) (Chairman), Hopkins (Vice Chairman), Blankenship, Bush, Casto, Cochran, Hall, Harless, Hat-
ten, Jones, Maddy, McClung (of Fayette), McElwee, Schupbach, Simpson, Taylor, Mrs. Walker, Messrs. White, Winters, Ewing (Cuyler E.), Hickman, Moore, Nichols, Ross (of Upshur) and Yoho.

**ELECTIONS AND PRIVILEGES**

Messrs. Huffman (Chairman), Alexander (Vice Chairman), Alltop, Amos, Augustine, Casey, Cole, Cypers, Ewing (James R.), Foster, Hatten, Hopkins, Jones, Mace, Marcum, Russek, Shinn, Simpson, Farr, Powell, Reed and Smith (of Lewis).

**EXECUTIVE OFFICES AND LIBRARY**

Messrs. Casto (Chairman), McClung (of Kanawha) (Vice Chairman), Brawley, Cole, Cresap, Cyphers, Evans, Farley, Gill, Heishman, Kidd, McCoy, Michie, Milleson, Neely, Ewing (Cuyler E.), Farr, Hickman, Janes, Rairden and Waugh.

**FEDERAL RELATIONS**

Messrs. Hudson (Chairman), Taylor (Vice Chairman), Adams, Alexander, Amos, Blankenship, Brawley, Casto, Cochran, Duff, Gibson, Heishman, Johnston, Shinn, Farr, Gorrell and Staats.

**FORESTRY AND CONSERVATION**

Messrs. McElwee (Chairman), Mace (Vice Chairman), Alexander, Brawley, Casto, Downs, Evans, Gill, Huffman, Jackson, King, McClung (of Fayette), McCoy, Ross (of Mercer), Taylor, Winters, Janes, Reed, Ross (of Upshur), Schaeffer and Waugh.

**FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS**

Messrs. Gill (Chairman), Heishman (Vice Chairman), Alexander, Amos, Boggs, Cavender, Cresap, Duff, Eddy, Ewing (James R.), Hansbarger, Hatten, Hudson, Jackson, Johnston, Matthews, Neely, Shinn, Taylor, Thomas, Farr, Moore, Rease and Smith (of Lewis).

**GAME AND FISH**

Messrs. Jackson (Chairman), Bush (Vice Chairman), Bass, Boggs, Cresap, Gentry, Heishman, Kidd, Knight, McElwee, Milleson, Rice, Righter, Ross (of Mercer), Simpson, Smith (of Calhoun), Thomas, Ballard (of Monroe), Powell, Ross (of Upshur) and Waugh.
HUMANE INSTITUTIONS AND PUBLIC BUILDINGS

Messrs. Farley (Chairman), Michie (Vice Chairman), Casto, Cavender, Downs, Gibson, Harless, Hudson, King, Lilly, McClung (of Fayette), Meredith, Mills, Perry (of Kanawha), Rice, Righter, Russek, Reed, Ross (of Upshur), Waugh and Woods.

INSURANCE

Messrs. Bass (Chairman), Cavender (Vice Chairman), Alexander, Augustine, Ballard (of Mercer), Casto, Cyphers, Evans, Gill, Hall, Hudson, Johnston, Jones, Matthews, Michie, Gorrell, Smith (of Lewis) and Raese.

JUDICIARY

Messrs. Shinn (Chairman), Hudson (Vice Chairman), Alltop, Amos, Bass, Boggs, Casey, Casto, Duff, Eddy, Ewing (James R.), Jones, Kidd, Lilly, McCoy, Michie, Neely, Perry (of Logan), Schupbach, Smith (of Calhoun), Mrs. Walker, Messrs. Ballard (of Monroe), Janes, Moore, Powell and Woods.

LABOR

Messrs. Alltop (Chairman), Casey (Vice Chairman), Adams, Bass, Blankenship, Cavender, Cole, Cyphers, Farley, Gibson, Harless, Hudson, Johnston, Jones, Marcum, Neely, Rice, Ross (of Mercer), Schupbach, Mrs. Walker, Messrs. Janes, Raese, Smith (of Lewis) and Yoho.

MEDICINE AND SANITATION

Messrs. Evans (Chairman), Eddy (Vice Chairman), Cresap, Downs, Farley, Foster, Gentry, Gibson, Hopkins, Huffman, King, McClung (of Kanawha), Michie, Shanklin, Simpson, Smith (of Calhoun), White, Hickman, Nichols, Rogers and Staats.

MILITARY AFFAIRS

Messrs. Jones (Chairman), Brawley (Vice Chairman), Adams, Augustine, Casto, Eddy, Evans, Hatten, Knight, Meredith, Mills, Paul, Schupbach, Gorrell, Nichols, Smith (of Lewis) and Yoho.

MINES AND MINING

Mrs. Walker (Chairman), Messrs. Johnson (Vice Chairman),
Alltop, Cavender, Cyphers, Farley, Gibson, Hall, Harless, Jones, Mace, Maddy, Marcum, McClung (of Fayette), Neely, Perry (of Kanawha), Rice, Taylor, Winters, Moore, Raese, Ross (of Upshur) and Staats.

**PENITENTIARY**

Messrs. Schupbach (*Chairman*), Huffman (*Vice Chairman*), Alltop, Amos, Ballard (of Mercer), Cole, Cresap, Downs, Hudson, Kidd, McClung (of Fayette), Michie, Perry (of Logan), Russek, Shanklin, Mrs. Walker, Messrs. Gorrell, Schaeffer and Yoho.

**PRINTING AND CONTINGENT EXPENSES**

Messrs. Gentry (*Chairman*), Duff (*Vice Chairman*), Blankenship, Boggs, Cochran, Milleson, Perry (of Kanawha), Simpson, Taylor, Rairden, Schaeffer and Waugh.

**RAILROADS**

Messrs. Blankenship (*Chairman*), Milleson (*Vice Chairman*), Alexander, Casey, Cresap, Hansbarger, Harless, Hudson, Lilly, Maddy, Matthews, McClung (of Kanawha), McElwee, Paul, Ross (of Mercer), Russek, Taylor, Winters, Ballard (of Monroe), Janes, Rairden and Rogers.

**REDISTRICTING**

Messrs. Russek (*Chairman*), Lilly (*Vice Chairman*), Amos, Bush, Casey, Cochran, Duff, Hall, Hopkins, Jackson, Jones, Knight, Marcum, McClung (of Kanawha), Perry (of Logan), Ross (of Mercer), Shanklin, Rairden, Rogers and Schaeffer.

**ROADS**

Messrs. Winters (*Chairman*), McClung (of Fayette) (*Vice Chairman*), Bush, Casey, Downs, Duff, Ewing (James R.), Farley, Hansbarger, Heishman, Johnston, Mace, McCoy, Meredith, Milleson, Mills, Paul, Shanklin, Taylor, Gorrell, Nichols, Reed and Ross (of Upshur).

**RULES**

Messrs. Arnold (*Chairman*), Alltop, Ballard (of Mercer), Perry (of Logan), Shinn, Mrs. Walker, Messrs. Moore and Powell.
STATE BOUNDARIES

Messrs. Ross (of Mercer) (Chairman), Harless (Vice Chairman), Ballard (of Mercer), Bass, Boggs, Evans, Gentry, Neely, Perry (of Kanawha), Perry (of Logan), Rice, Ballard (of Monroe), Rogers and Yoho.

TAXATION AND FINANCE

Messrs. Ballard (of Mercer) (Chairman), Righter (Vice Chairman), Alltop, Boggs, Foster, Gill, Hall, Hansbarger, Jackson, Johnston, Kidd, Mace, Matthews, Mills, Russek, Schupbach, Taylor, Thomas, Winters, Ewing (Cuyler E.), Gorrell, Hickman, Rairden and Rogers.

TEMPE RANCE

Messrs. Neely (Chairman), McCoy (Vice Chairman), Adams, Alltop, Blankenship, Cole, Cyphers, Downs, Foster, Gibson, Hudson, Maddy, Meredith, Ross (of Mercer), White, Raese, Rairden, Waugh and Woods.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE HOUSE

Messrs. Rice (Chairman), Augustine, Knight, Shanklin and Woods.

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE HOUSE

Messrs. Arnold (Mr. Speaker) (Chairman ex officio), Schupbach and Powell.
AN ACT to amend and reenact section one, article eight, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter seventy-five, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, relating to the organization of county farm bureaus and the employment of county agricultural and home demonstration agents and their assistants.

[Passed March 4, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 8. County Agricultural Agents.

Section

1. County farm bureau; memorandum of agreement for county agent, home demonstration agent, or assistants; employment; salary, clerical assistance and expenses.

Be it enacted by the Legislature of West Virginia:

That section one, article eight, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter seventy-five, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:
Section 1. County Farm Bureau; Memorandum of Agreement for County Agent, Home Demonstration Agent, or Assistants; Employment; Salary, Clerical Assistance and Expenses.—Not fewer than one hundred and fifty farmers of any county may unite to form, and thereafter maintain in such county, a farm bureau. Every such farm bureau shall adopt by-laws and annually choose a board of directors for its government and control, to consist of not less than one member from each magisterial district of the county. Any farm bureau in existence when this act takes effect shall continue as such, upon complying with the provisions of this paragraph.

Such farm bureau may, on or before the first day of July of each year, file with the county court a written memorandum of understanding or agreement with the extension division of the college of agriculture, forestry, and home economics, of West Virginia university, in which the said extension division agrees to provide the salary of a county agent, assistant county agent, home demonstration agent, assistant home demonstration agent, or any of such agents and assistant agents for such county for the next succeeding fiscal year.

If such agreement is so filed, the county court of such county may, in its discretion, annually, on or before the first day of July, employ such county agent, assistant county agent, home demonstration agent, assistant home demonstration agent, or any of them, as may be nominated by the extension division and approved in writing by at least two-thirds of all the members of the board of directors of such farm bureau. The salary of such county agent, assistant county agent, home demonstration agent, assistant home demonstration agent or any of such agents and assistant agents so employed shall be paid by the extension division out of such appropriations as are made by the Legislature, in conjunction with such federal agencies as do now, or may hereafter, provide funds for such purpose. Clerical assistance and travel expenses for said agents so employed may be paid by the county court from the general county funds or by the extension division, or may be paid jointly by the county court and the extension division.
41 Offices and general office expenses for said agents so em-
42 ployed may be provided by the county court from the
43 general county funds.
44 If any part of this act is held to be unconstitutional, the
45 decision of the court shall not affect the validity of any of
46 the remaining portions of this act.
47 All acts and parts of acts inconsistent herewith are
48 hereby repealed.

CHAPTER 2
(House Bill No. 245—By Mr. Speaker, Mr. Arnold)

AN ACT to amend and reenact section eight, article ten-a,
chapter thirty-eight of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to
liens to secure loans from federal agencies.

[Passed March 7, 1941; in effect ninety days from passage. Approved by the
Governor.]

Article 10-a. Liens to Secure Loans.

Section
8. Limitations; extension of lien.

Be it enacted by the Legislature of West Virginia:

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

Section 8. Limitations; Extension of Lien.—A chattel
2 deed of trust executed under and pursuant to this article
3 shall be invalid as against creditors, subsequent purchas-
ers, mortgagees, and other lienors, and encumbrancers
4 after the expiration of a period of ten years, reckoning
5 from the time of the docketing of said chattel deed of
6 trust, unless before the expiration of such term the
7 beneficiary or someone on behalf of the beneficiary shall
8 file a statement containing the names of the parties to
9 the deed of trust, the time and place where docketed,
10 and the amount then due thereon for principal and
interest, in which case the lien of the deed of trust shall be extended for ten years from and after the date of the filing of said statement. The officer filing the statement shall enter the same in the "Federal Farm Credit Lien Book" and shall be entitled to the same fee as in the case of the docketing and entry of a chattel deed of trust under this article.

This section shall be construed to be operative retroactively as of March ninth, one thousand nine hundred thirty-five.

CHAPTER 3

(House Bill No. 368—By Mr. Speaker, Mr. Arnold, and Mr. Rogers)

AN ACT to amend article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section, designated section fourteen, for the purpose of authorizing municipal corporations, organized and existing under the laws of an adjoining state, the corporate limits thereof being not more than ten miles distant from the boundaries of this state, to establish, maintain and operate airports or landing fields exclusively for a non-profit public use, to acquire real property therefor situate within this state at a distance not greater than ten miles from the corporate limits of such municipal corporations of an adjoining state, and to define the rights and privileges of such municipal corporations with respect to such airports or landing fields and the use thereof.

[Passed March 4, 1941; in effect from passage. Approved by the Governor.]

Article 11. Airports and Avigation.

Section 14. Construction, maintenance and operation of airports by municipalities of an adjoining state; acquisition of sites therefor; rights, powers and privileges relating thereto.

Be it enacted by the Legislature of West Virginia:

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

Section 14. Construction, Maintenance and Operation of Airports by Municipalities of an Adjoining State; Acquisition of Sites Therefor; Rights, Powers and Privileges Relating Thereto.—Notwithstanding any other provision of law, a municipal corporation, organized and existing under the laws of an adjoining state, the corporate limits thereof being not more than ten miles distant from the boundaries of this state, may establish, lease, construct, equip, maintain and operate for such municipal corporation of an adjoining state an airport or landing field exclusively for a non-profit public use, and may acquire or lease for such purpose real property situate within this state at a distance not greater than ten miles from the corporate limits of such municipal corporation of an adjoining state; and such municipal corporation shall have the right to acquire real property necessary for such airport or landing field by gift or by purchase, and otherwise by condemnation, and the use of real property under the provisions hereof shall be deemed to be a public use for which private property may be taken or damaged, for just compensation. All property, real and personal, acquired, held and used in this state pursuant to the provisions of this section shall be public property and therefore exempt from taxation in the manner provided by section nine, article three, chapter eleven of this code.

CHAPTER 4

(House Bill No. 217—By Mr. Perry, of Logan, by request)

AN ACT making an appropriation out of the treasury, state fund general revenue, for the purpose of reimbursing J. E. Murray for sums of money expended by him as a result of the death of one daughter and the permanent injury
of another daughter, caused by the negligence of the state road commission.

[Passed March 6, 1941; in effect from passage. Approved by the Governor.]

Section
1. Appropriation for J. E. Murray.

WHEREAS, Due to the negligence of the state road commission, a daughter of J. E. Murray lost her life and another daughter was permanently injured; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Appropriation for J. E. Murray.—It appearing from a statement of the revenues and appropriations for the fiscal year one thousand nine hundred forty-one thousand nine hundred forty-one, 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 sum of five thousand dollars to J. E. Murray, to repay him for sums of money expended by him as a result of the death of one daughter and the permanent injury of another daughter, caused by the negligence of the state road commission.

CHAPTER 5

(Senate Bill No. 198—By Mr. Randolph, Mr. President)

AN ACT making a supplemental appropriation of public money out of the treasury in accordance with subsection c, section fifty-one, article six of the constitution, for the establishment of a monument or memorial to Booker T. Washington.

[Passed March 8, 1941; in effect from passage. Approved by the Governor.]

Section
1. Appropriation for monument or memorial to Booker T. Washington.

WHEREAS, By House Concurrent Resolution number thirteen, adopted by the Legislature February twenty-five, one thousand
nine hundred forty-one, the board of public works was re­quested to include in an amended and supplemental budget an appropriation not to exceed five thousand dollars for a suitable monument or memorial to Booker T. Washington; and

WHEREAS, The board of public works was not sufficiently ad­vised in this matter to comply readily with said request of the Legislature; and

WHEREAS, The board of public works has now investigated the substance of said request to the extent that it recommends that an appropriation be made therefor, but inasmuch as the budget bill for the biennium of July one, one thousand nine hundred forty-one, to June thirty, one thousand nine hundred forty-three, has been finally passed by this Legislature, it becomes necessary that a separate supplemental appropriation bill be passed for this purpose; therefore,

Be it enacted by the Legislature of West Virginia:

    Section 1. Appropriation for Monument or Memorial to Booker T. Washington.—It appearing from the revenue estimates made for the fiscal years one thousand nine hundred forty-one—one thousand nine hundred forty-two and one thousand nine hundred forty-two—one thousand nine hundred forty-three, and from the definitely appro­priated items contained in the budget bill for said fiscal years, passed by this Legislature, that there will be sufficient moneys in the state fund general revenue with which to meet the appropriation herein made, there is hereby appropriated from said state fund general revenue the sum of five thousand dollars, to be available for ex­penditure during either of said fiscal years, for the pur­pose of erecting and maintaining a suitable monument or memorial to Booker T. Washington, at or near Malden, West Virginia, the same to be spent by the Booker T. Washington Memorial Association, under the direction and with the approval of the board of public works.
CHAPTER 6
(Senate Bill No. 1—By Mr. Randolph, Mr. President)

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 5, 1941; in effect from passage.]

Title
2. Appropriations.
3. Administration.

Title 1. General Provisions.

Section
1. General policy.
2. Definitions.
3. Classification of appropriations.
5. Limitation on expenditures.

Be it enacted by the Legislature of West Virginia:

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 forty-two and one thousand nine hundred forty-three. To give effect to this purpose, the board of public works shall supervise the fiscal policy, control the assumption of obligations, and regulate the expenditures of the agencies of the state.

Sec. 2. Definitions.—For the purpose of this act:
2 “Board” shall mean the board of public works;
3 “Spending unit” shall mean the department, agency, or institution to which an appropriation is made;
5 The “fiscal year one thousand nine hundred forty-two” shall mean the period from July first, one thousand nine hundred forty-one, through June thirtieth, one thousand nine hundred forty-two; and the “fiscal year one thousand
nine hundred forty-three” shall mean the period from July first, one thousand nine hundred forty-two, through June thirtieth, one thousand nine hundred forty-three.

“From collections” shall mean that part 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 expended for the purpose of the spending unit as provided by chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine.

Sec. 3. Classification of Appropriations.—An appropriation for:

“Personal services” shall be expended 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;

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

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

“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;

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

Sec. 4. Method of Expenditure.—Money appropriated by this act, unless otherwise specifically directed, shall be appropriated and expended according to the provisions of article three, chapter twelve of the code of one thousand nine hundred thirty-one, or according to any law detailing a procedure specifically limiting that article.
Sec. 5. Limitations on Expenditures.—The expenditure of 2 money appropriated by this act shall be limited to the speci-3 fic amount appropriated to each item. There shall be no 4 transfer of amounts between items of the appropriation of 5 the spending unit without prior authorization by the board 6 of public works, as provided by chapter thirty-nine, acts 7 of the Legislature, regular session, one thousand nine hun-8 dred thirty-nine.

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 4 this act.

Title 2. Appropriations.

Section 1. Governmental appropriations.

<table>
<thead>
<tr>
<th>Agency</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of agriculture</td>
<td>510</td>
<td>49</td>
</tr>
<tr>
<td>Department of agriculture (soil conservation)</td>
<td>510</td>
<td>49</td>
</tr>
<tr>
<td>Fairs and association awards</td>
<td>515</td>
<td>49</td>
</tr>
</tbody>
</table>

BUSINESS AND INDUSTRIAL RELATIONS

<table>
<thead>
<tr>
<th>Agency</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Board of aeronautics</td>
<td>6086</td>
<td>47</td>
</tr>
<tr>
<td>Bureau of labor and department of weights and measures</td>
<td>450</td>
<td>43</td>
</tr>
<tr>
<td>Commission on Interstate cooperation</td>
<td>4727</td>
<td>47</td>
</tr>
<tr>
<td>Compensation commission</td>
<td>900</td>
<td>45</td>
</tr>
<tr>
<td>Compensation commission (silicosis)</td>
<td>901</td>
<td>46</td>
</tr>
<tr>
<td>Department of banking</td>
<td>480</td>
<td>45</td>
</tr>
<tr>
<td>Department of mines</td>
<td>460</td>
<td>45</td>
</tr>
<tr>
<td>Liquor control commission</td>
<td>6676</td>
<td>46</td>
</tr>
<tr>
<td>Public service commission (motor carrier division)</td>
<td>6624</td>
<td>45</td>
</tr>
<tr>
<td>Public service commission (salaries of members)</td>
<td>470</td>
<td>44</td>
</tr>
<tr>
<td>Public service commission</td>
<td>6619</td>
<td>44</td>
</tr>
<tr>
<td>Racing commission</td>
<td>6082</td>
<td>47</td>
</tr>
<tr>
<td>Unemployment compensation commission (reemployment service)</td>
<td>6412</td>
<td>43</td>
</tr>
<tr>
<td>West Virginia planning commission</td>
<td>4729</td>
<td>47</td>
</tr>
<tr>
<td>West Virginia publicity commission</td>
<td>4728</td>
<td>47</td>
</tr>
</tbody>
</table>

CHARITIES AND CORRECTION

<table>
<thead>
<tr>
<th>Agency</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Virginia children’s home</td>
<td>380</td>
<td>37</td>
</tr>
<tr>
<td>West Virginia colored children’s home</td>
<td>381</td>
<td>37, 59</td>
</tr>
<tr>
<td>West Virginia home for aged and infirm colored men and women</td>
<td>382</td>
<td>37</td>
</tr>
<tr>
<td>West Virginia industrial home for colored girls</td>
<td>373</td>
<td>36</td>
</tr>
<tr>
<td>West Virginia industrial home for girls</td>
<td>372</td>
<td>35</td>
</tr>
<tr>
<td>West Virginia industrial school for boys</td>
<td>370</td>
<td>35</td>
</tr>
<tr>
<td>West Virginia industrial school for colored boys</td>
<td>371</td>
<td>35</td>
</tr>
<tr>
<td>West Virginia penitentiary</td>
<td>375</td>
<td>36</td>
</tr>
<tr>
<td>West Virginia training school</td>
<td>383</td>
<td>38</td>
</tr>
<tr>
<td>West Virginia penitentiary (medium security prison)</td>
<td>376</td>
<td>36</td>
</tr>
</tbody>
</table>

CONSERVATION AND DEVELOPMENT

<table>
<thead>
<tr>
<th>Agency</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clarke McNary</td>
<td>522</td>
<td>51</td>
</tr>
<tr>
<td>Conservation commission (division of forestry)</td>
<td>521</td>
<td>50</td>
</tr>
</tbody>
</table>
### CONSERVATION AND DEVELOPMENT (Continued)

<table>
<thead>
<tr>
<th>Agency/Project</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conservation commission (game and fish)</td>
<td>521</td>
<td>51</td>
</tr>
<tr>
<td>Conservation commission (general administration)</td>
<td>6612</td>
<td>51</td>
</tr>
<tr>
<td>Conservation commission (state parks)</td>
<td>522</td>
<td>51</td>
</tr>
<tr>
<td>Droop Mountain battlefield monument</td>
<td>5609</td>
<td>52</td>
</tr>
<tr>
<td>Geological survey</td>
<td>520</td>
<td>52</td>
</tr>
<tr>
<td>Grafton G. A. R. post</td>
<td>5649</td>
<td>52</td>
</tr>
<tr>
<td>Morgan Morgan memorial</td>
<td>5639</td>
<td>52</td>
</tr>
<tr>
<td>Point Pleasant battle monument commission</td>
<td>5619</td>
<td>52</td>
</tr>
<tr>
<td>Rumseyan society</td>
<td>5629</td>
<td>52</td>
</tr>
</tbody>
</table>

### EDUCATIONAL

<table>
<thead>
<tr>
<th>Agency/Project</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Archives and history</td>
<td>340</td>
<td>34</td>
</tr>
<tr>
<td>Bluefield State Teachers college</td>
<td>329</td>
<td>33</td>
</tr>
<tr>
<td>Concord State Teachers college</td>
<td>325</td>
<td>32, 59</td>
</tr>
<tr>
<td>Department of education</td>
<td>703</td>
<td>24, 58</td>
</tr>
<tr>
<td>Department of education (free textbooks)</td>
<td>6405</td>
<td>26</td>
</tr>
<tr>
<td>Department of education (school fund)</td>
<td>6407</td>
<td>25, 58</td>
</tr>
<tr>
<td>Department of education (state aid to supplement the general school fund)</td>
<td>6405</td>
<td>26, 58</td>
</tr>
<tr>
<td>Fairmont State Teachers college</td>
<td>321</td>
<td>31</td>
</tr>
<tr>
<td>4-H camp for colored boys and girls</td>
<td>3289</td>
<td>33</td>
</tr>
<tr>
<td>Glenville State Teachers college</td>
<td>322</td>
<td>31</td>
</tr>
<tr>
<td>Marshall college</td>
<td>320</td>
<td>30, 59</td>
</tr>
<tr>
<td>Shepherd State Teachers college</td>
<td>324</td>
<td>32, 59</td>
</tr>
<tr>
<td>State board of education</td>
<td>700</td>
<td>24</td>
</tr>
<tr>
<td>State board of education (rehabilitation)</td>
<td>702</td>
<td>24</td>
</tr>
<tr>
<td>State board of education (vocational)</td>
<td>701</td>
<td>24</td>
</tr>
<tr>
<td>Storer college</td>
<td>330</td>
<td>33</td>
</tr>
<tr>
<td>West Virginia historical society</td>
<td>351</td>
<td>34</td>
</tr>
<tr>
<td>West Virginia Institute of Technology</td>
<td>327</td>
<td>32</td>
</tr>
<tr>
<td>West Virginia Liberty State Teachers college</td>
<td>323</td>
<td>31</td>
</tr>
<tr>
<td>West Virginia library commission</td>
<td>350</td>
<td>34</td>
</tr>
<tr>
<td>West Virginia schools for colored deaf and blind</td>
<td>334</td>
<td>34</td>
</tr>
<tr>
<td>West Virginia schools for deaf and blind</td>
<td>333</td>
<td>33</td>
</tr>
<tr>
<td>West Virginia State college</td>
<td>328</td>
<td>33</td>
</tr>
<tr>
<td>West Virginia university</td>
<td>300</td>
<td>27</td>
</tr>
<tr>
<td>West Virginia university (agricultural, etc.)</td>
<td>302</td>
<td>28</td>
</tr>
<tr>
<td>West Virginia university (agricultural experiment station)</td>
<td>310</td>
<td>28</td>
</tr>
<tr>
<td>West Virginia university (experiment farm)</td>
<td>311</td>
<td>29</td>
</tr>
<tr>
<td>West Virginia university (Inwood apple packing plant)</td>
<td>312</td>
<td>28</td>
</tr>
<tr>
<td>West Virginia university (Jackson’s Mill)</td>
<td>303</td>
<td>28</td>
</tr>
<tr>
<td>West Virginia university (mining and industrial)</td>
<td>301</td>
<td>27</td>
</tr>
<tr>
<td>West Virginia university (Oglebay Institute)</td>
<td>304</td>
<td>28</td>
</tr>
<tr>
<td>West Virginia university (Potomac State school)</td>
<td>315</td>
<td>30, 59</td>
</tr>
<tr>
<td>West Virginia university (Reynmann memorial farm)</td>
<td>312</td>
<td>29</td>
</tr>
<tr>
<td>West Virginia university (to increase agricultural program)</td>
<td>314</td>
<td>29</td>
</tr>
</tbody>
</table>

### EXECUTIVE

<table>
<thead>
<tr>
<th>Agency/Project</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governor’s office</td>
<td>120</td>
<td>18, 57</td>
</tr>
<tr>
<td>Parole and probation investigation and supervision</td>
<td>123</td>
<td>19</td>
</tr>
</tbody>
</table>

### CUSTODIAL AND SERVICE

<table>
<thead>
<tr>
<th>Agency/Project</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capitol building and grounds</td>
<td>270</td>
<td>23</td>
</tr>
<tr>
<td>Central mailing office</td>
<td>280</td>
<td>23</td>
</tr>
<tr>
<td>Purchasing department</td>
<td>290</td>
<td>23</td>
</tr>
</tbody>
</table>

### FISCAL

<table>
<thead>
<tr>
<th>Agency/Project</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auditor’s office</td>
<td>150</td>
<td>19</td>
</tr>
<tr>
<td>Auditor’s office (land department)</td>
<td>704</td>
<td>19</td>
</tr>
<tr>
<td>Board of control</td>
<td>190</td>
<td>21</td>
</tr>
<tr>
<td>Director of the budget</td>
<td>210</td>
<td>21</td>
</tr>
<tr>
<td>Sinking fund commission</td>
<td>170</td>
<td>20</td>
</tr>
<tr>
<td>Tax commissioner</td>
<td>180</td>
<td>20</td>
</tr>
<tr>
<td>Tax commissioner (gasoline department)</td>
<td>671</td>
<td>21</td>
</tr>
<tr>
<td>Treasurer’s office</td>
<td>160</td>
<td>20</td>
</tr>
</tbody>
</table>

### INCORPORATING AND RECORDING

<table>
<thead>
<tr>
<th>Agency/Project</th>
<th>Account No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent registration</td>
<td>255</td>
<td>22</td>
</tr>
<tr>
<td>Secretary of state</td>
<td>250</td>
<td>22, 57</td>
</tr>
</tbody>
</table>
### EXECUTIVE—(Continued)

### LEGAL

<table>
<thead>
<tr>
<th>Agency/Law</th>
<th>Account No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney general</td>
<td>240</td>
</tr>
<tr>
<td>Commission on uniform state laws</td>
<td>245</td>
</tr>
<tr>
<td>Court of claims</td>
<td>243</td>
</tr>
</tbody>
</table>

### HEALTH AND WELFARE

<table>
<thead>
<tr>
<th>Agency/Law</th>
<th>Account No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barbers and beauticians</td>
<td>402</td>
</tr>
<tr>
<td>Berkeley Springs sanitarium</td>
<td>436</td>
</tr>
<tr>
<td>Bureau of Negro welfare and statistics</td>
<td>403</td>
</tr>
<tr>
<td>Denmar sanitarium</td>
<td>432</td>
</tr>
<tr>
<td>Department of public assistance</td>
<td>641</td>
</tr>
<tr>
<td>Fairmont emergency hospital</td>
<td>425</td>
</tr>
<tr>
<td>Health department and public health council</td>
<td>400</td>
</tr>
<tr>
<td>Hopemont sanitarium</td>
<td>430</td>
</tr>
<tr>
<td>Huntington state hospital</td>
<td>422</td>
</tr>
<tr>
<td>Lakin state hospital</td>
<td>423</td>
</tr>
<tr>
<td>McKendree emergency hospital</td>
<td>424</td>
</tr>
<tr>
<td>Morris Memorial hospital</td>
<td>434</td>
</tr>
<tr>
<td>Pinecrest sanitarium</td>
<td>431</td>
</tr>
<tr>
<td>Spencer state hospital</td>
<td>421</td>
</tr>
<tr>
<td>Tuberculosis field clinics</td>
<td>435</td>
</tr>
<tr>
<td>Water commission</td>
<td>401</td>
</tr>
<tr>
<td>Welch emergency hospital</td>
<td>426</td>
</tr>
<tr>
<td>Weston state hospital</td>
<td>420</td>
</tr>
</tbody>
</table>

### HIGHWAYS

<table>
<thead>
<tr>
<th>Agency/Law</th>
<th>Account No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Road commission (administration and engineering)</td>
<td>670</td>
</tr>
<tr>
<td>Road commission (secondary roads)</td>
<td>6046</td>
</tr>
</tbody>
</table>

### JUDICIAL

<table>
<thead>
<tr>
<th>Agency/Law</th>
<th>Account No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Circuit courts</td>
<td>111</td>
</tr>
<tr>
<td>Compensation of special judges</td>
<td>113</td>
</tr>
<tr>
<td>Criminal charges</td>
<td>119</td>
</tr>
<tr>
<td>Judicial council</td>
<td>118</td>
</tr>
<tr>
<td>State law library</td>
<td>114</td>
</tr>
<tr>
<td>Supreme court of appeals</td>
<td>110</td>
</tr>
</tbody>
</table>

### LEGISLATIVE

<table>
<thead>
<tr>
<th>Agency/Law</th>
<th>Account No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>House of Delegates</td>
<td>102</td>
</tr>
<tr>
<td>Joint expenses</td>
<td>103</td>
</tr>
<tr>
<td>Senate</td>
<td>101</td>
</tr>
</tbody>
</table>

### MISCELLANEOUS BOARDS

<table>
<thead>
<tr>
<th>Agency/Law</th>
<th>Account No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Athletic commission</td>
<td>6017</td>
</tr>
<tr>
<td>Board of dental examiners</td>
<td>6045</td>
</tr>
<tr>
<td>Board of embalmers and funeral directors</td>
<td>6049</td>
</tr>
<tr>
<td>Board of examiners for architects</td>
<td>6069</td>
</tr>
<tr>
<td>Board of examiners for veterinarians</td>
<td>6076</td>
</tr>
<tr>
<td>Board of examiners of accountants</td>
<td>6007</td>
</tr>
<tr>
<td>Board of examiners of registered nurses</td>
<td>6044</td>
</tr>
<tr>
<td>Board of law examiners</td>
<td>6005</td>
</tr>
<tr>
<td>Board of optometry</td>
<td>6048</td>
</tr>
<tr>
<td>Board of osteopathy</td>
<td>6047</td>
</tr>
<tr>
<td>Board of pharmacy</td>
<td>6046</td>
</tr>
<tr>
<td>Board of registration for professional engineers</td>
<td>6068</td>
</tr>
</tbody>
</table>

### PROTECTION

<table>
<thead>
<tr>
<th>Agency/Law</th>
<th>Account No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adjutant general; state militia</td>
<td>580</td>
</tr>
<tr>
<td>Auditor's office—Fire Marshal</td>
<td>6005</td>
</tr>
<tr>
<td>Department of public safety</td>
<td>570</td>
</tr>
<tr>
<td>Department of public safety (radio division)</td>
<td>571</td>
</tr>
<tr>
<td>Department of public safety (traffic violations)</td>
<td>6720</td>
</tr>
<tr>
<td>Fire insurance</td>
<td>591</td>
</tr>
</tbody>
</table>

### 2. Claims against the state.

<table>
<thead>
<tr>
<th>Agency/Law</th>
<th>Account No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claims to be paid from the state road fund</td>
<td>6856</td>
</tr>
<tr>
<td>Refunding erroneous consumers sales tax payments</td>
<td>6449</td>
</tr>
<tr>
<td>Refunding erroneous gross sales tax payments</td>
<td>6449</td>
</tr>
</tbody>
</table>


3. Appropriation for bonded obligations.
4. Capital expenditures contingent upon additional revenues.
4-a. Date of expiration of unexpended balances of 1939 appropriations.
5. Special revenue appropriations.
6. Appropriations revived and extended.
7. Specific statutory appropriations.
8. Specific funds and collection accounts.
11. Sinking fund deficiencies.
12. Appropriations from forfeitures, taxes, licenses and filing fees.
12-a. Appropriations to pay premiums on bonds of county clerks.
13. Appropriations for local governments.
15. Total appropriation.

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 chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, the following amounts, as itemized, for expenditures during the fiscal years one thousand nine hundred forty-two and one thousand nine hundred forty-three:

LEGISLATIVE

1—Senate
Acct. No. 101

Fiscal Years
1941-42 1942-43

1 Salaries of members $16,000.00 $16,000.00
2 To pay A. Hale Watkins for compiling and publishing the West Virginia Blue Book under the same provisions as to distribution as were adopted in the session of 1921, including all expenses incurred in the employment of contributions, preparation of matter,
11 clerical hire, stenographic
12 services and proofreading,
13 and for shipping charges in
14 connection with the distribu-
15 tion of the Blue Book; which
16 distribution shall include
17 seventy-five copies each to
18 members of the Legislature ...
19 To pay cost of printing 1941 ed-
20 ition of Blue Book ............... 10,000.00 8,000.00
21 Fiscal Year 1940-1941
22 Salary of member ................. $ 500.00
23 Mileage of members ............... 823.80
24 Compensation and per diem of
25 officers and attaches ............. 45,000.00
26 Current expenses and contingent
27 fund ------------------------- 50,000.00
28 To pay cost of printing 1940
29 edition of Blue Book ............ 32,000.00
30 The above appropriations for the
31 fiscal year 1940-41 are to re-
32 main in full force and effect
33 until the convening of the
34 regular session of the Legis-
35 lature, 1943.
36 The Clerk of the Senate is au-
37 thorized to draw his warrants
38 upon the Auditor, payable out
39 of the contingent fund of the
40 Senate, for any bills for sup-
41 plies and services that may
42 have been incurred by the
43 Senate and not included in the
44 appropriation bill, and for bills
45 for supplies and services in-
46 curred after adjournment, the
47 requisition for same to be ac-
48 companied by bills to be filed
49 with the Auditor.
50 To aid in the discharge of his
51 legislative duties, the Clerk
may, beginning September 5, 1941, expend for stenographic services a sum not exceeding twenty-one hundred dollars per annum, payable monthly from the contingent fund of the Senate.

### 2—House of Delegates

**Acct. No. 102**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of members</td>
<td>$47,000.00</td>
</tr>
<tr>
<td></td>
<td>$47,000.00</td>
</tr>
</tbody>
</table>

_Fiscal Year 1940-1941_

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Mileage of members</td>
<td>2,781.10</td>
</tr>
<tr>
<td>3 Speaker of House of Delegates as presiding officer</td>
<td>120.00</td>
</tr>
<tr>
<td>4 Compensation of Clerk, 60 days</td>
<td>1,200.00</td>
</tr>
<tr>
<td>5 Compensation of Sergeant-at-Arms, 60 days</td>
<td>600.00</td>
</tr>
<tr>
<td>6 Compensation of Doorkeeper, 60 days</td>
<td>600.00</td>
</tr>
<tr>
<td>9 Services preliminary to opening of session</td>
<td>733.00</td>
</tr>
<tr>
<td>12 Attaches and other employees</td>
<td>86,040.00</td>
</tr>
<tr>
<td>13 Resolutions Nos. 10, 12, 20, 27</td>
<td>678.33</td>
</tr>
<tr>
<td>14 Postage</td>
<td>1,537.37</td>
</tr>
<tr>
<td>15 Contingent fund</td>
<td>65,000.00</td>
</tr>
<tr>
<td>16 Supplies</td>
<td>5,517.15</td>
</tr>
<tr>
<td>17 Georgia Kee Nash, stenographic services</td>
<td>160.00</td>
</tr>
<tr>
<td>19 John S. Hall, services</td>
<td>120.00</td>
</tr>
</tbody>
</table>
| 20 The Clerk of the House of Delegates, with the approval of the Speaker of the House, is authorized to draw his requisitions 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 March 9th, one thousand nine hundred forty-one, 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 the 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 Clerk 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

1 To pay the cost of legislative printing and stationery, the appropriation to be available
for the year ending June thirty,
on one thousand nine hundred
forty-one. If this work is not
completed prior to June thirty,
on one thousand nine hundred
forty-one, then the appropriation shall continue in full until
completed ........................................ $ 65,000.00

To pay the public printer the
balance owed on Blue Books
prior to the 1940 edition, advance copies of the 1939 Acts,
and 1939 House Journal, as
provided by Senate Concurrent Resolution No. 20, and to
be available in the Fiscal Year
ending June 30, 1941 ..................... 35,229.92

### JUDICIAL

**6—Supreme Court of Appeals**

<table>
<thead>
<tr>
<th>Acct. No. 110</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Judges</td>
<td>$ 50,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>41,930.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>10,800.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 102,730.00</td>
</tr>
</tbody>
</table>

**7—Circuit Courts**

<table>
<thead>
<tr>
<th>Acct. No. 111</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Judges of the Circuit</td>
<td></td>
</tr>
<tr>
<td>2 Courts</td>
<td>$ 171,500.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>25,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$ 196,500.00</td>
</tr>
</tbody>
</table>

**8—Compensation of Special Judges**

<table>
<thead>
<tr>
<th>Acct. No. 113</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1 To pay Salaries of Special Judges</td>
<td></td>
</tr>
<tr>
<td>2 Judges</td>
<td></td>
</tr>
<tr>
<td>3 Total</td>
<td>$ 10,500.00</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
</tr>
<tr>
<td>9</td>
<td>State Law Library</td>
</tr>
<tr>
<td></td>
<td>Personal Services, including Salaries of Librarian and Assistants</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
</tr>
<tr>
<td>10</td>
<td>Criminal Charges</td>
</tr>
<tr>
<td>11</td>
<td>The Judicial Council</td>
</tr>
<tr>
<td>12</td>
<td>Executive</td>
</tr>
<tr>
<td>120</td>
<td>Governor's Office</td>
</tr>
<tr>
<td></td>
<td>Salary of Governor</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services, including Salaries of Secretaries, Stenographers and Assistants</td>
</tr>
<tr>
<td>3</td>
<td>Civil Contingent and Current Expenses</td>
</tr>
<tr>
<td>4</td>
<td>To be expended upon the order of the Governor. One hundred dollars annual dues to the Governors' Conference shall be included in this item.</td>
</tr>
<tr>
<td>5</td>
<td>Emergency Fund</td>
</tr>
<tr>
<td>6</td>
<td>To be expended upon the order of the Governor, of which $25,000 may be expended each year for such research and</td>
</tr>
</tbody>
</table>
17 technical services as the Governor may require.
19 Any unexpended balance remaining in the Emergency Fund at the close of the fiscal year 1941-42 is hereby reappropriated for expenditure during the fiscal year 1942-43.
25 Custodial

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Fiscal Year 1942-43</th>
<th>Fiscal Year 1941-42</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>To be used for Current General Expenses including official functions, and any additional household expenses thereby incurred.</td>
<td>$158,500.00</td>
<td>$158,500.00</td>
</tr>
</tbody>
</table>

123—Parole and Probation Investigation and Supervision

<table>
<thead>
<tr>
<th>Account No.</th>
<th>Description</th>
<th>Fiscal Year 1942-43</th>
<th>Fiscal Year 1941-42</th>
</tr>
</thead>
<tbody>
<tr>
<td>123</td>
<td>Personal Services, including Salary of Director</td>
<td>$34,080.00</td>
<td>$35,280.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$21,520.00</td>
<td>$21,020.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$56,600.00</td>
<td>$57,300.00</td>
</tr>
</tbody>
</table>

FISCAL

150—Auditor’s Office

<table>
<thead>
<tr>
<th>Account No.</th>
<th>Description</th>
<th>Fiscal Year 1942-43</th>
<th>Fiscal Year 1941-42</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of State Auditor</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>$74,320.00</td>
<td>$74,320.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$14,060.00</td>
<td>$14,060.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>$5,950.00</td>
<td>$5,950.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$100,330.00</td>
<td>$100,330.00</td>
</tr>
</tbody>
</table>

151—Auditor’s Office—Land Department

<table>
<thead>
<tr>
<th>Account No.</th>
<th>Description</th>
<th>Fiscal Year 1942-43</th>
<th>Fiscal Year 1941-42</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$44,000.00</td>
<td>$44,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
</tr>
</tbody>
</table>

TO BE PAID FROM THE GENERAL SCHOOL FUND:
### General Appropriations

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Equipment</td>
<td>500.00</td>
<td>500.00</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td>$46,500.00</td>
<td>$46,500.00</td>
</tr>
</tbody>
</table>

In addition to the total appropriation for the Auditor’s Office: Land Department, there is hereby 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></th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of State Treasurer</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>30,620.00</td>
<td>30,620.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>5,238.00</td>
<td>6,314.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>3,760.00</td>
<td>5,624.00</td>
</tr>
<tr>
<td>5</td>
<td>To equip vault with additional safety deposit boxes</td>
<td>4,000.00</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Total</td>
<td>$49,618.00</td>
<td>$48,558.00</td>
</tr>
</tbody>
</table>

**17—Sinking Fund Commission**  
Acct. No. 170

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$9,432.00</td>
<td>$9,432.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>500.00</td>
<td>500.00</td>
</tr>
<tr>
<td>3</td>
<td>Total</td>
<td>$9,932.00</td>
<td>$9,932.00</td>
</tr>
</tbody>
</table>

**180—Tax Commissioner**  
Acct. No. 180

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Tax Commissioner</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>262,000.00</td>
<td>262,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>125,000.00</td>
<td>125,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>7,500.00</td>
<td>7,500.00</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td>$400,500.00</td>
<td>$400,500.00</td>
</tr>
</tbody>
</table>
### Ch. 6] GENERAL APPROPRIATIONS

**183—Tax Commissioner—Gasoline Department**  
Acct. No. 671

<table>
<thead>
<tr>
<th>Description</th>
<th>State Road Fund</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$12,120.00</td>
<td>$12,120.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$6,132.00</td>
<td>$6,132.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$20,252.00</strong></td>
<td><strong>$20,252.00</strong></td>
</tr>
</tbody>
</table>

**19—West Virginia Board of Control**  
Acct. No. 190

<table>
<thead>
<tr>
<th>Description</th>
<th>State Road Fund</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of the Three Members of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 the Board of Control</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>3 Other Personal Services</td>
<td>$23,500.00</td>
<td>$23,500.00</td>
</tr>
<tr>
<td>4 Current Expenses</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$900.00</td>
<td>$900.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$49,400.00</strong></td>
<td><strong>$49,400.00</strong></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Description</th>
<th>State Road Fund</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Director of the Budget</td>
<td>$24,000.00</td>
<td>$24,000.00</td>
</tr>
<tr>
<td>4 Current Expenses</td>
<td>$1,800.00</td>
<td>$3,500.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$26,300.00</strong></td>
<td><strong>$28,000.00</strong></td>
</tr>
</tbody>
</table>

### LEGAL

**26—Attorney General**  
Acct. No. 240

<table>
<thead>
<tr>
<th>Description</th>
<th>State Road Fund</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Attorney General</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$37,500.00</td>
<td>$37,500.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$1,250.00</td>
<td>$1,250.00</td>
</tr>
<tr>
<td>5 Contingent Fund</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>**To protect the resources or tax structure of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8 the state in controversies or legal proceedings</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
9 affecting same. To be available
10 for expenditure during either
11 fiscal year of the biennium .... 25,000.00
12 To be expended only upon the
13 approval and authorization of
14 the Governor.

15 Total .................................. $ 74,250.00 $ 49,250.00

263—State Court of Claims
Acct. No. 243

1 To pay per diem of Members and
2 other general expenses, in ac-
3 cordance with Senate Bill No.
4 190 or House Bill No. 218,
5 Total .................................. $ 25,000.00 $ 25,000.00

27—Commission on Uniform State Laws
Acct. No. 245

1 Total .................................. $ 600.00 $ 600.00

INCORPORATING AND RECORDING
29—Secretary of State
Acct. No. 250

1 Salary of Secretary of State ...... $ 6,000.00 $ 6,000.00
2 Other Personal Services .......... 16,140.00 16,140.00
3 Current Expenses .................. 2,800.00 2,800.00
4 Equipment .......................... 500.00 150.00

5 Total .................................. $ 25,440.00 $ 25,090.00

30—Permanent Registration
Acct. No. 255

1 To pay per diem of Members of
2 Advisory Board and other gen-
3 eral expenses in connection
4 with the installation of perma-
5 nent registration in the coun-
6 ties as provided by Senate Bill
7 No. 73 or House Bill No. 206
8 Total .................................. $ 200,000.00
9 The above appropriation is here-
10 by made available for expendi-
11 ture during either year of the
12 biennium.

### CUSTODIAL AND SERVICE

#### 31—Capitol Building and Grounds

<table>
<thead>
<tr>
<th>Account No.</th>
<th>Description</th>
<th>1941-42</th>
<th>1942-43</th>
</tr>
</thead>
<tbody>
<tr>
<td>270</td>
<td>Personal Services</td>
<td>$68,000</td>
<td>$68,000</td>
</tr>
<tr>
<td>270</td>
<td>Current Expenses</td>
<td>$36,000</td>
<td>$36,000</td>
</tr>
<tr>
<td>270</td>
<td>Repairs and Alterations</td>
<td>$10,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>270</td>
<td>Equipment</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>$115,000</td>
<td>$115,000</td>
</tr>
</tbody>
</table>

#### 32—Central Mailing Office

<table>
<thead>
<tr>
<th>Account No.</th>
<th>Description</th>
<th>1941-42</th>
<th>1942-43</th>
</tr>
</thead>
<tbody>
<tr>
<td>280</td>
<td>Personal Services</td>
<td>$8,740</td>
<td>$8,740</td>
</tr>
<tr>
<td>280</td>
<td>Current Expenses</td>
<td>$70,755</td>
<td>$60,755</td>
</tr>
<tr>
<td>280</td>
<td>Equipment</td>
<td>$200</td>
<td>$200</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>$79,695</td>
<td>$69,695</td>
</tr>
</tbody>
</table>

#### 33—Department of Purchases

<table>
<thead>
<tr>
<th>Account No.</th>
<th>Description</th>
<th>1941-42</th>
<th>1942-43</th>
</tr>
</thead>
<tbody>
<tr>
<td>290</td>
<td>Salary of Director of Purchases</td>
<td>$6,000</td>
<td>$6,000</td>
</tr>
<tr>
<td>290</td>
<td>Other Personal Services</td>
<td>$34,000</td>
<td>$34,000</td>
</tr>
<tr>
<td>290</td>
<td>Current Expenses</td>
<td>$6,000</td>
<td>$6,000</td>
</tr>
<tr>
<td>290</td>
<td>Equipment</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td>$47,000</td>
<td>$47,000</td>
</tr>
</tbody>
</table>

6 The revolving fund appropriated
7 by chapter seventy-six, acts of
8 the Legislature, regular ses-
9 sion, 1935, for printing, bind-
10 ing and stationery is hereby
11 reappropriated for the fiscal
12 years 1941-42 and 1942-43.
### Educational Appropriations

#### 360—State Board of Education
Acct. No. 700

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries of Members of the State</td>
<td>$4,800.00</td>
<td>$4,800.00</td>
</tr>
<tr>
<td>Board of Education</td>
<td>$7,500.00</td>
<td>$7,500.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$2,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$300.00</td>
<td>$300.00</td>
</tr>
<tr>
<td>Out-of-State Aid to Negroes</td>
<td>$10,000.00</td>
<td>$11,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$24,600.00</strong></td>
<td><strong>$27,600.00</strong></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$14,390.00</td>
<td>$15,195.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$8,380.00</td>
<td>$8,467.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$300.00</td>
<td>$300.00</td>
</tr>
<tr>
<td>Vocational Aid</td>
<td>$46,930.00</td>
<td>$56,038.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$70,000.00</strong></td>
<td><strong>$80,000.00</strong></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$8,530.00</td>
<td>$8,530.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$20,939.00</td>
<td>$20,939.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$29,469.00</strong></td>
<td><strong>$29,469.00</strong></td>
</tr>
</tbody>
</table>

#### 370—Department of Education
Acct. No. 703

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Superintendent of Free Schools</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$65,180.00</td>
<td>$65,180.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$45,041.00</td>
<td>$45,041.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$1,685.00</td>
<td>$1,595.00</td>
</tr>
<tr>
<td>Item</td>
<td>Amount</td>
<td></td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------</td>
<td></td>
</tr>
<tr>
<td>6 Salaries of County Superintendents</td>
<td>$62,400.00</td>
<td></td>
</tr>
<tr>
<td>8 Total</td>
<td>$180,306.00</td>
<td></td>
</tr>
<tr>
<td>9 Out of the above appropriation</td>
<td>$180,216.00</td>
<td></td>
</tr>
<tr>
<td>10 an amount not to exceed $10,000 each year from the personal service account and $5,000 each year from the current expense account shall be available for expenditure at the direction of the Board of School Finance in the performance of its duties as prescribed by law.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 371—Department of Education

Acct. No. 6407

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 State aid to supplement the General School Fund</td>
<td>$14,975,000.00</td>
</tr>
<tr>
<td>2 To be transferred to the General School Fund upon the requisition of the Governor.</td>
<td></td>
</tr>
</tbody>
</table>
| 3 To be distributed according to chapter forty-six, acts of the Legislature, regular session, 1939, as amended, except an amount not to exceed $25,000.00 for each year of the biennialum, which sum shall be available to the State Board of School Finance to aid counties in providing instruction for crippled children under such rules and regulations for instruction of crippled children as may be adopted by the State Board of Education as provided by section five, article two of the West Virginia
23 Code, one thousand nine hundred
24 hundred thirty-one, as amended.

371A—Department of Education
Acct. No. 6405

1 State Aid to Supplement the
2 General School Fund, Total $100,000.00 $100,000.00
3 To be transferred to the General
4 School Fund upon the requisition of the Governor, to provide an equalization fund
5 for distribution to marginal
6 counties by the State Board of
7 School Finance in addition to
8 the State Aid Allocated in accord-
9 ance with chapter forty-six, acts of the Legislature,
10 regular session, 1939, as amended: Provided, however,
11 That the State Board of School
12 Finance shall determine at the
13 time the budget is approved
14 that additional aid is needed to
15 complete a nine months' term
16 of school, or such part thereof
17 as the above appropriations
18 will permit.
19 Any balance remaining in the
20 above appropriations after the
21 allocating of aid to marginal
22 counties may be transferred,
23 at the request of the State
24 Board of School Finance, and
25 upon the order of the Board
26 of Public Works, to Acct. No.
27 6407, to be used as State Aid
28 as provided by law.

372—Department of Education
Acct. No. 6408

1 Textbooks for Schools $150,000.00 $150,000.00
2 To be distributed according to
3 chapter fifty-one, acts of the
4 Legislature, regular session,
5 1939.

373—State Board of Education—Teachers’ Retirement
   Acct. No. 6409

| 1 To pay retired teachers as pro-
2 vided by House Bill No. 272          $ 600,000.00 | $ 600,000.00 |
3 or Senate Bill No. 120               |

39—West Virginia University
   Acct. No. 300

| 1 Personal Services, including Sal-
2 ary of President                      $ 950,800.00 | $ 975,800.00 |
3 Current Expenses                      139,600.00   | 139,600.00   |
4 Repairs and Alterations               42,500.00    | 42,500.00    |
5 Equipment                             71,375.00    | 71,375.00    |
6 To equip Mineral Industries           35,000.00    |
7 Building                              |
8 To equip Health Service Build-
9 ing                                    |
10 To equip new Armory Building         14,000.00    |
11 To equip new Dormitory. To be        |
12 expended as authorized by the        |
13 Governor, upon specifications        |
14 approved by the Board of Gov-
15 ernors and the Board of Con-
16 trol                                 $ 50,000.00   |

17 Total                                $ 1,318,750.00 | $ 1,229,275.00 |
18 From Collections                     325,000.00    | 350,000.00    |

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

| 1 Personal Services                     $ 29,510.00  | $ 30,270.00  |
2 Current Expenses                        10,415.00    | 10,420.00    |
3 Repairs and Alterations                 170.00       | 170.00       |
4 Equipment                               150.00       | 150.00       |

5 Total                                   $ 40,245.90  | $ 41,010.00  |
### 391—West Virginia University—Agricultural, Horticultural and Home Economics Extension

Acct. No. 302

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$46,645.00</td>
<td>$46,645.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$5,200.00</td>
<td>$5,200.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$800.00</td>
<td>$800.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$53,145.00</td>
<td>$53,145.00</td>
</tr>
</tbody>
</table>

### 392—West Virginia University—Jackson’s Mill—4-H Camp

Acct. No. 303

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$13,278.00</td>
<td>$13,278.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$9,195.00</td>
<td>$9,195.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$4,100.00</td>
<td>$4,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$3,000.00</td>
<td>$3,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$29,573.00</td>
<td>$29,973.00</td>
</tr>
</tbody>
</table>

### 393—West Virginia University—Cooperation with Oglebay Institute

Acct. No. 304

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Total</td>
<td>$2,730.00</td>
</tr>
</tbody>
</table>

### 394—West Virginia University—Extension Division

Acct. No. 305

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 To pay salaries and traveling expenses of County Agricultural Agents, Total</td>
<td>$63,600.00</td>
<td>$63,600.00</td>
</tr>
</tbody>
</table>

### 395—West Virginia University—Agricultural Experiment Station

Acct. No. 310

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$35,310.00</td>
<td>$35,310.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$8,500.00</td>
<td>$8,500.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$1,600.00</td>
<td>$1,600.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$1,700.00</td>
<td>$1,700.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$47,110.00</td>
<td>$47,110.00</td>
</tr>
</tbody>
</table>
### Ch. 6] General Appropriations

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

- **Total** $1,500.00

#### 397—West Virginia University—Reymann Memorial Farm
Acct. No. 312

- **Total** $1,500.00

#### 398—West Virginia University—Inwood Apple Packing Plant
Acct. No. 313

- **For the maintenance and operation of Inwood Apple Packing Plant**
  - **Total** $3,900.00

#### 399—West Virginia University—To Increase Agricultural Program
Acct. No. 314

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooperative Extension Service:</td>
<td></td>
</tr>
<tr>
<td>Salaries and expenses of County Home Demonstration Agents</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$5,200.00</td>
</tr>
<tr>
<td>Salaries and expenses of County Agricultural Agents</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>College of Agriculture, Forestry and Home Economics:</td>
<td></td>
</tr>
<tr>
<td>Personal Services</td>
<td>$9,000.00</td>
</tr>
<tr>
<td>Current Expenses and Equipment</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>To pay expenses in connection with Farm and Home Week</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Building Livestock Pavilion</td>
<td>$12,500.00</td>
</tr>
<tr>
<td>Building Home Economics</td>
<td></td>
</tr>
<tr>
<td>Practice House</td>
<td>$12,500.00</td>
</tr>
<tr>
<td>Purchase of Real Estate (Andrews Farm)</td>
<td>$3,500.00</td>
</tr>
<tr>
<td>Purchase of Real Estate (Athens Building &amp; Loan)</td>
<td>$3,000.00</td>
</tr>
</tbody>
</table>
## General Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Addition to Dairy Barn</td>
<td>8,500.00</td>
</tr>
<tr>
<td>Agricultural Experiment Station:</td>
<td></td>
</tr>
<tr>
<td>Personal Services</td>
<td>7,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>5,000.00</td>
</tr>
<tr>
<td>Hardening Room for Creamery</td>
<td>700.00</td>
</tr>
<tr>
<td>Building Poultry Plant</td>
<td>15,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>5,000.00</td>
</tr>
<tr>
<td>Storage Shed</td>
<td>1,000.00</td>
</tr>
<tr>
<td>Repair and Improvements to Farm Buildings</td>
<td>500.00</td>
</tr>
<tr>
<td>Purchase of Coal (Reed Mine) under Horticultural Farm</td>
<td>900.00</td>
</tr>
<tr>
<td>Experiment Farm—Kearneysville:</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>3,000.00</td>
</tr>
<tr>
<td>Reymann Memorial Farm:</td>
<td>1,500.00</td>
</tr>
<tr>
<td>Total</td>
<td>$118,800.00</td>
</tr>
</tbody>
</table>

### Potomac State School of West Virginia University

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services, including Salary of President</td>
<td>60,599.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>11,500.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>4,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>3,000.00</td>
</tr>
<tr>
<td>Total</td>
<td>79,099.00</td>
</tr>
<tr>
<td>From Collections</td>
<td>20,000.00</td>
</tr>
</tbody>
</table>

### Marshall College

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services, including Salary of President</td>
<td>320,500.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>37,500.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>21,500.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>17,500.00</td>
</tr>
<tr>
<td>Building—Payment to Fairfield</td>
<td>5,000.00</td>
</tr>
<tr>
<td>Stadium Corporation</td>
<td>5,000.00</td>
</tr>
<tr>
<td></td>
<td>Ch. 6</td>
</tr>
<tr>
<td>---</td>
<td>-------</td>
</tr>
<tr>
<td></td>
<td>8</td>
</tr>
<tr>
<td>9</td>
<td>Total</td>
</tr>
<tr>
<td>10</td>
<td>From Collections</td>
</tr>
</tbody>
</table>

402—Fairmont State Teachers College

Acct. No. 321

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services, including Salary of President</td>
<td>$ 144,000.00</td>
<td>$ 144,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>15,000.00</td>
<td>15,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>4,000.00</td>
<td>4,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>4,000.00</td>
<td>4,000.00</td>
</tr>
<tr>
<td>5</td>
<td>To complete and equip Physical Education Building</td>
<td>40,000.00</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>To purchase mineral rights to protect buildings and campus</td>
<td>16,500.00</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Total</td>
<td>$ 223,500.00</td>
<td>$ 167,000.00</td>
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<tr>
<td>8</td>
<td>From Collections</td>
<td>45,000.00</td>
<td>45,000.00</td>
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</tbody>
</table>

403—Glenville State Teachers College

Acct. No. 322

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services, including Salary of President</td>
<td>$ 74,250.00</td>
<td>$ 75,750.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>11,250.00</td>
<td>11,250.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>4,000.00</td>
<td>4,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>4,000.00</td>
<td>4,000.00</td>
</tr>
<tr>
<td>5</td>
<td>To equip Science Building</td>
<td>20,000.00</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>$ 113,500.00</td>
<td>$ 95,000.00</td>
</tr>
<tr>
<td>7</td>
<td>From Collections</td>
<td>27,500.00</td>
<td>27,500.00</td>
</tr>
</tbody>
</table>

404—West Liberty State Teachers College

Acct. No. 323

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services, including Salary of President</td>
<td>$ 66,250.00</td>
<td>$ 66,250.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>10,000.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>2,750.00</td>
<td>2,750.00</td>
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</table>
### General Appropriations

#### 405—Shepherd State Teachers College

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of President</td>
<td>$61,500.00</td>
<td>$61,500.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$2,500.00</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$2,500.00</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>5 To equip Science Building</td>
<td>$20,000.00</td>
<td></td>
</tr>
<tr>
<td>6 Total</td>
<td>$96,500.00</td>
<td>$76,500.00</td>
</tr>
<tr>
<td>7 From Collections</td>
<td>$42,500.00</td>
<td>$42,500.00</td>
</tr>
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</table>

#### 406—Concord State Teachers College

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of President</td>
<td>$101,000.00</td>
<td>$101,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>$124,000.00</td>
<td>$124,000.00</td>
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<tr>
<td>6 From Collections</td>
<td>$42,500.00</td>
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</tbody>
</table>

#### 407—West Virginia Institute of Technology

(Formerly New River State College)

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of President</td>
<td>$104,500.00</td>
<td>$104,500.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$16,000.00</td>
<td>$16,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>5 To equip Industrial Arts Building</td>
<td>$50,000.00</td>
<td></td>
</tr>
<tr>
<td>6 Total</td>
<td>$182,500.00</td>
<td>$132,500.00</td>
</tr>
<tr>
<td>7 From Collections</td>
<td>$30,000.00</td>
<td>$30,000.00</td>
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</tbody>
</table>
### 408—West Virginia State College

#### Acct. No. 328

<table>
<thead>
<tr>
<th>Item</th>
<th>Expenses</th>
<th>|</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of President</td>
<td>$158,500.00</td>
<td>$158,500.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$42,000.00</td>
<td>$42,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$13,000.00</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>5 Extension Service</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>6 To equip Physical Education</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7 Building</td>
<td>$18,000.00</td>
<td></td>
</tr>
<tr>
<td>8 Total</td>
<td>$256,500.00</td>
<td>$238,500.00</td>
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#### From Collections

<table>
<thead>
<tr>
<th>Item</th>
<th>Expenses</th>
<th>|</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 From Collections</td>
<td>$60,000.00</td>
<td>$60,000.00</td>
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### 408A—4-H Camp for Colored Boys and Girls

#### Acct. No. 3289

<table>
<thead>
<tr>
<th>Item</th>
<th>Expenses</th>
<th>|</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 For maintenance and operation of 4-H Camp</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>2 Buildings and Equipment</td>
<td>$8,000.00</td>
<td></td>
</tr>
<tr>
<td>4 Total</td>
<td>$18,000.00</td>
<td>$10,000.00</td>
</tr>
</tbody>
</table>

### 409—Bluefield State Teachers College

#### Acct. No. 329

<table>
<thead>
<tr>
<th>Item</th>
<th>Expenses</th>
<th>|</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of Superintendent</td>
<td>$67,000.00</td>
<td>$67,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$13,000.00</td>
<td>$13,000.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>6 Total</td>
<td>$90,000.00</td>
<td>$90,000.00</td>
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</table>

#### From Collections

<table>
<thead>
<tr>
<th>Item</th>
<th>Expenses</th>
<th>|</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 From Collections</td>
<td>$16,000.00</td>
<td>$16,000.00</td>
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</table>

### 410—Storer College

#### Acct. No. 330

<table>
<thead>
<tr>
<th>Item</th>
<th>Expenses</th>
<th>|</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Total</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
</tbody>
</table>

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

#### Acct. No. 333

<table>
<thead>
<tr>
<th>Item</th>
<th>Expenses</th>
<th>|</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of Superintendent</td>
<td>$113,650.00</td>
<td>$113,650.00</td>
</tr>
<tr>
<td>Account</td>
<td>Description</td>
<td>Amount</td>
</tr>
<tr>
<td>---------</td>
<td>------------------------------------------</td>
<td>---------</td>
</tr>
<tr>
<td>34</td>
<td>Current Expenses</td>
<td>54,850.00</td>
</tr>
<tr>
<td>421</td>
<td>Repairs and Alterations</td>
<td>6,500.00</td>
</tr>
<tr>
<td>450</td>
<td>Equipment</td>
<td>5,000.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>56,850.00</td>
</tr>
</tbody>
</table>

**421—West Virginia Schools for the Colored Deaf and Blind**

Acct. No. 334

<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 Salary of Superintendent</td>
<td>$17,500.00</td>
<td>$17,500.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>11,100.00</td>
<td>11,100.00</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>3,000.00</td>
<td>3,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>1,500.00</td>
<td>1,500.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$33,100.00</td>
<td>$33,100.00</td>
</tr>
</tbody>
</table>

**44—Department of Archives and History**

Acct. No. 340

<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 Salary of State Archivist and Historian</td>
<td>$12,070.00</td>
<td>$12,370.00</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses</td>
<td>7,550.00</td>
<td>4,600.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>5,800.00</td>
<td>1,600.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>$25,420.00</td>
<td>$18,570.00</td>
</tr>
</tbody>
</table>

**45—West Virginia Library Commission**

Acct. No. 350

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>To be expended subject to the approval of the Board of Public Works, Total</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
</tbody>
</table>

**450—West Virginia Historical Society**

Acct. No. 351

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>To be expended subject to the approval of the Board of Public Works, Total</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
</tbody>
</table>
CHARITIES AND CORRECTION

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

1 Personal Services, including Salary of Superintendent $ 49,690.00 $ 49,690.00
2 Current Expenses ........................................ 46,500.00 46,500.00
3 Repairs and Alterations .................................. 5,000.00 5,000.00
4 Equipment ................................................... 5,000.00 5,000.00

6 Total ....................................................... $106,190.00 $106,190.00
7 From Collections .......................................... 22,500.00 22,500.00
8 Out of the appropriation for Personal Services, $600.00 shall be paid each year in monthly installments to each of the following persons:
9 Lelia Arnett, widow of U. G. Arnett, killed by an inmate while on duty.
10 George A. Barnard, employee, permanently disabled by an inmate while on duty.

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

1 Personal Services, including Salary of Superintendent $ 10,790.00 $ 10,790.00
2 Current Expenses ........................................ 14,000.00 14,000.00
3 Repairs and Alterations .................................. 1,500.00 1,500.00
4 Equipment ................................................... 1,000.00 1,000.00

6 Total ....................................................... $27,290.00 $27,290.00
7 From Collections .......................................... 4,800.00 4,800.00

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

1 Personal Services, including Salary of Superintendent $ 34,330.00 $ 34,330.00
2 Current Expenses ........................................ 32,670.00 32,670.00
3 Repairs and Alterations .................................. 3,500.00 3,500.00
### General Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equipment</td>
<td>3,500.00</td>
<td>3,500.00</td>
</tr>
<tr>
<td>Total</td>
<td>74,000.00</td>
<td>74,000.00</td>
</tr>
<tr>
<td>From Collections</td>
<td>13,000.00</td>
<td>13,000.00</td>
</tr>
</tbody>
</table>

#### West Virginia Industrial Home for Colored Girls

Acct. No. 373

<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>$5,450.00</td>
<td>$5,450.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$650.00</td>
<td>$650.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$750.00</td>
<td>$750.00</td>
</tr>
<tr>
<td>Total</td>
<td>$12,850.00</td>
<td>$12,850.00</td>
</tr>
<tr>
<td>From Collections</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
</tr>
</tbody>
</table>

#### West Virginia Penitentiary

Acct. No. 375

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services, including Salary of Warden</td>
<td>$153,980.00</td>
<td>$153,980.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$180,000.00</td>
<td>$180,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$11,000.00</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$16,400.00</td>
<td>$8,400.00</td>
</tr>
<tr>
<td>Building—Continuation of New Cell Block Expansion</td>
<td>$25,000.00</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>Easement and Street Assessment</td>
<td>$1,292.00</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$387,672.00</td>
<td>$378,380.00</td>
</tr>
</tbody>
</table>

Out of the appropriation for Personal Services, $600.00 shall be paid each year in monthly installments to Ray Estep, permanently injured while employed in the penitentiary coal mine.

#### West Virginia Penitentiary—Medium Security Prison

Acct. No. 376

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$35,580.00</td>
<td>$39,420.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$31,000.00</td>
<td>$38,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
</tr>
</tbody>
</table>
### 49—West Virginia Children’s Home
**Acct. No. 380**

<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>$11,140.00</td>
<td>$11,140.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$13,500.00</td>
<td>$13,500.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$1,300.00</td>
<td>$1,300.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$27,440.00</td>
<td>$27,440.00</td>
</tr>
<tr>
<td><strong>From Collections</strong></td>
<td>$4,000.00</td>
<td>$4,000.00</td>
</tr>
</tbody>
</table>

### 491—West Virginia Colored Children’s Home
**Acct. No. 381**

<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>$6,247.00</td>
<td>$6,247.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$8,000.00</td>
<td>$8,000.00</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>$1,000.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$16,247.00</td>
<td>$16,247.00</td>
</tr>
</tbody>
</table>

### 492—West Virginia Home for Aged and Infirm Colored Men and Women
**Acct. No. 382**

<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>$7,264.00</td>
<td>$7,264.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$11,500.00</td>
<td>$11,500.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$19,764.00</td>
<td>$19,764.00</td>
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<tr>
<td><strong>From Collections</strong></td>
<td>$11,500.00</td>
<td>$11,500.00</td>
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</table>
### GENERAL APPROPRIATIONS

#### 493—West Virginia Training School
**Acct. No. 383**

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services, including Salary of Superintendent</td>
<td>$15,500.00</td>
<td>$15,500.00</td>
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<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
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<tr>
<td>3</td>
<td>Repairs and Alterations</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
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<tr>
<td>4</td>
<td>Equipment</td>
<td>$1,750.00</td>
<td>$1,750.00</td>
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<tr>
<td>5</td>
<td>Total</td>
<td>$34,250.00</td>
<td>$34,250.00</td>
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<tr>
<td>6</td>
<td>From Collections</td>
<td>$3,600.00</td>
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#### HEALTH AND WELFARE

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

<table>
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<tr>
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<th>Description</th>
<th>Amount</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Commissioner</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
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<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>$155,580.00</td>
<td>$155,580.00</td>
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<td>3</td>
<td>Current Expenses</td>
<td>$40,000.00</td>
<td>$40,000.00</td>
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<td>4</td>
<td>Equipment</td>
<td>$3,420.00</td>
<td>$3,420.00</td>
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<td>5</td>
<td>Total</td>
<td>$204,000.00</td>
<td>$204,000.00</td>
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<tr>
<td>6</td>
<td>From Collections</td>
<td>$22,000.00</td>
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#### 521—State Water Commission
**Acct. No. 401**

<table>
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<tbody>
<tr>
<td>1</td>
<td>For Current Operating Expenses, Total</td>
<td>$4,000.00</td>
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#### 522—State Committee of Barbers and Beauticians
**Acct. No. 402**

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<tr>
<td>1</td>
<td>Personal Services, including Salary of Director</td>
<td>$16,700.00</td>
<td>$16,700.00</td>
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<td>2</td>
<td>Current Expenses</td>
<td>$13,340.00</td>
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<td>Total</td>
<td>$30,040.00</td>
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<td>4</td>
<td>From Collections</td>
<td>$30,040.00</td>
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#### 530—Department of Public Assistance
**Acct. No. 641**

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<tbody>
<tr>
<td>1</td>
<td>Public Assistance Grants and the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>cost of administration thereof:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Ch. 6] GENERAL APPROPRIATIONS

3 (Federal Program for Old-Age Assistance, Aid to the Blind, and Aid to Dependent Children) $4,150,000.00 $4,150,000.00
7 General Relief Grants and other provisions of the Public Welfare Law of 1936, as amended, the cost of administration thereof 3,100,000.00 2,800,000.00
12 Children of World War veterans 1,800.00 1,800.00

Total .................................. $7,251,800.00 $6,951,800.00

Out of the above appropriations, a sum not to exceed $10,000.00 may be expended each fiscal year to aid in providing hot lunches for school children.

The unexpended balance, if any remaining in the appropriation for this department as of June 30, 1941, is hereby re-appropriated for expenditure in the fiscal years 1941-42, 1942-43.

Upon request and recommendation of the State Director and State Advisory Board, the Board of Public Works may make available for expenditure any amount of this appropriation at any time during the biennium as the need may arise.

531—Bureau of Negro Welfare and Statistics
Acct. No. 403

1 Salary of Director .................. $ 3,600.00 $ 3,600.00
2 Other Personal Services ............ 3,800.00 3,800.00
3 Current Expenses .................... 1,950.00 3,400.00
4 Equipment ............................ 760.00 110.00

5 Total .................................. $10,110.00 $10,910.00
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<th>Amount</th>
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<tr>
<td>540</td>
<td>Weston State Hospital</td>
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<tr>
<td>1</td>
<td>Personal Services, including Salary of Superintendent</td>
<td>$153,060.00</td>
<td>$160,590.00</td>
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<td>Current Expenses</td>
<td>$152,500.00</td>
<td>$161,850.00</td>
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<td>3</td>
<td>Repairs and Alterations</td>
<td>$20,000.00</td>
<td>$20,000.00</td>
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<tr>
<td>4</td>
<td>Equipment</td>
<td>$15,477.00</td>
<td>$12,000.00</td>
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<tr>
<td>5</td>
<td>To Equip Psychiatric Unit</td>
<td>$68,500.00</td>
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</tr>
<tr>
<td>6</td>
<td>To Equip Fireproofed Units</td>
<td>$24,200.00</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Total</td>
<td>$433,737.00</td>
<td>$356,940.00</td>
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<tr>
<td>8</td>
<td>From Collections</td>
<td>$28,000.00</td>
<td>$30,000.00</td>
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<tr>
<td>541</td>
<td>Spencer State Hospital</td>
<td>Acct. No. 421</td>
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<tr>
<td>1</td>
<td>Personal Services, including Salary of Superintendent</td>
<td>$69,500.00</td>
<td>$69,500.00</td>
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<td>2</td>
<td>Current Expenses</td>
<td>$84,500.00</td>
<td>$84,500.00</td>
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<td>3</td>
<td>Repairs and Alterations</td>
<td>$11,000.00</td>
<td>$11,000.00</td>
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<tr>
<td>4</td>
<td>Equipment</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
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<tr>
<td>5</td>
<td>To cooperate with City of Spencer in construction of a Sewage Disposal Plant</td>
<td>$10,000.00</td>
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<td>6</td>
<td>Total</td>
<td>$180,000.00</td>
<td>$170,000.00</td>
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<td>7</td>
<td>From Collections</td>
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<td>$23,000.00</td>
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<tr>
<td>542</td>
<td>Huntington State Hospital</td>
<td>Acct. No. 422</td>
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</tr>
<tr>
<td>1</td>
<td>Personal Services, including Salary of Superintendent</td>
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<td>$70,610.00</td>
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<td>2</td>
<td>Current Expenses</td>
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<td>$95,000.00</td>
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<tr>
<td>3</td>
<td>Repairs and Alterations</td>
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<td>$8,000.00</td>
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<tr>
<td>4</td>
<td>Equipment</td>
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<tr>
<td>5</td>
<td>Total</td>
<td>$181,900.00</td>
<td>$181,900.00</td>
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<tr>
<td>6</td>
<td>From Collections</td>
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<td>$50,000.00</td>
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<tr>
<td>543</td>
<td>Lakin State Hospital</td>
<td>Acct. No. 423</td>
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</tr>
<tr>
<td>1</td>
<td>Personal Services, including Salary of Superintendent</td>
<td>$31,000.00</td>
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</table>
### General Appropriations

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Current Expenses</td>
<td>39,500.00</td>
<td>39,500.00</td>
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<tr>
<td>4 Repairs and Alterations</td>
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<td>4,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>3,000.00</td>
<td>3,000.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>77,500.00</strong></td>
<td><strong>77,500.00</strong></td>
</tr>
<tr>
<td>6 From Collections</td>
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</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary</td>
<td>19,773.00</td>
<td>19,773.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>21,660.00</td>
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<tr>
<td>4 Repairs and Alterations</td>
<td>2,000.00</td>
<td>2,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>2,000.00</td>
<td>2,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>45,433.00</strong></td>
<td><strong>45,433.00</strong></td>
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<tr>
<td>7 From Collections</td>
<td>12,000.00</td>
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</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary</td>
<td>21,000.00</td>
<td>21,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>28,000.00</td>
<td>28,000.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>3,000.00</td>
<td>3,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>3,000.00</td>
<td>3,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>55,000.00</strong></td>
<td><strong>55,000.00</strong></td>
</tr>
<tr>
<td>7 From Collection</td>
<td>20,000.00</td>
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</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary</td>
<td>27,712.00</td>
<td>27,712.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>25,000.00</td>
<td>25,000.00</td>
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<tr>
<td>4 Repairs and Alterations</td>
<td>4,000.00</td>
<td>4,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>3,000.00</td>
<td>3,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>59,712.00</strong></td>
<td><strong>59,712.00</strong></td>
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<tr>
<td>7 From Collections</td>
<td>24,000.00</td>
<td>24,000.00</td>
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### 548—Hopemont Sanitarium
Acct. No. 430

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services, including Salary of Superintendent</td>
<td>$151,582.00</td>
<td>$151,582.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$170,000.00</td>
<td>$170,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$12,000.00</td>
<td>$12,000.00</td>
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<tr>
<td>Equipment</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
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<td><strong>Total</strong></td>
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<td><strong>$343,582.00</strong></td>
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<table>
<thead>
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<tr>
<td>From Collections</td>
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### 549—Pinecrest Sanitarium
Acct. No. 431

<table>
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<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services, including Salary of Superintendent</td>
<td>$179,520.00</td>
<td>$205,200.00</td>
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<tr>
<td>Current Expenses</td>
<td>$197,000.00</td>
<td>$232,000.00</td>
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<tr>
<td>Repairs and Alterations</td>
<td>$9,000.00</td>
<td>$9,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>To equip Patients’ Unit and Doctors’ Residences</td>
<td>$66,000.00</td>
<td></td>
</tr>
<tr>
<td>To equip Kitchen, Dining Room and Auditorium</td>
<td>$27,000.00</td>
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</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$484,520.00</strong></td>
<td><strong>$452,200.00</strong></td>
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<table>
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<th>Source</th>
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<th>Amount</th>
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<tbody>
<tr>
<td>From Collections</td>
<td>$185,000.00</td>
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### 550—Denmar Sanitarium
Acct. No. 432

<table>
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<th>Amount</th>
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<tbody>
<tr>
<td>Personal Services, including Salary of Superintendent</td>
<td>$42,000.00</td>
<td>$42,000.00</td>
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<td>Current Expenses</td>
<td>$43,900.00</td>
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<td>Repairs and Alterations</td>
<td>$3,000.00</td>
<td>$3,000.00</td>
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<tr>
<td>Equipment</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$94,900.00</strong></td>
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<tr>
<td>From Collections</td>
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### 551—Tuberculosis Field Clinic
Acct. No. 435

<table>
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<td><strong>Total</strong></td>
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<td><strong>$10,000.00</strong></td>
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### 552—Morris Memorial Hospital
Acct. No. 434

<table>
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<tr>
<th>Item</th>
<th>Amount (USD)</th>
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<tbody>
<tr>
<td>1. Buildings and Equipment, Total</td>
<td>50,000.00</td>
</tr>
<tr>
<td>2. To be expended under the rules and regulations adopted by the West Virginia Board of Control.</td>
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### 553—Berkeley Springs Sanitarium
Acct. No. 436

<table>
<thead>
<tr>
<th>Item</th>
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<tbody>
<tr>
<td>1. Personal Services, including Salary of Superintendent</td>
<td>5,990.00</td>
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<td>2. Current Expenses</td>
<td>3,500.00</td>
</tr>
<tr>
<td>3. Repairs and Alterations</td>
<td>1,000.00</td>
</tr>
<tr>
<td>4. Equipment</td>
<td>500.00</td>
</tr>
<tr>
<td>5. Total</td>
<td>10,990.00</td>
</tr>
<tr>
<td>6. From Collections</td>
<td>5,000.00</td>
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### BUSINESS AND INDUSTRIAL RELATIONS

#### 57—Bureau of Labor and Department of Weights & Measures
Acct. No. 450

<table>
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<tbody>
<tr>
<td>1. Salary of Commissioner</td>
<td>5,000.00</td>
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<td>2. Other Personal Services</td>
<td>43,420.00</td>
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<td>3. Current Expenses</td>
<td>28,845.00</td>
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<tr>
<td>4. Equipment</td>
<td>1,500.00</td>
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<td>5. Total</td>
<td>78,765.00</td>
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#### 58—State Unemployment Compensation Commission—Reemployment Service
Acct. No. 6412

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#### 59—Department of Mines
Acct. No. 460

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<td>1. Salary of Chief</td>
<td>6,000.00</td>
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<td>2. Other Personal Services</td>
<td>227,700.00</td>
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<td>3. Current Expenses</td>
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<tr>
<td>4</td>
<td>Repairs and Alterations</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
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**600—Public Service Commission**  
Acct. No. 470

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<tr>
<td>1</td>
<td>Salaries of Three Members of the Public Service Commission</td>
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**601—Public Service Commission**  
Acct. No. 6617

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<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$165,000.00</td>
<td>$165,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>40,000.00</td>
<td>40,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>5,000.00</td>
<td>5,000.00</td>
</tr>
<tr>
<td>4</td>
<td><strong>Total</strong></td>
<td><strong>$210,000.00</strong></td>
<td><strong>$210,000.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund out of collections for special license fees from public service corporations, as provided by law. Out 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 Railroads and Utilities Commissioners, and for representation in matters before the Interstate Commission and other Federal Departments, at Washington, D.C. Out of the above appropriation, $1,800.00 may be expended annually to cooperate with the U.S. Geological Survey in stream flow measurement.
602—Public Service Commission—Motor Carrier Division
Acct. No. 6624

1 All special license fees or other receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over motor vehicle carriers, to be paid into the special fund designated “Public Service Commission Motor Carrier Fund”, as authorized by law, are hereby appropriated for the purpose of paying the expenses of the Commission, salaries of the commissioners and the salaries, compensation, costs and expenses of its employees in administering such law, and for the expenditures by the Public Service Commission for the administration of such regulation, as authorized and provided by law.

61—Department of Banking
Acct. No. 480

1 Salary of Commissioner $ 6,000.00 $ 6,000.00
2 Other Personal Services 21,410.00 21,530.00
3 Current Expenses 15,125.00 15,125.00
4 Equipment 1,000.00 1,000.00

5 Total $ 43,535.00 $ 43,655.00
6 From Collections 5,000.00 5,000.00

63—Workmen’s Compensation Commission
Acct. No. 900

TO BE PAID FROM THE COMPENSATION FUND:

1 Salary of Commissioner $ 6,000.00 $ 6,000.00
2 Other Personal Services 224,530.00 224,530.00
GENERAL APPROPRIATIONS

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Current Expenses</td>
<td>99,074.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>2,800.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>13,900.00</td>
</tr>
<tr>
<td>6 Total</td>
<td>$346,304.00</td>
</tr>
</tbody>
</table>

There is hereby authorized to be paid out of the appropriation for Current Expenses the amount necessary for the premiums on 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:

1 To administer the Workmen’s Compensation Silicosis Fund
2 as provided in chapter seventy-nine, acts of the Legislature, regular session, 1935, and
3 to pay premiums on bond given by the State Treasurer
4 as custodian of the fund.
5 Total ........................................ $15,000.00 $15,000.00

64—West Virginia Liquor Control Commission

Acct. No. 6676

1 Salaries of Three Members of the Commission ........................................ $18,000.00 $18,000.00
2 Other Personal Services ......................................................... 250,000.00 250,000.00
3 Current Expenses .......................................................................... 35,000.00 35,000.00
4 Total ........................................................................ $303,000.00 $303,000.00

The total amount of this appropriation shall be paid from the Special Revenue Fund out of liquor revenues.

The above appropriation does
not include the salaries of
store personnel, store operating expenses or equipment,
purchase of liquor, or equipment for administration offices. 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 of liquor and transportation thereof, and purchase of administration equipment.

650—Racing Commission
Acct. No. 6082

1 To pay per diem of Members and
2 other general expenses.
3 Total ........................................ $ 18,500.00 $ 18,500.00
4 From Collections ........................ 18,500.00 18,500.00

651—Commission on Interstate Cooperation
Acct. No. 4727

1 Total ........................................ $ 3,500.00 $ 3,500.00

652—Board of Aeronautics
Acct. No. 6086

1 Total ........................................ $ 20,000.00 $ 20,000.00

653—West Virginia Publicity Commission
Acct. No. 4728

1 Total ........................................ $ 37,500.00 $ 37,500.00

654—West Virginia Planning Commission
Acct. No. 4729

1 To be expended in accordance
2 with Senate Bill No. 152, or
3 House Bill No. 355, Total ........ $ 5,000.00 $ 5,000.00
### HIGHWAYS

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

Acct. No. 670

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Commissioner</td>
<td>$ 6,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$ 444,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$ 55,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$ 30,000.00</td>
</tr>
<tr>
<td>5 Materials and Supplies</td>
<td>$ 130,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$ 665,000.00</strong></td>
</tr>
</tbody>
</table>

In addition to the foregoing appropriations and any other appropriations or claims, as authorized by this act to be paid from the 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 roads, in accordance with the provisions of article three, chapter seventeen of the code of West Virginia, 1931, as amended.

### 672—State Road Commission

Acct. No. 6406

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 To supplement the State Road</td>
<td></td>
</tr>
<tr>
<td>2 Fund for maintenance, construction and reconstruction of</td>
<td></td>
</tr>
<tr>
<td>3 secondary roads, including cooperation with the Works</td>
<td></td>
</tr>
<tr>
<td>4 Projects Administration or other substitute agency; to be</td>
<td></td>
</tr>
</tbody>
</table>
transferred to the Road Fund
upon the requisition of the
Governor.

8 transferred to the Road Fund
9 upon the requisition of the
10 Governor.
11 Total $2,000,000.00 $2,000,000.00

**AGRICULTURE**

70—Department of Agriculture
Acct. No. 510

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Commissioner</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$95,728.00</td>
<td>$95,728.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$62,700.00</td>
<td>$62,700.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$5,500.00</td>
<td>$5,500.00</td>
</tr>
<tr>
<td>For the eradication and prevention of livestock diseases, to be expended in cooperation with the Federal Government</td>
<td>$69,800.00</td>
<td>$69,800.00</td>
</tr>
<tr>
<td>Total</td>
<td>$239,728.00</td>
<td>$239,728.00</td>
</tr>
</tbody>
</table>

10 From Collections $40,000.00 $40,000.00

70A—Department of Agriculture: Soil Conservation
Acct. No. 510

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>

71—Agricultural Fairs and Association Awards
Acct. No. 515

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incorporated County and District Fairs</td>
<td>$7,500.00</td>
<td>$7,500.00</td>
</tr>
<tr>
<td>Regional 4-H Fairs</td>
<td>$1,800.00</td>
<td>$1,800.00</td>
</tr>
<tr>
<td>State Agricultural Fairs</td>
<td>$7,500.00</td>
<td>$7,500.00</td>
</tr>
<tr>
<td>Agricultural and Industrial Exhibits</td>
<td>$6,000.00</td>
<td>$7,500.00</td>
</tr>
<tr>
<td>Total</td>
<td>$22,800.00</td>
<td>$24,300.00</td>
</tr>
</tbody>
</table>

**CONSERVATION AND DEVELOPMENT**

730—West Virginia Geological Survey
Acct. No. 520

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services, including Salary of State Geologist</td>
<td>$41,000.00</td>
<td>$45,000.00</td>
</tr>
</tbody>
</table>
### GENERAL APPROPRIATIONS

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 Current Expenses</td>
<td>18,000.00</td>
<td>18,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>4,000.00</td>
<td>4,000.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>63,000.00</td>
<td>67,000.00</td>
</tr>
<tr>
<td>6 From Collections</td>
<td>2,000.00</td>
<td>2,000.00</td>
</tr>
</tbody>
</table>

7 Of the above appropriation for Current Expenses not more than $3,200.00 may be used each year of the biennium to cooperate with the United States Geological Survey in stream-flow measurement.

#### 731—Conservation Commission—General Administration, Division of Game, Fish and Forestry

<table>
<thead>
<tr>
<th>Description</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>25,620.00</td>
<td>25,620.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>29,580.00</td>
<td>29,580.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>1,000.00</td>
<td>1,000.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>61,200.00</td>
<td>61,200.00</td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from the Special Revenue fees collected by the Conservation Commission. This appropriation is for administration purposes only and shall not be construed as a limit upon the expenditures from the Special Revenue collections of said department, except for administration.

#### 732—Conservation Commission—Division of Forestry

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 For superintendence, maintenance and operating of State Forests</td>
<td>35,000.00</td>
<td>35,000.00</td>
</tr>
<tr>
<td>4 White Pine Blister Rust Control</td>
<td>5,000.00</td>
<td>5,000.00</td>
</tr>
</tbody>
</table>
5 For soil conservation and prevention of soil erosion, any part of which may be used for the purpose of matching Federal Funds, 5,000.00 5,000.00

10 Total $45,000.00 $45,000.00

732A—Conservation Commission—Division of Game and Fish
Acct. No. 521

1 For propagation and stocking of streams with fish $10,000.00 $10,000.00

733—Conservation Commission—Division of State Parks
Acct. No. 522

1 Personal Services $52,300.00 $54,600.00
2 Current Expenses $28,000.00 $32,000.00
3 Repairs and Alterations $10,000.00 $13,400.00
4 Equipment $17,000.00 $15,000.00
5 Buildings $27,700.00 $30,000.00
6 Lands $15,000.00 $5,000.00

7 Total $150,000.00 $150,000.00
8 From Collections $30,000.00 $33,000.00

734—Clarke-McNary
Acct. No. 522

1 For cooperation with the United States Department of Agriculture in fire prevention and control.

5 Total $50,000.00 $50,000.00

6 Out of the above appropriations $360.00 shall be paid each fiscal year to Fleet Bailey in monthly installments of $30.00 each, for injuries he received while enroute to fight forest fires on or about the nineteenth day of April, 1937.
### GENERAL APPROPRIATIONS

#### 740—Droop Mountain Battlefield Monument
Acct. No. 5609

1. For maintenance of Historical Monument.
2. Total $100.00 $100.00

#### 741—Point Pleasant Battle Monument Commission
Acct. No. 5619

1. For maintenance of Historical Monument.
2. Total $1,000.00 $1,000.00

#### 742—Rumseyan Society
Acct. No. 5629

1. For maintenance of Historical Monument.
2. Total $100.00 $100.00

#### 743—Morgan Morgan Memorial
Acct. No. 5639

1. For maintenance of Historical Monument.
2. Total $25.00 $25.00

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

1. In aid of Memorial Day Patriotic Exercises.
2. Total $500.00 $500.00

### PROTECTION

#### 770—Department of Public Safety
Acct. No. 570

1. Salary of Superintendent $6,000.00 $6,000.00
2. Other Personal Services $387,380.00 $388,380.00
3. Current Expenses $264,870.00 $263,870.00
4. Repairs and Alterations $9,750.00 $9,750.00
5. Equipment $7,000.00 $7,000.00
6. Total $675,000.00 $675,000.00
### 770A—Department of Public Safety—Radio Division  
**Acct. No. 571**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Personal Services</td>
<td>$43,200.00</td>
<td>$43,200.00</td>
</tr>
<tr>
<td>2. Current Expenses</td>
<td>$11,210.00</td>
<td>$11,210.00</td>
</tr>
<tr>
<td>3. Repairs and Alterations</td>
<td>$4,800.00</td>
<td>$2,300.00</td>
</tr>
<tr>
<td>4. Equipment</td>
<td>$12,973.00</td>
<td>$4,893.00</td>
</tr>
<tr>
<td>5. Buildings and Lands</td>
<td>$30,000.00</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$102,183.00</td>
<td>$61,603.00</td>
</tr>
</tbody>
</table>

### 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>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. For the enforcement of traffic violations.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Total</td>
<td>$30,000.00</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>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Salary of Adjutant General</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>2. Other Personal Services</td>
<td>$7,770.00</td>
<td>$7,770.00</td>
</tr>
<tr>
<td>3. Current Expenses</td>
<td>$57,501.00</td>
<td>$57,501.00</td>
</tr>
<tr>
<td>4. Repairs and Alterations</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>5. Equipment</td>
<td>$3,000.00</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>6. Compensation of Commanding Officers, Clerical Services and Care of Property</td>
<td>$41,548.00</td>
<td>$41,548.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$118,819.00</td>
<td>$118,819.00</td>
</tr>
</tbody>
</table>

The unexpended balance in the appropriation "Compensation of Commanding Officers, Clerical Services and Care of Property" for the fiscal year 1940-41 is hereby reappropriated and may be expended at the direction of the Governor during either year of the biennium 1941-43 for National Guard, Home Guard or other state defense purposes.
Of the above appropriation
$2,000.00 may be expended annually from Personal Services
and $7,000.00 annually from Current Expenses for maintaining a Negro Unit of the state militia as authorized by law, when and if a Negro Unit is authorized by the War Department.

Out of the above appropriations, there may be expended a sum sufficient to organize and maintain the 3rd Battalion of the 201st Infantry, when, and if it is authorized by the proper authorities.

The unexpended balances in the appropriations above, as of June 30, 1942, are hereby appropriated for expenditure in the fiscal year 1942-43, if the 3rd Battalion of the 201st Infantry is organized, or said Negro Unit, if established.

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

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$18,440.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$7,100.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$1,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$26,540.00</strong></td>
</tr>
</tbody>
</table>

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.
### 775—Fire Insurance

<table>
<thead>
<tr>
<th>Accounts No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>591</td>
<td>To be expended under the rules and regulations adopted by the Board of Control to pay fire insurance premiums on buildings and contents of State Institutions.</td>
<td>$30,000.00</td>
</tr>
</tbody>
</table>

### 780—State Board of Law Examiners

<table>
<thead>
<tr>
<th>Accounts No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6005</td>
<td>To pay the per diem of members and other general expenses.</td>
<td>$1,500.00</td>
</tr>
</tbody>
</table>

### 781—State Board of Examiners of Accountants

<table>
<thead>
<tr>
<th>Accounts No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6007</td>
<td>To pay the per diem of members and other general expenses.</td>
<td>$1,000.00</td>
</tr>
</tbody>
</table>

### 782—State Athletic Commission

<table>
<thead>
<tr>
<th>Accounts No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6017</td>
<td>To pay the per diem of members and other general expenses.</td>
<td>$3,500.00</td>
</tr>
</tbody>
</table>

### 783—State Board of Examiners of Registered Nurses

<table>
<thead>
<tr>
<th>Accounts No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6044</td>
<td>To pay the per diem of members and other general expenses.</td>
<td>$4,000.00</td>
</tr>
</tbody>
</table>

### 784—State Board of Dental Examiners

<table>
<thead>
<tr>
<th>Accounts No.</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6045</td>
<td>To pay the per diem of members and other general expenses.</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>#</td>
<td>Description</td>
<td>Amount</td>
</tr>
<tr>
<td>---</td>
<td>-----------------------------------------------------------------------------</td>
<td>---------</td>
</tr>
<tr>
<td>3</td>
<td>Total</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4</td>
<td>From Collections</td>
<td>$1,000.00</td>
</tr>
</tbody>
</table>

### 785—State Board of Pharmacy
Acct. No. 6046

1 To pay the per diem of members and other general expenses.
2 Total $5,000.00 $5,000.00
3 From Collections $5,000.00 $5,000.00

### 786—State Board of Osteopathy
Acct. No. 6047

1 To pay the per diem of members and other general expenses.
2 Total $500.00 $500.00
3 From Collections $500.00 $500.00

### 787—State Board of Optometry
Acct. No. 6048

1 To pay the per diem of members and other general expenses.
2 Total $1,500.00 $1,500.00
3 From Collections $1,500.00 $1,500.00

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

1 To pay the per diem of members and other general expenses.
2 Total $5,000.00 $5,000.00
3 From Collections $5,000.00 $5,000.00

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

1 To pay the per diem of members and other general expenses.
2 Total $4,000.00 $4,000.00
3 From Collections $4,000.00 $4,000.00

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

1 To pay the per diem of members and other general expenses.
3 Total $ 2,000.00 $ 2,000.00
4 From Collections $ 2,000.00 $ 2,000.00

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

1 To pay the per diem of members
2 and other general expenses.
3 Total $ 500.00 $ 500.00
4 From Collections $ 500.00 $ 500.00

THE FOLLOWING TWELVE SUPPLEMENTAL APPROPRIATIONS AVAILABLE FOR EXPENDITURE UPON DATE OF PASSAGE

7—Circuit Courts
Acct. No. 111

1 To supplement the 1940-41 appropriation:
2 Personal Services $ 5,000.00
3 Current Expenses $ 3,000.00
4 Total $ 8,000.00

8—Compensation of Special Judges
Acct. No. 113

1 To supplement the 1940-41 appropriation to pay salaries of special Judges.
2 Total $ 3,000.00

120—Governor's Office
Acct. No. 120

1 To supplement the 1940-41 appropriation:
2 Personal Services, to pay salary
3 of Governor $ 1,077.35

29—Secretary of State
Acct. No. 250

1 To supplement the 1940-41 appropriation:
3 Personal Services, to pay salary
4 of Secretary of State $465.00

370—Department of Education
Acct. No. 703

TO BE PAID FROM THE GENERAL SCHOOL FUND:

1 To supplement the 1940-41 appropriations:
3 Salary of Superintendent of Free
4 Schools $465.00
5 Salaries of County Superintendents
6 Other Personal Services ............. $6,500.00

Total $7,303.00

371—State Department of Education
Acct. No. 6407

1 State Aid to supplement the
2 General School Fund for the
3 fiscal year 1940-41.
4 Total $550,000.00
5 To be transferred to the General
6 School Fund upon the requisition
7 of the Governor.

371A—State Department of Education
Acct. No. 6405

1 State Aid to supplement the General
2 School Fund for the fiscal
3 year 1940-41 $100,000.00
4 To be transferred to the General
5 School Fund upon the requisition
6 of the Governor, to be allocated and disbursed by the
7 State Board of School Finance
8 with the approval of the Board
9 of Public Works to aid marginal counties in completing a
10 nine months' school term,
such part thereof as the above appropriation will permit.

401—Marshall College
Acct. No. 320

1 To pay City of Huntington Flood Wall Assessment, in the fiscal year 1940-41.
4 Total $1,721.00

400—Potomac State School of West Virginia University
Acct. No. 315

1 Appropriation for the fiscal year 1940-41:
3 Building, in cooperation with National Youth Administration $5,000.00

406—Concord State Teachers College
Acct. No. 325

1 To supplement the 1940-41 appropriation:
3 Buildings and Lands $14,500.00

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

1 Appropriation for the fiscal year 1940-41:
3 Mine Sealing Project.
4 Total $6,072.00

405—Shepherd State Teachers College
Acct. No. 324

1 The amount appropriated “From Collections” for the fiscal year 1940-41 is hereby reduced from $19,000.00 to $16,000.00 for the said fiscal year.

49—West Virginia Colored Children’s Home
Acct. No. 381

1 The amount appropriated “From
2 Collections” for the fiscal year
3 1940-41 is hereby eliminated.

542—Huntington State Hospital
   Acct. No. 422

1 The amount appropriated “From
2 Collections” for the fiscal year
3 year 1940-41 is hereby reduced
4 from $57,730.00 to $50,000.00
5 for said fiscal year.

544—McKendree Emergency Hospital
   Acct. No. 424

1 The amount appropriated “From
2 Collections” for the fiscal year
3 1940-41 is hereby reduced from
4 $22,000.00 to $15,000.00 for the
5 said fiscal year.

770—Department of Public Safety
   Acct. No. 570

1 To supplement the 1940-41 ap-
2 propriations:
3 Personal Services .................. $ 10,400.00
4 Current Expenses .................. 19,600.00

5 Total ................................ $ 30,000.00

Sec. 2. Claims Against the State.—Appropriations for
2 claims against the State are for the remainder of the fiscal
3 year 1940-41, and to remain in effect until June 30, 1942.

770—Department of Public Safety
   Acct. No. 570

1 To pay the claim of Velma Jane
2 Valentine for personal injuries,
3 in accordance with Senate Bill
4 No. 17 ............................... $ 4,192.90
Refunding Erroneous Payments Made to the State for
Inheritance, Transfer and Estate Tax
Acct. No. 6449

TO BE PAID FROM GENERAL REVENUE FUND:

<table>
<thead>
<tr>
<th>Name</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>George W. Stamm</td>
<td>2,604.01</td>
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<tr>
<td>Louis R. Sweetland</td>
<td>2,818.08</td>
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<tr>
<td>Emma F. Adams</td>
<td>1,402.20</td>
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<tr>
<td>Jesse E. Ebeling</td>
<td>94.86</td>
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<tr>
<td>Caroline G. Tallman</td>
<td>3,498.04</td>
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<tr>
<td>John C. Lynch</td>
<td>126.50</td>
</tr>
<tr>
<td>Louise Stifel</td>
<td>23.59</td>
</tr>
<tr>
<td>Minnie B. Pugh</td>
<td>1,709.35</td>
</tr>
<tr>
<td>Ellen Kraft</td>
<td>834.03</td>
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<tr>
<td>Benson B. McMechen</td>
<td>41.18</td>
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<tr>
<td>Amelia S. Dalzell</td>
<td>900.00</td>
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<tr>
<td>George E. Stifel</td>
<td>1,174.94</td>
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<tr>
<td>Estate of Frank Kirschner</td>
<td>1,410.26</td>
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<tr>
<td>Jacob F. Cork Estate</td>
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<td><strong>Total</strong></td>
<td><strong>16,856.17</strong></td>
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Refunding Erroneous Payments Made to the State for
Gross Sales Taxes
Acct. No. 6449

<table>
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<tr>
<th>Name</th>
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<tbody>
<tr>
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<td>L. Berman and Son</td>
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<tr>
<td>Paul Blatt</td>
<td>15.00</td>
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<tr>
<td>J. W. Gray</td>
<td>86.56</td>
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<tr>
<td>Merchants Wholesale Grocery</td>
<td>579.44</td>
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<td>Lucas Bros. Dairy</td>
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<tr>
<td>Bluefield Coal &amp; Coke Company</td>
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<tr>
<td>Amherst Fuel Company</td>
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<tr>
<td>Pritchard Coal Company</td>
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<tr>
<td>Wyatt Coal Sales Company</td>
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<tr>
<td>Smokeless Fuel Company</td>
<td>10,842.56</td>
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<td>E. A. Doak</td>
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<td>Rufus F. Lazzell, Jr., d. b. a.</td>
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<td>R. F. Lumber Co.</td>
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<tr>
<td>Pocahontas Corporation</td>
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<tr>
<td>Company Name</td>
<td>Amount</td>
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<td>------------------------------------------------</td>
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<td>Pulaski Iron Company</td>
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<td>Sweeney's Service Station</td>
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<td>Lowe's Meat Market</td>
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<td>Staats Clinic</td>
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<td>French Coal Company</td>
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<tr>
<td>Tower Oil Company</td>
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<td>W. H. Rangeley Service Station</td>
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<tr>
<td>Lilly Bros. and Piper</td>
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<td>Pocahontas Fuel Company, Inc.</td>
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<td>Spears and Riddle</td>
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<td>Davidsson-Connelsville Coal</td>
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<td>Beckley Water Company</td>
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<tr>
<td>Meadow River Lumber Company</td>
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<td>Croft Lumber Company</td>
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<td>Consolidated Brokerage Company</td>
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<td>Thompson-Brown Sand Company</td>
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<td>Thos. F. Downing, M. D.</td>
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<td>McMillion Service Station, T.</td>
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<td>R. McMillion, Prop.</td>
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<td>Columbian Carbon Company</td>
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<td>Blair Motors, Inc.</td>
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<td>White Oak Coal Company</td>
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<td>H. L. McGinnis</td>
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<td>Grocers Wholesale Company</td>
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<td>J. W. and McAllister Ruble</td>
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<td>General Brokerage Company</td>
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<td>Moyers, d. b. a. Wheeling-Steubenville Truck Service</td>
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<td>C. R. Wolfe and Wesley Wolfe</td>
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<td>Lee H. Haas</td>
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<td>Alba Marl Lime Company</td>
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<td>Kelleys Creek Improvement Company</td>
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<td>Ch. 6]</td>
<td>General Appropriations</td>
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<td>-----------</td>
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<tr>
<td>57</td>
<td>A. M. Rowe, Inc.</td>
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<td>Harlan Cumberland Coal Land Company</td>
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<td>1,216.27</td>
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<td>Bank of Follansbee</td>
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<td>Henry M. Cole and Son</td>
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<td>Pritchard Motor Car Company</td>
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<td>E. L. Dequasie</td>
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<td>64</td>
<td>Telluric Company</td>
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<td>65</td>
<td>Charles Tucker</td>
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<td>66</td>
<td>Elkins Limestone Company,</td>
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<tr>
<td>67</td>
<td>Inc.</td>
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<tr>
<td>68</td>
<td>Fourco Glass Company</td>
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<td>Laval Sand Company</td>
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<td>70</td>
<td>Zenith Sand Company</td>
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<td>Cooperative Building and Loan Association</td>
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<td>72</td>
<td>Mary E. McCarty Bullock</td>
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<td>73</td>
<td>Monongahela Building Company</td>
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<td>Walter Gall</td>
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<td>Balch and Mahan</td>
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<td>Baer and Miller</td>
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<td>Mary C. Flanagan</td>
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<td>S. S. Pine</td>
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<td>A. W. Cox Dept. Store Company</td>
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<td>82</td>
<td>McComas Gas Company</td>
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<td>R. P. Burks</td>
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<td>Brugh Furniture Company, Inc.</td>
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<td>The Constitution Stone Company</td>
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<td>W. J. Weakland</td>
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<td>89</td>
<td>McGraw Service Station</td>
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<td>90</td>
<td>R. K. Meherin and E. L. Bock</td>
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<td>97</td>
<td>Wilkins Motors</td>
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<td>Wm. James</td>
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<td>99</td>
<td>Greenbrier Milling Company</td>
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<td>100</td>
<td>S. L. Moyers and H. J. Meyn</td>
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<tr>
<td>101</td>
<td>d. b. a. Wheeling-Steubenville Transfer Company</td>
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<td>102</td>
<td>Jobbers Brokerage Company</td>
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<td>103</td>
<td>Garlow Block, Inc.</td>
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<td>104</td>
<td>Lea and Company, Inc.</td>
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<td>105</td>
<td>Caravasos Real Estate</td>
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<td>106</td>
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<tr>
<td>107</td>
<td>Standard Gas Company</td>
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<tr>
<td>108</td>
<td>Mrs. Florence Emery</td>
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<td>109</td>
<td>New Martinsville Ferry</td>
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<td>110</td>
<td>Gallaher and Sutherland</td>
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<tr>
<td>111</td>
<td>Daily Telegraph Printing Company</td>
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<td>112</td>
<td>L. B. Snyder Supply Company</td>
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<td>113</td>
<td>Wheeling Bronze Casting Company</td>
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<td>114</td>
<td>Dickey’s Dairy</td>
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<td>115</td>
<td>Clyde D. Smith</td>
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<td>116</td>
<td>Harvard Gas Company</td>
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<td>117</td>
<td>Cambridge Gas Company</td>
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<td>118</td>
<td>W. Va. Production Company</td>
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<td>119</td>
<td>Gilmer County Gas Company</td>
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<td>120</td>
<td>Kanawha Gas and Utilities Company</td>
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<td>121</td>
<td>Rogers Jewelry Company</td>
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<td>122</td>
<td>Calhoun Super Service Station</td>
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<td>123</td>
<td>Parkersburg Maytag Company</td>
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<td>124</td>
<td>Dr. Truman E. Gore Estate</td>
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<td>125</td>
<td>Smallwood Stone Company</td>
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<tr>
<td>126</td>
<td>Inter-City Transport and Motor Company</td>
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<td>127</td>
<td>Colcord Coal Sales Company, Inc.</td>
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<tr>
<td>128</td>
<td>North American Cement Corporation</td>
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<td>129</td>
<td>Acme Motor Company</td>
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Ch. 6] General Appropriations

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<tr>
<th>#</th>
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<tr>
<td>137</td>
<td>Cooperative Fuel Company</td>
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<tr>
<td>138</td>
<td>Maryland and West Virginia Lumber Company</td>
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<tr>
<td>139</td>
<td>Mrs. F. H. Maize</td>
<td>348.43</td>
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<td>140</td>
<td>C. and O. Railway Company</td>
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<td>141</td>
<td>West Virginia Broadcasting Corporation</td>
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<td>142</td>
<td>New River Lumber Company</td>
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<td>Crawford and Prince</td>
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<td>146</td>
<td>Citizens Transfer &amp; Storage Company</td>
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<td>147</td>
<td>Charleston Optical Company</td>
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<tr>
<td>148</td>
<td>R. B. Smith, Bramwell Garage</td>
<td>31.48</td>
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<td>149</td>
<td>Jones-Cornett Electric Company</td>
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<tr>
<td>150</td>
<td>Ball Brothers, Inc.</td>
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Refunding Erroneous Payments Made to the State for Consumers Sales Tax
Acct. No. 6449

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<td>J. W. Dorsey</td>
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<td>Mike Lee</td>
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<tr>
<td>3</td>
<td>Estella Dorsey Ward</td>
<td>451.92</td>
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<tr>
<td>4</td>
<td>Monongahela Valley Broadcasting Company</td>
<td>780.15</td>
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<tr>
<td>5</td>
<td>Haynes Brothers</td>
<td>387.56</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>7,473.11</td>
</tr>
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137 Cooperative Fuel Company
138 Maryland and West Virginia Lumber Company
140 Mrs. F. H. Maize
141 C. and O. Railway Company
142 West Virginia Broadcasting Corporation
144 New River Lumber Company
145 Acme Limestone Company
146 Crawford and Prince
147 Olmstead Bros. Company
148 Citizens Transfer & Storage Company
149 Charleston Optical Company
150 R. B. Smith, Bramwell Garage
152 Jones-Cornett Electric Company
154 Ball Brothers, Inc.
155 Total

Refunding Erroneous Payments Made to the State for Consumers Sales Tax
Acct. No. 6449

1 J. W. Dorsey
2 Mike Lee
3 Estella Dorsey Ward
4 Monongahela Valley Broadcasting Company
5 Haynes Brothers
7 West Virginia Broadcasting Company
8 Early Brothers
9 Walter M. Stephens
11 A. M. Rowe, Inc.
12 Richwood Store Co. for W. S. Chapman
14 Total
Refunding Erroneous Payments Made to the State for Charter License Tax
Acct. No. 6449

1 F. H. Sattes ........................................ $ 20.00

Claims Against State Road Commission

1 To pay claims against the State Road Commission resulting from personal injury or property damages, this amount is appropriated for the remainder of fiscal year ending June 30, 1941, and to remain in effect until June 30, 1942.

Acct. No. 6856

TO BE PAID FROM THE STATE ROAD FUND:

1 Glenn Harper ....................................... $ 68.35
2 Orlando Basham .................................... 25.50
3 Mayes Brothers .................................... 52.42
4 Dorr M. Tucker .................................... 3.17
5 A. A. Vance ......................................... 75.00
7 Helen Marshall ....................................... 6.56
8 Norwood Dingess ................................... 50.00
9 Joe Wood ............................................ 5.97
10 Reverend I. K. Kerrick ............................ 5.00
11 John T. Bowman ................................... 65.00
12 N. S. Slack .......................................... 12.24
13 Dewey E. Adams ................................... 10.00
14 Mr. and Mrs. Kelley Sizemore .................. 45.00
15 John Shabdue ....................................... 27.90
16 W. C. Tyler ......................................... 14.28
17 L. M. Murphy ....................................... 13.57
18 George N. Yoho .................................. 7.09
19 Charles S. Chambers ............................... 2.95
20 Dan T. Haddock ................................... 18.00
21 E. C. Cole .......................................... 35.65
22 Star Laundry & Dry Cleaning Company ........... 96.41
23 Kermit Simms ....................................... 226.55
24 Morley S. Sloman ................................ 355.40
25 Brady Webb ......................................... 14.90
26 Alberta Costa ...................................... 353.05
28 Thomas Russell Richards ...... 193.70
29 W. G. Reynolds ................ 10.00
30 L. Parker ...................... 11.22
31 C. C. Payne ................... 13.50
32 Jack Newsom ................... 49.68
33 Eldridge Logan ................ 5.00
34 Lever Bros. Company .......... 10.50
35 Russell Kirkpatrick .......... 10.05
36 Hoyt B. Kline ................. 55.39
37 Luther H. Hutton .............. 80.77
38 Keys Planing Mill Company ... 3.50
39 J. E. Gibson .................. 4.00
40 M. J. Meadows ................. 12.46
41 L. A. Elliott .................. 30.00
42 Lawrence Duff ................ 25.00
43 Lenner Thomas Orey .......... 15.00
44 Henry Schaefer ................. 15.75
45 J. W. Myers ................... 180.17
46 W. H. Ford ..................... 165.63
47 Joe Noletti ..................... 9.18
48 Jacob F. Bennett .............. 1,248.00
49 Mrs. Anna Clevenger .......... 840.00
50 Helen Clayton Deck ............ 240.00
51 Alice E. McClung .............. 720.00
52 Mrs. Effie Savage ............. 360.00
53 Mrs. Lottie Skelton .......... 840.00
54 Dr. Sidney F. Yoho ........... 2.50
55 Greenbrier Valley Hospital ... 81.50
56 V. Horner ...................... 39.99
57 Dr. H. M. Coleman ............. 35.69
58 V. L. Burnside ................ 25.76
59 G. H. Morrison ................ 81.40
60 R. F. Turley ................... 100.00
61 Roy Taylor ..................... 79.05
62 Henry Easter ................... 85.00
63 Kingwood Candy Company ...... 18.83
64 Ira Krantz ..................... 325.00
65 Charlie Arnold ................ 10.00
66 Bryant Snapp .................. 20.00
67 Harry P. Marshall .............. 56.75
<table>
<thead>
<tr>
<th>Number</th>
<th>Name</th>
<th>Amount</th>
</tr>
</thead>
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<tr>
<td>68</td>
<td>William Gill</td>
<td>16.32</td>
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<td>Ray Hurst</td>
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<td>Halliburton Oil Well Cementing Company</td>
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<td>82</td>
<td>Stella Ballard</td>
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<tr>
<td>83</td>
<td>Total</td>
<td>$12,463.15</td>
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To pay Jay Montoney for injuries received on or about the 15th day of September, 1936, by reason of the operation of a tractor belonging to the State Road Commission by one William McDaniel, an employee of said Commission, and evidenced by a judgment in the sum of nine thousand dollars ($9,000.00) secured in the Circuit Court of Randolph County against said William McDaniel. The amount here-by appropriated is to be paid only upon the execution by Jay Montoney of a full and complete release from said judgment as to said William McDaniel, his heirs and assigns, and the State of West
Virginia, the State Road Commission and any other officer or Department of the State against whom said claim might in any manner be asserted. Of this appropriation no part thereof in excess of two thousand five hundred and fifty dollars ($2,550.00) shall be used for the payment of attorney’s fees and other expenses incurred in and about the securement of said judgment and the presentment of this claim. To be paid from the State Road Fund.

To pay the Williamstown Volunteer Fire Department, of Williamstown, West Virginia, for equipment damaged or destroyed during the fire which occurred on the Williamstown-Marietta toll bridge on September 10, 1939. To be paid from the State Road Bridge Fund.

Sec. 3. Bonded Obligations.

There is hereby appropriated out of the General Revenue Fund to meet the principal and interest requirements of funding bonds authorized under chapter fifty-eight of the first extraordinary session of the 1933 Legislature to pay non-bonded debts existing at
the time of the adoption of the tax limitation amendment.

Total ........................................ $375,000.00 $363,000.00

Sec. 4. Capital Expenditures Contingent Upon Additional Revenues.—The following items are appropriated from the general revenue funds subject to the following terms and conditions:

1. The following items are hereby appropriated and are to be available for expenditure only upon the creation of a surplus in the treasury or upon the ascertainment that the scale of business operations is such as to insure a surplus in the treasury.

The estimated balance of $780,350 as of July 1st, 1941, and the revenue estimates upon which the foregoing and definitely appropriated budget items are based are, for each fiscal year 1941-1942 and 1942-1943, $32,690,000, including institutional collections and professional board receipts and upon estimates of retirements into the state treasury for non-expenditure from said appropriations of approximately $175,000 for each of said fiscal years.

2. None of the following items of this section shall be considered available for expenditure until it shall have been ascertained by the board of public works, but shall then be available for expenditure, by order entered of record, that the standards of business operations shall have reached and shall have been maintained at, for at least three months, a level insuring revenue yields in excess of the estimates herein mentioned creating a surplus in an amount or amounts sufficient to sustain any one or more of the items hereinafter named. The facts warranting the same, the board of public works may make such finding, severally or collectively, with respect to any one or more of the items of this section.

3. The order in which the items of this section are named indicates a legislative preference in order of expenditure based upon institutional needs, except that relating to secondary roads, but, having regard to the amount of revenues available, if any, the expenditure within which construction may be undertaken, and any other attending circumstance, the board of public
38 works may authorize the expenditure of any one or
39 more of said items without regard to the order of pri-
40 ority in which they are here listed; except, appropri-
41 tations in items nine, ten, eleven, and thirteen shall be
42 taken care of in full before any other appropriations
43 in the contingent budget are expended: Provided, how-
44 ever, It is recommended, though not required, that partial
45 allocations of the items for secondary roads be made
46 available concurrently with the finding of the availability
47 of any other item or items herein named which aggregate
48 a substantial sum.
49 (4) The amounts of the several items are suggestive,
50 and the board of public works may revise these estimates
51 downward without restriction and may increase them
52 severally by not more than twenty-five per cent, except
53 Item (1) West Virginia University, Stadium Bonds, which
54 is fixed in amount.
55 (5) The conditional appropriations made by this sec-
56 tion may be utilized in connection with federal aid, if
57 available.
58 Subject to the foregoing conditions, the following ap-
59 propriations are made for the West Virginia University
60 Stadium; construction, including necessary land acquisition
61 and equipment, of the following buildings, improvements,
62 and road construction or maintenance:
63 (1) West Virginia University,
64 Stadium Bonds .................. $ 336,750.00
65 (2) Capitol Building and
66 Grounds, major repairs to
67 Capitol Building .............. 50,000.00
68 (3) Capitol Office Building .... 200,000.00
69 (4) Capitol Building and
70 Grounds, terracing, balus-
71 trading, landscaping, and
72 other improvements to-
73 ward completion of the
74 capitol .......................... 200,000.00
75 (5) Penitentiary for Women .. 150,000.00
76 (6) Boys Industrial School,
77 Dormitory for Boys, and
78 other necessary improve-
79  men ts ........................................ 200,000.00
80 (7) West Virginia Penitentiary, Sewage Disposal Plant .... 50,000.00
82 (8) West Virginia Penitentiary, to complete Cells and Classification Unit .......... 225,000.00
85 (9) Huntington State Hospital, Major Building Repairs ... 130,000.00
87 (10) Hopemont S a n i t a r i u m, Patients’ Unit, C e n t r a l Heating Plant, Sewage Disposal and other Appurtenances .......... 500,000.00
92 (11) Weston State Hospital, Patients’ Unit, Kitchen and Dining Room Enlargement, and other necessary Buildings and Appurtenances ... 500,000.00
97 (12) Conservation Commission, Land, Buildings, Improvements and Equipment for Fish and Game Propagation and State Game Farm .......... 50,000.00
102 (13) Spencer State Hospital Building and Equipping Cafeteria .................................. 50,000.00
105 (14) West Virginia School for Deaf and Blind, New Dormitory and Central Heating Unit ..................................... 225,000.00
109 (15) West Virginia University, Jackson's Mill 4-H Camp, Administration Building and Improvements on Roads ..................................... 15,000.00
114 (16) Bluefield State Teachers College, Vocational Educa-
116 tional Building .................................. 150,000.00
117 (17) West Virginia State Col-
118 lege, Vocational Educa-
119 tional Building .................................. 150,000.00
120 (18) West Virginia University,  
121 Building, Land and Improvements .......................... 1,000,000.00  
123 (19) Marshall College, Renovating Administration  
125 Building ................................................. 60,000.00  
126 (20) West Liberty State Teachers College, Building ....  
128 (21) Potomac State School, Library, Science and Auditorium Building ............. 200,000.00  
131 (22) Shepherd State Teachers College, Library Building  
132  ......................................................... 50,000.00  
133 (23) Marshall College, Science Building  
134  ......................................................... 250,000.00  
135 (24) Concord State Teachers College, Science Building  
136  ......................................................... 150,000.00  
137 (25) Secondary Roads ................................. 2,000,000.00  
138 (26) Primary Roads ................................. 1,000,000.00  
139 (27) To establish Limestone Plants for the Production  
141 Agricultural Lime ........................................ 200,000.00  

Sec. 4-a. Date of Expiration of Unexpended Balances of  
1939 Appropriations.—The date for expiring unexpended  
balances, if any, in the appropriations made by and under  
authority of section four of the 1939 Budget Act, for build-  
5 ing purposes at the West Virginia University, Pinecrest  
Sanitarium, New River State College, Marshall College,  
Shepherd State Teachers College and Glenville State  
Teachers College, is hereby extended to June 30, 1942, and  
are hereby reappropriated from the date of expiration to  
June 30, 1942.  

Sec. 5. Special Revenue Appropriations.—There is hereby  
appropriated for expenditure during the fiscal years one  
thousand nine hundred forty-two and one thousand nine  
hundred forty-three: 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 thou-  
sand nine hundred thirty-one.
Sec. 6. Appropriations Revived and Extended.—A part of an appropriation to a spending unit that remains unex- pended at the end of the fiscal year one thousand nine hun- dred forty-two 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 forty-three.

Sec. 7. 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. 8. 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 West Virginia, one thousand nine hundred thirty-one.

Sec. 9. Appropriations for Refunding Erroneous Payments. —Money that has been erroneously paid into the state treas- ury 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. 10. 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 first 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. 11. **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 remittance 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. 12. **Appropriations from Forfeitures, Taxes, Licenses and Filing Fees.**—There is hereby appropriated from all forfeitures, license fees, filing fees and taxes collected by the state tax commissioner, all necessary salaries and expenses authorized by law to be expended in the collection of such forfeitures, license fees, filing fees and taxes. All such salaries and expenses, authorized by law as aforesaid, shall be paid by the tax commissioner through the state treasury out of gross collections. Any part of 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-a. **Appropriations to Pay Premiums on Bonds of County Clerks.**—There is hereby appropriated out of the general school fund, to be paid upon the requisition of the auditor, a sum sufficient to pay premiums on bonds of county clerks to protect funds belonging to the said general school fund, and out of the special revenue fund of the conservation commission, to be paid upon the requisition of the commissioner, a sum sufficient to pay premiums on bonds of county clerks to protect funds belonging to the said conservation commission.

Sec. 13. **Appropriations for Local Governments.**—There is hereby appropriated for payment to counties, districts, and 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. 14. Printing Costs.—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. 15. Total Appropriation.—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. 16. General School Fund.—The balance of the pro-
2 ceeds of the general school fund remaining after the pay-
3 ment of the appropriations made by this act is appropriated
4 for expenditure in accordance with section six, article nine,
5 chapter eighteen of the code of West Virginia, one thousand
6 nine hundred thirty-one, as amended.

Title 3. Administration.

Section
1. Appropriations conditional.
2. Suspension of certain acts.
3. Constitutionality.

Section 1. Appropriations Conditional.—The expenditure
2 of the appropriations made by this act, except those appro-
3 priations made to the legislative and judicial branches of the
4 state government, are conditioned upon the compliance by
5 the spending unit with the requirements of article five,
6 chapter five of the code of West Virginia, one thousand nine
7 hundred thirty-one, as amended by chapter thirty-nine, acts
8 of the Legislature, regular session, one thousand nine hun-
9 dred thirty-nine.

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

Sec. 3. Constitutionality.—If any part of this act is declared
2 unconstitutional by a court of competent jurisdiction its de-
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 24, 1941; in effect 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.—
2 That bonds of the state of West Virginia of the par value
3 of ten million dollars are hereby authorized to be issued
and sold for the purpose of raising funds for assisting in
building and constructing 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 denominations, at such times
and bearing such date or dates as the governor may de-
termine, and shall become due and payable 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 pro-
visions of the "good roads amendment" to the constitu-
tion of the state, ratified at the general election held in
November, one thousand 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 Pay-
able; 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 exchange 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 payable 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 cent 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 pre-
sentation 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 ..........
and .................... 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 taxation 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
authority of an act of its Legislature passed at the regular
session of one thousand nine hundred forty-one, on the
............ day of ............., one thousand nine hundred forty-
one, and approved by the governor on the .......... day of
............, one thousand nine hundred forty-one, 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 semi-annually in like lawful
money of the United States of America at the Treasurer's
Office or bank aforesaid, on the first day of ________________
and the first day of ________________ of each year, (and in
the case of coupon bonds) according to the tenor of the
annexed coupons, bearing the engraved facsimile sig-
nature of the Treasurer of the State of West Virginia,
upon surrender of such coupons. This bond (in the case
of a coupon bond) may be exchanged for a registered
bond of like tenor upon application to the Treasurer of
the State of West Virginia.

To secure the payment of this bond, principal sum and
interest, when other funds and revenues sufficient are
not available for that purpose, it is agreed that, within the
limits prescribed by the constitution, the board of public
works of the State of West Virginia shall annually cause
to be levied and collected an annual state tax on all
property in the state, until said bond is fully paid,
sufficient to pay the annual interest on said bond and the
principal sum thereof within the time this bond becomes
due and payable.

This bond is hereby made exempt from any taxation
by the State of West Virginia, or by any county, district
or municipal corporation thereof.

In testimony whereof, witness the signature of the
Treasurer of the State of West Virginia, and the counter-
signature of the Auditor of said State, hereto affixed
according to law, dated the ____________ day of _______________,
one thousand nine hundred _______________, and the seal
of the State of West Virginia.

(Seal) ________________________________

Treasurer of the State of West Virginia

Countersigned:

______________________________

Auditor of the State of West Virginia

Sec. 4. Form of Coupon.—The form of coupon shall be
substantially as follows, to-wit:
STATE OF WEST VIRGINIA

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 _______________.

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 coupon 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 there 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 belonging 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 subdivision 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 as they severally become due and payable, 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 accruing during the current year, and to pay off, and retire the principal of said bonds, or any part thereof, at maturity. 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. 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 the state road fund on warrants of the auditor of the state drawn on the state treasurer.

CHAPTER 8

(House Bill No. 307—By Mr. Bass and Mr. Shanklin)

AN ACT to amend and reenact sections two and three, article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter twenty-one, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to public bonded indebtedness.

(Passed March 7, 1941; in effect from passage. Approved by the Governor.)

Article 1. Bond Issues for Original Indebtedness.

Section 2. Purposes for which bonds may be issued.

3. Amount of indebtedness for which bonds may be issued.

Be it enacted by the Legislature of West Virginia:

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

Section 2. Purposes for Which Bonds May Be Issued.—

2 Debt may be incurred and bonds issued under this article for the purpose of acquiring, constructing and erecting, enlarging, extending, reconstructing or improving any building, work, utility or undertaking, or for furnishing, equipping and acquiring or procuring the necessary apparatus for any building, work, improvement or department, or for establishing and maintaining a library or museum, for the public use, or acquiring a recreation park for the public use, or for other similar corporate
purposes, for which the political division is authorized to
levy taxes or expend public money. But no bonds shall be
issued for the purpose of providing funds for the current
expenses of any body or political division. Interest accru-
ing during the construction period, that is to say, the time
when an improvement is under construction and six
months thereafter, shall be deemed a part of the cost of
the improvement, and shall not be deemed current ex-
penses. All engineering and inspection costs, including a
proper proportion of the compensation, salaries and ex-
penses of the engineering staff of the political division
determined by the governing body, or the estimated
amount of such costs, shall be deemed part of the cost
of an improvement. All costs and estimated costs of the
issuance of bonds shall be deemed a part of the cost of the
work or improvement, or of the property, or of the
carrying out of the purposes for which such bonds are
to be issued. The power to acquire or construct any build-
ing, work or improvement as herein provided shall be
deeded to include the power to acquire the necessary
lands, sites and rights-of-way therefor.

Bonds may also be issued by any municipality having a
population of fifty thousand or more for the purpose of
acquiring land and constructing a building or buildings for
use and occupancy as a college. The proposal for such a
bond issue shall contain a provision that there shall be
created a commission or committee for the purpose of
operating the building or buildings and for renting the
same for an amount sufficient to pay the interest and
sinking fund on the bonds proposed to be issued, and
shall contain a further provision that in the event a
sufficient amount is not realized from rent or rents for
the purpose of meeting the debt service, then the city
shall lay a levy for such purpose in an amount sufficient
within the constitutional and statutory limitation to pay
the interest and principal on such bonds as the same be-
come due and payable. The proposal may also contain a
provision that when the bonds and the interest thereon
shall have been paid, then the title to the land and the
51 building or buildings situated thereon may be transferred
52 to the college to which the same have been rented.

Sec. 3. **Amount of Indebtedness for Which Bonds May**
2 **Be Issued.**—No political division authorized by this article
3 to issue bonds, shall, by any bond issue, become indebted
4 to an amount, including all other indebtedness, exceed-
5 ing two and one-half per cent of the value of the taxable
6 property therein, as shown by the last assessment thereof,
7 for state and county purposes, next prior to the issuing
8 of such bonds: *Provided, however,* That any board of
9 education for the acquisition of land and the erection
10 and equipment of school buildings, and any county for
11 the erection and equipment of a courthouse and/or jail
12 for such county, with funds borrowed from the govern-
13 ment of the United States or any governmental agency,
14 federal or state, and any municipal corporation of three
15 hundred inhabitants or more, for the purpose of grading,
16 paving, sewer, and otherwise improving or re-improv-
17 ing its streets and alleys, or for establishing and maintain-
18 ing a library or museum for the public use, or acquiring
19 a recreation park for the public use, and any municipal
20 corporation, having a population of fifty thousand or
21 more, for the purpose of acquiring land and constructing
22 a building or buildings for use and occupancy as a college,
23 may become indebted and issue bonds in an additional
24 sum not exceeding two and one-half per cent of the value
25 of the taxable property therein, ascertained as aforesaid.
26 The term “sewer” as used herein shall be treated in
27 a comprehensive sense, so as to include all mains, laterals,
28 connections, traps, incinerating and disposal plants, and
29 other necessary and convenient accessories to a modern
30 sanitary and efficient sewerage system and shall include
31 storm sewers.
32 The county court of any county is hereby authorized
33 and empowered to negotiate and sell to the government
34 of the United States or to any governmental agency, fed-
35 eral or state, at private sale, at not less than par any
36 bonds issued for the purpose of erecting and equipping
37 a courthouse or other public buildings for such county,
AN ACT to amend and reenact section one, article fifteen, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to New River State College.

[Passed March 5, 1941; in effect from passage. Approved by the Governor.]

Article 15. West Virginia Institute of Technology.

Section 1. Change of name; supervision and management.

Be it enacted by the Legislature of West Virginia:

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

Section 1. **Change of Name; Supervision and Management.**—The New River State College, heretofore established and located at Montgomery, in Fayette county, shall be continued, and shall be known as the West Virginia Institute of Technology. The educational affairs of the college shall be under the control, supervision and management of the state board of education, as provided in section thirteen, 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 rules and regulations made by the president and faculty of this institution for its general government shall be submitted to the state board of education for its approval. The college shall offer instruction in home economics, technological, commercial and industrial subjects, and such other subjects as the state board of education may direct, and grant bachelor of arts and bachelor of science
19 degrees to students completing the required courses for
20 such degrees, and such other degrees as the state board
21 of education may approve.

CHAPTER 10

(Senate Bill No. 116—By Mr. Paull, by request)

AN ACT relating to the disposition by the West Virginia board
of control of funds realized from the sale of certain prop­
erty held for the use of the West Liberty State Teachers'
College in Ohio county.

[Passed March 7, 1941; in effect from passage. Approved by the Governor.]

Section 1. Application of proceeds of sale of property of West Liberty
State Teachers’ College limited to improvement of said college.

Sec. 2. Duration of act.

Be it enacted by the Legislature of West Virginia:

Section 1. Application of Proceeds of Sale of Property
of West Liberty State Teachers’ College Limited to Im-
provement of Said College.—The entire proceeds arising
from any sale by the West Virginia board of control to the
Ohio county board of education of any realty and appur-
tenances thereon now held by said West Virginia board
of control for the use or benefit of the West Liberty State
Teachers’ college, shall be used by said West Virginia
board of control for the purpose of making capital im-
provements at West Liberty State Teachers’ college in
Ohio county. Such capital improvements may include,
but shall not be confined to, the construction of a new
building or buildings or the repair or alteration of
existing buildings or structures.

Sec. 2. Duration of Act.—The provisions of this act shall
be operative and of full force and effect for a period of two
years from the date upon which this act shall become
effective, and thereafter they shall be null and void with-
out effect.
AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, by adding section fifty-two to article six thereof, the said amendment to be known as the “Good Roads Amendment”.

Section 1. Submitting an amendment to article six of the constitution.
2. Amendment to be known as the “good roads 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 Article Six of the Constitution, Adding Section Fifty-two to Said Article.—The question of the ratification or rejection of an amendment to the constitution of the state of West Virginia, proposed in accordance with provisions of section two of article fourteen of said constitution, by adding section fifty-two to article six thereof, shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred forty-two, which proposed amendment is as follows:

Proposed Amendment


Section 52. Revenues Applicable to Roads.—Revenue from gasoline and other motor fuel excise and license taxation, motor vehicle registration and license taxes, and all other revenue derived from motor vehicles or motor fuels shall, after deduction of statutory refunds and cost of administration and collection authorized by legislative appropriation, be appropriated and used solely for construction, reconstruction, repair and maintenance of
public highways, and also the payment of the interest
and principal on all road bonds heretofore issued or
which may be hereafter issued for the construction, re-
construction or improvement of public highways, and
the payment of obligations incurred in the construction,
reconstruction, repair and maintenance of public high-
ways.

Sec. 2. Amendment to Be Known as the “Good Roads
Amendment.”—For convenience in referring to said pro-
posed amendment and in the preparation of the form of
the ballot hereinafter provided for, said proposed amend-
ment is hereby designated and shall be known as the
“Good Roads 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 forty-two, 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 “Good Roads Amendment”,
adding section fifty-two to article six of the state consti-
tution.

☐ For ratification of “Good Roads Amendment”.

☐ Against ratification of “Good Roads Amendment”.

The election on the proposed amendment, at each place
of voting, shall be superintended, conducted and re-
turned, and the result thereof ascertained by the same
officers and in the same manner as the election of of-
icers to be voted for at said election, and all of the
provisions of law relating to general elections, includ-
ing 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 other-
wise provided.

The ballots cast on the question of said proposed amend-
ment shall be counted as other ballots cast at said elec-
tion.
Sec. 4. Certificates of Election Commissioners; Can-
vass of Vote; Certifying Result.—As soon as the result is
ascertained, the 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 hun-
dred forty-two, upon the question of the ratification or
rejection of the proposed constitutional amendment to
article six, do hereby certify that the result of said elec-
tion is as follows:

Adding section fifty-two to article six:
For ratification of ‘Good Roads Amendment’__________
votes.
Against ratification of ‘Good Roads Amendment’__________
votes.

Given under our hands this__________day of November, one
thousand nine hundred forty-two.”

The said two certificates shall correspond with
each other in all respects, and contain the full and true
returns of said election at each place of voting on said
questions. The said commissioners, or any one of
them (or said canvassers, or any one of them, as the
case may be), shall within four days, excluding Sun-
day, after that on which said election was held, de-
 deliver one of said certificates to the clerk of the county
court of the 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 mem-
bers 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 results 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 Novem-
ber, one thousand nine hundred forty-two, 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 article six is as follows:
For ratification of 'Good Roads Amendment'______________
______________ votes.
Against ratification of 'Good Roads Amendment'___________
______________ votes.

Given under our hands this__________ day of _____________,
one thousand nine hundred forty-two."

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

Sec. 5. Proclamation of Result of Election by Gover-
nor.—On the twenty-fifth day after the election is held,
or as soon thereafter as practicable, the said certificates
shall be laid before the governor, whose duty it shall be
to ascertain therefrom the result of said election in the
state, and declare the same by proclamation published in
one or more newspapers printed at the seat of govern-
ment. If a majority of the votes cast at said election
upon said question be for the ratification of the said
amendment, the proposed amendment so ratified shall be
of force and effect from and after the time of such ratifi-
cation as part of the constitution of the state.

Sec. 6. Publication of Proposed Amendment by Gover-
nor.—The governor shall cause the said proposed amend-
AN ACT to amend and reenact article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by adding thereto a new section, to be designated section ten-a, relating to additional bonds of county clerks.

(Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.)

Article 2. Official and Other Bonds.

Section 10-a. Additional bonds of county clerks.

Be it enacted by the Legislature of West Virginia:

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

Section 10-a. Additional Bonds of County Clerks.—The official bond provided for in section ten of this article, relating to county clerks, shall be deemed to apply only to collection of local fees. The state auditor, on behalf of the general school fund, and the state conservation commissioner, on behalf of the state conservation commission, shall require from the county clerk of any county
such additional bonds as are deemed necessary, and in such amounts as are deemed adequate to protect the general school funds and the state conservation funds in the hands of such clerk. The auditor and the state conservation commissioner shall require corporate surety bonds and pay the necessary premiums from the said general school fund and the said state conservation fund on said additional bonds, but the amount of such additional bonds shall not exceed the amount of the state funds handled by such clerk during the preceding fiscal year.

CHAPTER 13

(Senate Bill No. 161—By Mr. McKown, by request)

AN ACT to amend and reenact section five, article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter seventeen, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to compensation of county assessors and deputies.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 2. Assessors.

Section 5. Compensation of assessors and deputies.

Be it enacted by the Legislature of West Virginia:

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

Section 5. Compensation of Assessors and Deputies.—
2 The annual salary of the assessor in each county shall be as follows: Barbour county, two thousand two hundred dollars; Berkeley county, two thousand dollars; Boone
Ch. 13] SALARIES OF ASSESSORS

5 county, two thousand one hundred dollars; Braxton
6 county, one thousand eight hundred dollars; Brooke
7 county, one thousand eight hundred dollars; Cabell
8 county, three thousand six hundred dollars; Calhoun
9 county, one thousand two hundred dollars; Clay county,
10 one thousand four hundred forty dollars; Doddridge
11 county, one thousand four hundred forty dollars; Fayette
12 county, three thousand six hundred dollars; Gilmer
13 county, one thousand six hundred twenty dollars; Grant
14 county, one thousand dollars; Greenbrier county, one
15 thousand eight hundred dollars; Hampshire county, one
16 thousand four hundred forty dollars; Hancock county,
17 two thousand two hundred dollars; Hardy county, one
18 thousand five hundred fifty dollars; Harrison county,
19 four thousand dollars; Jackson county, one thou-
20sand three hundred fifty dollars; Jefferson county,
21 two thousand dollars; Kanawha county, five thou-
22sand dollars; Lewis county, two thousand six
23 hundred dollars; Lincoln county, two thousand
24 dollars; Logan county, three thousand dollars; Marion
25 county, three thousand dollars; Marshall county,
26 two thousand eight hundred dollars; Mason county, one
27 thousand eight hundred dollars; Mercer county, three
28 thousand six hundred dollars; Mineral county, two thou-
29sand dollars; Mingo county, two thousand seven hun-
30 dred dollars; Monongalia county, two thousand four
31 hundred dollars; Monroe county, one thousand three hun-
32 dred fifty dollars; McDowell county, three thousand six
33 hundred dollars; Morgan county, one thousand two hun-
34 dred dollars; Nicholas county, one thousand eight hun-
35 dred twenty dollars; Ohio county, three thousand six
36 hundred dollars; Pendleton county, one thousand five
37 hundred dollars; Pleasants county, one thousand two
38 hundred dollars; Pocahontas county, one thousand two
39 hundred dollars; Preston county, two thousand two hun-
40 dred ten dollars; Putnam county, one thousand eight
41 hundred dollars; Raleigh county, three thousand dollars;
42 Randolph county, two thousand five hundred dollars;
43 Ritchie county, one thousand six hundred dollars; Roane
44 county, one thousand six hundred twenty dollars; Sum-
SALARIES OF COUNTY COMMISSIONERS

CHAPTER 14

(Com. Sub. for House Bill No. 186—Originating in the House Committee on Counties, Districts and Municipal Corporations)

AN ACT to repeal section five, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter twenty, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, and to enact a new section five and sections five (one) to five (fifty-four), inclusive, of said article and chapter, relating to duties and salaries of county commissioners.

(Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor)


Section 5. Duties of county commissioners and payment for services other than services in court.

5-(1) to 5-(54). Salaries of county commissioners of the various counties of the state.

Be it enacted by the Legislature of West Virginia:

That section five, article one, chapter seven of the code of
Section 5. Duties of County Commissioners and Payment for Services Other Than Services in Court.—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; to attend the annual meeting of county assessors, and such district meetings as may be called by the state tax commissioner, on matters pertaining to the work of the county assessors and county courts as boards of review and equalization; to review and equalize the assessments made by the assessor; to cooperate with the county public assistance council and supervise the 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, the 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 attending the annual meeting of assessors and such district meetings as may be called by the state tax commissioner, on matters pertaining to the work of assessors and county courts as boards of review and equalization; 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 af-
Sec. 5-(1). Barbour County.—For the county of Barbour, twenty-five dollars per month.

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

Sec. 5-(3). Boone County.—For the county of Boone, sixty dollars per month.

Sec. 5-(4). Braxton County.—For the county of Braxton, forty dollars per month.

Sec. 5-(5). Brooke County.—For the county of Brooke, fifty dollars per month.

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

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

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

Sec. 5-(9). Doddridge County.—For the county of Doddridge, twenty-five dollars per month.

Sec. 5-(10). Fayette County.—For the county of Fayette, one hundred fifty dollars per month.

Sec. 5-(11). Gilmer County.—For the county of Gilmer, twenty-five dollars per month.

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

Sec. 5-(13). Greenbrier County.—For the county of Greenbrier, fifty dollars per month.

Sec. 5-(14). Hampshire County.—For the county of Hampshire, twenty-five dollars per month.
Sec. 5- (15). Hancock County.—For the county of Hancock, one hundred dollars per month.

Sec. 5- (16). Hardy County.—For the county of Hardy, twenty-five dollars per month.

Sec. 5- (17). Harrison County.—For the county of Harrison, one hundred twenty-five dollars per month.

Sec. 5- (18). Jackson County.—For the county of Jackson, twenty-five dollars per month.

Sec. 5- (19). Jefferson County.—For the county of Jefferson, thirty-five dollars per month.

Sec. 5- (20). Kanawha County.—For the county of Kanawha, two hundred fifty dollars per month.

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

Sec. 5- (22). Lincoln County.—For the county of Lincoln, fifty dollars per month.

Sec. 5- (23). Logan County.—For the county of Logan, one hundred fifty dollars per month.

Sec. 5- (24). Marion County.—For the county of Marion, two hundred dollars per month.

Sec. 5- (25). Marshall County.—For the county of Marshall, twenty-five dollars per month.

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

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

Sec. 5- (28). Mercer County.—For the county of Mercer, one hundred twenty-five dollars per month.

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

Sec. 5- (30). Mingo County.—For the county of Mingo, one hundred dollars per month.
Sec. 5-(31). Morgan County.—For the county of Morgan, twenty-five dollars per month.

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

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

Sec. 5-(34). Nicholas County.—For the county of Nicholas, twenty-five dollars per month.

Sec. 5-(35). Pendleton County.—For the county of Pendleton, twenty-five dollars per month.

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

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

Sec. 5-(38). Preston County.—For the county of Preston, the president of the county court forty dollars, and other members of the court twenty-five dollars per month.

Sec. 5-(39). Putnam County.—For the county of Putnam, forty-five dollars per month.

Sec. 5-(40). Raleigh County.—For the county of Raleigh, two hundred dollars per month.

Sec. 5-(41). Randolph County.—For the county of Randolph, forty dollars per month.

Sec. 5-(42). Ritchie County.—For the county of Ritchie, twenty-five dollars per month.

Sec. 5-(43). Roane County.—For the county of Roane, twenty-five dollars per month.

Sec. 5-(44). Summers County.—For the county of Summers, thirty-five dollars per month.

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

Sec. 5-(46). Tucker County.—For the county of Tucker, twenty-five dollars per month.
Sec. 5-(47). Tyler County.—For the county of Tyler, 2 forty dollars per month.

Sec. 5-(48). Upshur County.—For the county of Up- 2 shur, twenty-five dollars per month.

Sec. 5-(49). Wayne County.—For the county of Wayne, 2 seventy-five dollars per month.

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

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

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

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

Sec. 5-(54). Wyoming County.—For the county of 2 Wyoming, thirty-five dollars per month.

CHAPTER 15
(Senate Bill No. 47—By Mr. Smith)

AN ACT to amend article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be numbered section three-a, granting additional powers to county courts.

[Passed February 14, 1941; in effect from passage. Approved by the Governor.]


Section

3-a. Powers with respect to construction of sewers, etc.

Be it enacted by the Legislature of West Virginia:

That article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section to be numbered section three-a, to read as follows:
Section 3-a. Powers with Respect to Construction of Sewers, etc.—In addition to all other powers and duties now conferred by law upon county courts, such courts are hereby authorized and empowered to install, construct, repair, maintain and operate water works, water mains, sewer lines and sewage disposal plants in connection therewith within their respective counties: Provided, That such authority and power as herein conferred upon county courts shall not extend into the territory within any municipal corporation: Provided, however, That any county court is hereby authorized to enter into contracts or agreements with any municipality within the county, or with a municipality in an adjoining county, with reference to the exercise of the powers vested in such court by this section.

CHAPTER 16

(Com. Sub. for House Bill No. 50—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter twenty-one, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to assistants and stenographers or clerks for prosecuting attorneys; salaries; and when the court may appoint attorney to prosecute.

[Passed March 1, 1941; in effect from passage. Approved by 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, as
last amended and reenacted by chapter twenty-one, acts of
the Legislature, regular session, one thousand nine hundred
thirty-nine, be amended and reenacted to read as follows:

Section 6. Assistants and Stenographers for Prosecut-
ing Attorney; Salaries; When Court May Appoint Attor-
ney to Prosecute.—Any prosecuting attorney may, with
the assent of the county court of his county, entered of
record, appoint one (and Ohio, Harrison, Kanawha, Fay-
ette, Raleigh, Cabell and McDowell counties two each)
practicing attorney to assist him in the discharge of his
official duties for and during his term of office, and such
assistant shall take the same oath and may perform the
same duties as his principal; and he may be removed
from office as such at any time by his principal; and
further he may be removed from his office as such assist-
ant 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 Bar-
bour, Berkeley, Boone, Brooke, Cabell, Calhoun, Fayette,
Harrison, Hancock, Kanawha, Lewis, Lincoln, Logan,
Marion, Marshall, McDowell, Mercer, Mineral, Mingo,
Monongalia, Nicholas, Ohio, Putnam, Raleigh, Randolph,
Summers, Taylor, Upshur, Wayne, Wetzel, Wood and Wy-
oming, 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 thou-
sand dollars, and for the second assistant not to exceed two
thousand four 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 four thousand nor more than five thousand
dollars; in Cabell county, not more than twenty-four
hundred dollars for each assistant; in McDowell county,
not less than one thousand eight hundred dollars nor
more than two thousand four hundred dollars for each
assistant; in Marion county, not less than two thou-
sand nor more than three thousand dollars; in Raleigh
county, not more than three thousand dollars; in Mingo
county, not to exceed two thousand four hundred dollars; in Harrison, Logan and Mercer counties, not less than one thousand five hundred nor more than three thousand dollars; in Summers and Wood counties, not less than one thousand nor more than two thousand dollars; in Fayette county for the first assistant, not less than two thousand four hundred nor more than three thousand two hundred dollars, and for the second assistant not to exceed one thousand eight hundred dollars; in Boone and Wyoming counties, not less than one thousand two hundred nor more than one thousand eight hundred dollars; in Barbour county, one thousand dollars; in Monongalia county, two thousand four hundred dollars; in Wayne county, one thousand five hundred dollars; in Berkeley county, not to exceed one thousand two hundred dollars; in Lewis, Lincoln, Marshall, Mineral, Nicholas, Randolph and Upshur counties, not to exceed twelve hundred dollars; in Wetzel county, not less than six hundred nor more than nine hundred dollars; in Taylor county, 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 corporation charged with crime.

In each of the counties herein named, except Harrison,
and including Greenbrier, Lewis, Hampshire, Pocahontas, 
Preston, Putnam, Ritchie, Roane and Upshur, the prosec-
cuting 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 stenog-
graher in Barbour, Lewis, Pocahontas, Preston and Taylor 
counties shall not exceed one thousand two hundred 
dollars; in Upshur and Calhoun counties, shall not exceed 
nine hundred dollars; in Hampshire, Roane and Monroe 
counties, shall not exceed six hundred dollars; in Berkeley 
county, shall not be less than six hundred dollars nor 
exceed one thousand two hundred dollars; in Putnam 
and Ritchie counties, shall be seven hundred dollars; in 
Boone county, shall be one thousand two hundred dollars; 
and in Braxton county, shall be seven hundred and 
twenty dollars; in Webster county, shall be six hundred 
dollars; in Jefferson county, shall not exceed nine hun-
dred dollars: Provided, That in each of the last two 
named counties the prosecuting attorney may not em-
ploy 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 
or more than one thousand two hundred dollars per 
annum, payable out of the county treasury.

In the counties of Clay and Wetzel, the prosecuting 
attorney may employ a clerk or a stenographer for his 
office at a salary of one thousand two hundred dollars 
per annum, payable out of the county treasury.

In the county of Mingo, the prosecuting attorney may 
employ one stenographer for his office at a salary not to 
exceed one thousand five hundred dollars per annum, 
payable out of the county treasury.

In the county of Jackson, the prosecuting attorney may 
employ one stenographer or clerk for his office at a 
salary of six hundred dollars per annum, payable out 
of the county treasury.
CHAPTER 17
(Com. Sub. for Senate Bill No. 183—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section four, article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the payment of money out of the county treasury.

[Passed March 7, 1941; in effect from passage. Approved by the Governor.]

Article 5. Fiscal Affairs.
Section 4. Payment of money out of the county treasury; signing of orders by mechanical or electrical devices; forgery; penalty.

Be it enacted by the Legislature of West Virginia:

That section four, article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the payment of money out of the county treasury, be amended and reenacted to read as follows:

Section 4. Payment of Money Out of the County Treasury; Signing of Orders by Mechanical or Electrical Devices; Forgery; Penalty.—No money shall be paid by the sheriff out of the county treasury except upon an order signed by the president and clerk of the county court, and properly endorsed: Provided, however, That in counties having a population in excess of fifty thousand as shown by the last preceding federal census, such signatures and the signature of the sheriff authorizing the payment of such orders by a county depository may be made by means of such mechanical or electrical device as the county court may select. Such mechanical or electrical device for the making of the signatures of the president and clerk shall be safely kept in the office of the clerk of the county court so that no one shall have access thereto except the members of the county court and the clerk of the county court and such of their respective employees as may be authorized to have access thereto. Such mechanical or electrical device for the making of the
signature of the sheriff shall be safely kept in the office
of the sheriff so that no one shall have access thereto
except the sheriff and such of his deputies as may be au-
thorized to have access thereto.

If any person other than the persons authorized so to
do shall sign the name of the president of the county
court, the clerk of the county court or the sheriff by the
use of any such mechanical or electrical device, or other-
wise, on any warrant, order or check, or utter or attempt
to employ as true such forged warrant, order or check,
knowing the same to be forged, he shall be guilty of a
felony and, upon conviction, shall be confined in the peni-
tentiary not less than two years and not more than ten
years.

CHAPTER 18
(Senate Bill No. 184—By Mr. McKown, by request)

AN ACT to amend and reenact section three, article nine, chap-
ter eighteen of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to collec-
tion and disbursement of school money by sheriff, the
signing of orders for the payment of money issued by the
boards of education, providing a penalty for the forgery of
signatures to orders for the payment of money, and con-
tinuing certain high schools.

(Passed March 7, 1941: in effect from passage. Approved by the Governor.)

Article 9. School Finances.
Section
3. Collection and disbursement of school money by sheriff; signing of
orders for payment of money issued by boards of education;
forgery of signatures; penalty; continuance of certain high
schools.

Be it enacted by the Legislature of West Virginia:

That section three, article nine, chapter eighteen of the code
of West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted to read as follows:
Section 3. Collection and Disbursement of School Money by Sheriff; Signing of Orders for Payment of Money Issued by Boards of Education; Forgery of Signatures; Penalty; Continuance of Certain High Schools.—

The sheriff shall receive, collect and disburse all levies and other school money for the district. He shall keep accounts of the money belonging to the several funds and shall credit and charge every amount to the fund to which it belongs. The sheriff shall pay money only upon the order of the board. The order shall specify the amount to be paid, the purpose for which it is paid, and the fund to which it shall be charged. The order shall be signed by the president and shall be countersigned by the secretary: Provided, however, That in counties having a population in excess of fifty thousand as shown by the last preceding federal census, such signatures and the signature of the sheriff authorizing the payment of such orders by a county depository may be made by means of such mechanical or electrical device as the board may select. Such mechanical or electrical device for the making of the signatures of the president and secretary shall be safely kept in the office of the secretary of the board so that no one shall have access thereto except the president and secretary of the board and such of their respective employees as may be authorized to have access thereto. Such mechanical or electrical device for the making of the signature of the sheriff shall be safely kept in the office of the sheriff so that no one shall have access thereto except the sheriff and such of his deputies as may be authorized to have access thereto. If any person shall sign the names of the president or secretary of the board of education without having authority so to do, by the use of any mechanical or electrical device, or otherwise, or use the facsimile of the signature of either of them on any order, he shall be guilty of forgery; and if any person shall utter or attempt to employ as true such forged order, knowing the same to be forged, he shall, in either event, be guilty of a felony and, upon conviction, shall be confined in the penitentiary not less than two nor more than ten years.
Any high school which has been established and main-
tained for teacher training and other educational purposes
by any board or boards of education in connection with
state institutions of higher learning, shall be continued
and maintained in the manner provided by the act autho-
izing such school; except, that the advisory authority
formerly vested in the district board or boards of educa-
tion is hereby transferred to the county board of educa-
tion; and the levy for the support of such school, formerly
laid by the district board or boards of education, shall be
laid on all the assessed property of the county, by the
county board of education. All expenditures from such
fund shall be paid on requisition issued by the county
board.

CHAPTER 19
(Senate Bill No. 44—Originating in the Committee on the Judiciary)

AN ACT to amend and reenact sections one, one-h, one-j, one-k,
and one-x, article two, chapter fifty-one of the code of
West Virginia, one thousand nine hundred thirty-one,
relating to the division of the state into judicial circuits
and fixing the time for holding the regular terms of court
for the eighth, tenth, eleventh, and twenty-fourth judicial
circuits; and repealing chapter forty-one, acts of the
Legislature, regular session, one thousand nine hundred
thirty-five, and chapter forty-two, acts of the Legislature,
regular session, one thousand nine hundred thirty-five, as
amended by chapter fifteen, acts of the Legislature, regu-
lar session, one thousand nine hundred thirty-seven.

[Passed February 26, 1941; in effect from passage. Approved by the Governor.]

Article 2. Circuit Courts; Circuit, Criminal and Intermediate
Judges.

Section
1. Judicial circuits; judges; terms of court.
1-h. Eighth circuit.
1-j. Tenth circuit.
1-k. Eleventh circuit.
1-x. Twenty-fourth circuit.

Be it enacted by the Legislature of West Virginia:

That chapter forty-one, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, and chapter forty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-five, as amended by chapter fifteen, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, be repealed, and that sections one, one-h, one-j, one-k, and one-x, 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. Judicial Circuits; Judges; Terms of Court.
2 The state shall be divided into judicial circuits as follows: The counties of Brooke, Hancock and Ohio shall constitute the first circuit; the counties of Marshall, Tyler and Wetzel shall constitute the second circuit; the counties of Doddridge, Pleasants and Ritchie shall constitute the third circuit; the counties of Wood and Wirt shall constitute the fourth circuit; the counties of Calhoun, Jackson, Mason and Roane shall constitute the fifth circuit; the counties of Cabell, Lincoln and Putnam shall constitute the sixth circuit; the county of Logan shall constitute the seventh circuit; the county of McDowell shall constitute the eighth circuit; the counties of Mercer and Wyoming shall constitute the ninth circuit; the counties of Boone and Raleigh shall constitute the tenth circuit; the counties of Greenbrier, Monroe, Pocahontas and Summers shall constitute the eleventh circuit; the counties of Fayette and Nicholas shall constitute the twelfth circuit; the county of Kanawha shall constitute the thirteenth circuit; the counties of Braxton, Clay, Gilmer and Webster shall constitute the fourteenth circuit; the counties of Harrison and Lewis shall constitute the fifteenth circuit; the county of Marion shall constitute the sixteenth circuit; the county of Monongalia shall constitute the seventeenth circuit; the county of Preston shall constitute the eighteenth circuit; the counties of Barbour and Taylor shall constitute the nineteenth circuit; the counties of Randolph and Up-
shur shall constitute the twentieth circuit; the counties
of Grant, Mineral and Tucker shall constitute the twenty-
first circuit; the counties of Hampshire, Hardy and Pendle-
ton shall constitute the twenty-second circuit; the counties
of Berkeley, Jefferson and Morgan shall constitute the
twenty-third circuit; and the counties of Mingo and
Wayne shall constitute the twenty-fourth circuit.
There shall be elected on the Tuesday next after the
first Monday in November, one thousand nine hundred
thirty-six, and every eighth year thereafter, one judge in
each of the circuits herein constituted, except for the first
circuit there shall be two judges elected.
The terms of the several circuit courts of the counties
aforesaid shall commence and be held each year as herein-
after provided.

Sec. 1-h. Eighth Circuit.—For the county of McDowell,
on the second Monday in March, the second Monday in
June, the second Monday in September and the first Mon-
day in December.

Sec. 1-j. Tenth Circuit.—For the county of Boone, on
the fourth Monday in January, the second Monday in
April, the second Monday in July, and the second Monday
in October.
For the county of Raleigh, on the third Monday in
February, on the third Monday in May, on the fourth
Monday in August and on the second Monday in Novem-
ber.

Sec. 1-k Eleventh Circuit.—For the county of Poca-
hontas, on the second Tuesday in March, and the first
Tuesday in June and October.
For the county of Greenbrier, on the third Tuesday in
April, and the fourth Tuesday in July and November.
For the county of Monroe, on the first Tuesday in
April, and the second Tuesday in July and November.
For the county of Summers, on the second Tuesday in
January, and the second Tuesday in May and September.

Sec. 1-x. Twenty-fourth Circuit.—For the county of
Mingo, on the first Monday in January, May and October.
For the county of Wayne, on the second Monday in
March and July, and the fourth Monday in November.
Chapter forty-one, acts of the Legislature, regular session, one thousand nine hundred thirty-five, and chapter forty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-five, as amended by chapter fifteen, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, and all other acts and parts of acts in conflict herewith, are hereby expressly repealed.

CHAPTER 20
(House Bill No. 218—By Mr. Thomas)

AN ACT to amend article two, chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing sections one through five, inclusive, and enacting sections one through twenty-eight, inclusive; and to repeal section three, article three, chapter twelve thereof, all relating to claims and proceedings against the state, its officers and agencies.

[Passed March 6, 1941; in effect from passage. Approved by the Governor.]

Article 2. Claims Against the State.

Section
1. Purpose.
2. Definitions.
3. Proceedings against state officers.
4. Court of claims.
5. Court clerk.
6. Terms of court.
7. Meeting place of court.
8. Compensation of members.
10. Qualifications of judges.
11. Attorney general to represent state.
13. The jurisdiction of the court.
16. Regular procedure.
17. Shortened procedure.
18. Advisory determination procedure.
19. Claims under existing appropriations.
20. Claims under special appropriations.
21. Limitations of time.
22. Compulsory process.
23. Inclusion of awards in budget.
24. Records to be preserved.
25. Reports of the court.
26. Fraudulent claims.
27. Repealer.

Be it enacted by the Legislature of West Virginia:

That section three, article three, chapter twelve, be repealed; and that sections one through five, inclusive, be repealed, and sections one through twenty-eight, inclusive, be enacted of article two, chapter fourteen, all of the code of West Virginia, one thousand nine hundred thirty-one, so as to read as follows:

Section 1. Purpose.—The purpose of this article is to provide a simple and expeditious method for the consideration of claims against the state that because of the provisions of section thirty-five, article six of the constitution of the state, and of statutory restrictions, inhibitions or limitations, cannot be determined in a court of law or equity; and to provide for proceedings in which the state has a special interest.

Sec. 2. Definitions.—For the purposes of this article:
1. "Court" means the state court of claims established by section four of this article.
2. "Claim" means a claim authorized by the court in accordance with this article.
3. "Approved claim" means a claim found by the court to be one that should be paid under the provisions of this article.
4. "Award" means the amount recommended by the court to be paid in satisfaction of an approved claim.
5. "Clerk" means the clerk of the court of claims.
6. "State agency" means a state department, board, commission, institution, or other administrative agency of the state government.

Sec. 3. Proceedings Against State Officers.—The following proceedings shall be brought and prosecuted only in the circuit court of Kanawha county:
1. Any suit in which the governor, any other state officer, or a state agency is made a party defendant, except as garnishee or suggestee.

2. Any suit attempting to enjoin or otherwise suspend or affect a judgment or decree on behalf of the state obtained in any circuit court.

This section shall apply only to such proceedings as are not prohibited by the constitutional immunity of the state from suit under section thirty-five, article six of the constitution of the state.

Sec. 4. Court of Claims.—There is hereby created a "State Court of Claims" which shall be a special instrumentality of the Legislature for the purpose of considering claims against the state, which because of the provisions of section thirty-five, article six of the constitution of the state, and of statutory restrictions, inhibitions or limitations, cannot be heard in a court of law or equity, and recommending the disposition thereof to the Legislature. The court shall not be invested with or exercise the judicial power of the state in the sense of article eight of the constitution of the state. A determination made by the court shall not be subjected to appeal to or review by a court of law or equity created by or pursuant to article eight of the constitution.

The court shall consist of three judges who shall be appointed by the governor with the advice and consent of the senate. The terms of judges shall be six years, except that the first membership of the court shall be appointed as follows: One judge for two years; one judge for four years, and one judge for six years. As these appointments expire, all appointments shall be for six-year terms. Not more than two of the judges shall be members of the same political party. An appointment to fill a vacancy shall be for the unexpired term. The court shall each year elect one of its members as presiding judge.

The governor shall appoint three persons as alternate judges. Whenever a regular judge is unable to serve or is disqualified, the governor shall designate an alternate judge to serve in the place and stead of the regular judge. Alternate judges shall be appointed for six-year

terms except that the first alternates appointed shall be
designated to serve for two, four, and six-year terms
as in the case of regular judges. Not more than two
alternate judges shall belong to the same political party.
The provisions of sections eight to ten, inclusive, of
this article with respect to judges shall apply with equal
effect to alternates.

Sec. 5. Court Clerk.—The secretary of state shall be
ex officio clerk of the court. He shall perform the duties
of clerk without additional compensation. The clerk
shall have custody of all records and proceedings of the
court, shall attend meetings and hearings of court, shall
administer oaths and affirmations, and shall issue all
official summons, orders, statements and awards. The
secretary of state may, with the approval of the court,
designate one of the regular employees of his office as
deputy clerk. The clerk may delegate his duties under
this article to the deputy but the clerk shall be responsible
for all official acts.

Sec. 6. Terms of Court.—The court shall hold at least
four regular terms each year, on the second Monday in
January, April, July and October. If, however, one
week prior to the date of a regular term, no claims
are ready for hearing or consideration, the clerk, with
the approval of the presiding judge, shall notify the
members that the court will not be convened. So far
as possible, the court shall not adjourn a regular term
until all claims then upon its docket and ready for hear-
ing or other consideration have been disposed of.
Special terms or meetings may be called by the clerk
at the request of the presiding judge whenever the
number of claims awaiting consideration, or any other
pressing matter of official business, makes such a term
advisable.

Sec. 7. Meeting Place of Court.—The regular meeting
place of the court shall be the offices of the secretary
of state at the state capitol. When deemed advisable, in
order to facilitate the full hearing of claims arising
elsewhere in the state, the court may convene at any
county seat.
Sec. 8. Compensation of Members.—Each judge of the court shall receive fifteen dollars for each day actually served, and actual 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 preserved as a public record.
For the purposes of this section, days served shall include time spent in the hearing of claims, in the consideration of the record, and in the preparation of opinions.
In no case, however, shall a judge receive compensation for more than one hundred fifty days’ service in any fiscal year.

Sec. 9. Oath of Office.—A judge shall, before entering upon the duties of his office, take and subscribe to the oath prescribed by article four, section five of the constitution of the state. The oath shall be filed with the clerk.

Sec. 10. Qualifications of Judges.—A judge shall not be a state officer or a state employee except in his capacity as a member of the court. A member shall receive no other compensation from the state.
A judge shall not hear or participate in the consideration of a claim in which he is personally interested.
Whenever a member is thus disqualified, the clerk shall notify the governor, and thereupon the governor shall assign an alternate to act during such disqualification.
Whenever a judge is unable to attend and serve for any reason, the governor shall, when so notified by the clerk, assign an alternate to act in the absence of the regular judge.

Sec. 11. Attorney General to Represent State.—The attorney general shall represent the interests of the state in all claims coming before the court.

Sec. 12. General Powers of the Court.—The court shall, in accordance with this article, consider claims which, but for the constitutional immunity of the state from suit, or of some statutory restrictions, inhibitions or lim-
5 itations, could be maintained in the regular courts of the state. But no liability shall be imposed upon the state or any of its agencies by a determination of the court of claims approving a claim and recommending an award, unless the Legislature has previously made an appropriation for the payment of a claim subject only to the determination of the court. The court shall consider claims in accordance with sections sixteen to twenty, inclusive, of this article.

Except as is otherwise provided in this article, a claim shall be instituted by the filing of notice with the clerk. Each claim shall be considered by three judges. If, after consideration, the court finds that a claim is just and proper, it shall so determine and shall file with the clerk a brief statement of its reasons. If the determination of the court is not unanimous, the reasons of the dissenting judge shall be separately stated. A claim so filed shall be an approved claim. The court shall also determine the amount that should be paid to the claimant, and shall itemize this amount as an award, with the reasons therefore, in its statement filed with the clerk. In determining the amount of a claim, interest shall not be allowed unless the claim is based upon a contract which specifically provides for the payment of interest.

Sec. 13. The Jurisdiction of the Court.—The jurisdiction of the board, except for the claims excluded by section fourteen, shall extend to the following matters:

1. Claims and demands, liquidated and unliquidated, ex contractu and ex delicto, against the state or any of its agencies which the state as a sovereign commonwealth should in equity and good conscience discharge and pay.

2. Claims and demands, liquidated and unliquidated, ex contractu and ex delicto, which may be asserted in the nature of set-off or counter claim on the part of the state or any of its agencies.

3. The legal or equitable status, or both, of any claim referred to the court by the head of a state agency for an advisory determination.

Sec. 14. Claims Excluded.—The jurisdiction of the court shall not extend to any claim:
1. For loss, damage, or destruction of property or for injury or death incurred by a member of the militia or national guard when in the service of the state.

2. For injury to or death of an inmate of a state penal institution.

3. Arising out of the care of treatment of a person in a state institution.

4. For a disability or death benefit under chapter twenty-three of this code.

5. For unemployment compensation under chapter twenty-one-a of this code.

6. For relief or public assistance under chapter nine of this code.

7. With respect to which a proceeding may be maintained by or on behalf of the claimant in the courts of the state.

Sec. 15. Rules of Practice and Procedure.—The court shall adopt and may from time to time amend rules of procedure, in accordance with the provisions of this article, governing proceedings before the court. Rules shall be designed to assure a simple, expeditious and inexpensive consideration of claims.

The court shall also adopt and may from time to time amend rules pertaining to persons appearing as representatives of claimants. Rules shall permit a claimant to appear in his own behalf, or to present his claim through a qualified representative. A representative shall be a person who, as further defined by the rules of the court, is competent to present and protect the interests of the claimant.

Under its rules, the court shall not be bound by the usual common law or statutory rules of evidence. The court may accept and weigh in accordance with its evidential value any information that will assist the court in determining the factual basis of the claim.

Sec. 16. Regular Procedure.—The regular procedure for the consideration of claims shall be substantially as follows:

1. The claimant shall give notice to the clerk that he desires to maintain a claim. Notice shall be in writing
and shall be in sufficient detail to identify the claimant, the circumstances giving rise to the claim, and the state agency concerned, if any. The claimant shall not otherwise be held to any formal requirement of notice.

2. The clerk shall transmit a copy of the notice to the state agency concerned. The state agency may deny the claim, or may request a postponement of proceedings to permit negotiations with the claimant. If the court finds that a claim is prima facie within its jurisdiction, it shall order the claim to be placed upon its regular docket for hearing.

3. During a period of negotiations and pending hearing, the state agency and the attorney general's office shall, if possible, reach an agreement with the claimant regarding the facts upon which the claim is based so as to avoid the necessity for the introduction of evidence at the hearing. If the parties are unable to agree upon the facts, an attempt shall be made to stipulate the questions of fact in issue.

4. The court shall so conduct the hearing as to disclose all material facts and issues of liability. Any judge may examine or cross-examine witnesses. The court may call witnesses or require evidence not produced by the parties; may stipulate the questions to be argued by the parties; and may continue the hearing until some subsequent time to permit a more complete presentation of the claim.

5. After the close of the hearing the court shall consider the claim and shall conclude its determination, if possible, within thirty days.

Sec. 17. **Shortened Procedure.**—The shortened procedure authorized by this section shall apply only to a claim possessing all of the following characteristics:

1. The claim does not arise under an appropriation for the current fiscal year.

2. The state agency concerned concurs in the claim.

3. The amount claimed does not exceed one thousand dollars.

4. The claim has been approved by the attorney general
as one that, in view of the purposes of this article, should be paid.

The state agency concerned shall prepare the record of the claim consisting of all papers, stipulations and evidential documents required by the rules of the court. The record shall be filed with the clerk. The court shall consider the claim informally upon the record submitted. If the court determines that the claim should be entered as an approved claim and an award made, it shall so order and shall file its statement with the clerk. If the court finds that the record is inadequate, or that the claim should not be paid, it shall reject the claim. The rejection of a claim under this section shall not bar its resubmission under the regular procedure.

Sec. 18. Advisory Determination Procedure.—The governor or the head of a state agency may refer to the court for an advisory determination the question of the legal or equitable status, or both, of a claim against the state or one of its agencies. This procedure shall apply only to such claims as are within the jurisdiction of the court. The procedure shall be substantially as follows:

1. There shall be filed with the clerk the record of the claim including a full statement of the facts, the contents of claimant, and such other materials as the rules of the court may require. The record shall submit specific questions for the court’s consideration.

2. The clerk shall examine the record submitted and if he finds that it is adequate under the rules, he shall place the claim on a special docket. If he finds the record inadequate, he shall refer it back to the officer submitting it with the request that the necessary additions or changes be made.

3. When the claim is reached on the special docket, the court shall prepare a brief opinion for the information and guidance of the officer. The claim shall be considered informally and without hearing. A claimant shall not be entitled to appear in connection with the consideration of the claim.

4. The opinion shall be filed with the clerk. A copy
shall be transmitted to the officer who referred the claim. An advisory determination shall not bar the subsequent consideration of the same claim if properly submitted by, or on behalf of, the claimant. Such subsequent consideration, if undertaken, shall be de novo.

Sec. 19. Claims Under Existing Appropriations.—A claim arising under an appropriation made by the Legislature during the fiscal year to which the appropriation applies, and falling within the jurisdiction of the court, may be submitted by:

1. A claimant whose claim has been rejected by the state agency concerned or by the state auditor.
2. The head of the state agency concerned in order to obtain a determination of the matters in issue.
3. The state auditor in order to obtain a full hearing and consideration of the merits.

The regular procedure, so far as applicable, shall govern the consideration of the claim by the board. If the court finds that the claimant should be paid, it shall certify the approved claim and award to the head of the state agency, the state auditor, and the governor. The governor may thereupon instruct the auditor to issue his warrant in payment of the award and to charge the amount thereof to the proper appropriation. The auditor shall forthwith notify the state agency that the claim has been paid. Such an expenditure shall not be subject to further review by the auditor upon any matter determined and verified by the court.

Sec. 20. Claims Under Special Appropriations.—Whenever the Legislature makes an appropriation for the payment of claims against the state, then accrued or arising during the ensuing biennium, determination of claims and the payment thereof may be made in accordance with this section. But this section shall apply only if the Legislature in making its appropriation specifically so provides.

The claim shall be considered and determined by the regular or shortened procedure, as the case may be, and the amount of the award shall be fixed by the court. The
clerk shall certify each approved claim and award to
the governor. The clerk shall issue his requisition to
the auditor who shall issue his warrant to the treasurer
in favor of the claimant. The auditor shall issue his
warrant without further examination or review of the
claim except for the question of a sufficient unexpended
balance in the appropriation.

Sec. 21. Limitations of Time.—The court shall not take
jurisdiction over a claim unless the claim is filed within
five years after the claim might have been presented to
such court. If, however, the claimant was for any reason
disabled from maintaining the claim, the jurisdiction of
the court shall continue for two years after the removal of
the disability. With respect to a claim arising prior to the
adoption of this article, the limitation of this section shall
run from the effective date of this article: Provided, how-
ever, That no such claim as shall have arisen prior to the
effective date of this article shall be barred by any lim-
itation of time imposed by any other statutory provision
if the claimant shall prove to the satisfaction of the court
that he has been prevented or restricted from presenting
or prosecuting such claim for good cause, or by any other
statutory restriction or limitation.

Sec. 22. Compulsory Process.—In all hearings and
proceedings before the court, the evidence of witnesses
and the production of documentary evidence may be
required. Summons may be issued by the court for
appearance at any designated place of hearing. In case
of disobedience to a summons or other process, the court
may invoke the aid of any circuit court in requiring the
evidence and testimony of witnesses, and the production
of books, papers, and documents. Upon proper showing,
the circuit court shall issue an order requiring witnesses
to appear before the court of claims; produce books,
papers and other evidence; and give testimony touching
the matter in question. A person failing to obey the order
may be punished by the circuit court as for contempt.

Sec. 23. Inclusion of Awards in Budget.—The clerk
shall certify to the director of the budget on or before
the twentieth day of November of each year next preced-
ing the year in which the Legislature meets in regular
session, a list of all awards recommended by the court
to the Legislature for appropriation. The clerk may cer-
tify supplementary lists to the board of public works to
include subsequent awards made by the court. The board
of public works shall include all awards so certified in
its proposed budget bill transmitted to the Legislature.

Sec. 24. Records to Be Preserved.—The record of each
claim considered by the court, including all documents,
papers, briefs, transcripts of testimony and other mate-
rials, shall be preserved by the clerk and shall be made
available to the Legislature or any committee thereof for
the re-examination of the claim.

Sec. 25. Reports of the Court.—The clerk shall be the
official reporter of the court. He shall collect and edit
the approved claims, awards and statements, and shall
prepare them for publication and submission to the Legis-
lature in the form of a biennial report.
Claims and awards shall be separately classified as
follows:
1. Approved claims and awards not satisfied but referred
to the Legislature for final consideration and appropria-
tion.
2. Approved claims and awards satisfied by payments
out of regular appropriations for the biennium.
3. Approved claims and awards satisfied by payment
out of a special appropriation made by the Legislature
to pay claims arising during the biennium.
4. Claims rejected by the court with the reasons there-
for.
5. Advisory determinations made at the request of the
 governor or the head of a state agency.
The court may include any other information or recom-
mendations pertaining to the performance of its duties.

The court shall transmit its biennial report to the gov-
ernor who shall transmit a copy thereof to the presiding
officer of each house of the Legislature. The biennial re-
ports of the board shall be published by the clerk as a
public document.
Sec. 26. Fraudulent Claims.—A person who knowingly and wilfully presents or attempts to present a false or fraudulent claim, or a state officer who knowingly and wilfully participates or assists in the preparation or presentation of a false or fraudulent claim, shall be guilty of a misdemeanor. A person convicted, in a court of competent jurisdiction, of violation of this section shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both, in the discretion of such court. If the convicted person is a state officer he shall, in addition, forfeit his office.

Sec. 27. Repealer.—Section three, article three, chapter twelve of the official code, one thousand nine hundred thirty-one, is hereby repealed. Any other provision of law in conflict with the provisions of this act is hereby repealed.

Sec. 28. Provisions Severable.—If any part of this act is held unconstitutional, the decision shall not affect any portion of the act which remains. 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 21

(AN ACT to amend and reenact section sixteen, article eleven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter twenty-four, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to penitentiary imprisonment.

[Passed March 8, 1941; in effect from passage. Approved by the Governor.])


Section 16. Term of imprisonment for felony; indeterminate sentence.

Be it enacted by the Legislature of West Virginia:

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

Section 16. *Term of Imprisonment for Felony; Indeterminate Sentence.*—Every sentence to the penitentiary of a person convicted of a felony for which the maximum penalty prescribed by law is less than life imprisonment, except offenses committed by convicts in the penitentiary punishable under chapter sixty-two, article eight, section one of the code, shall be a general sentence of imprisonment in the penitentiary. In imposing this sentence, the judge may, however, designate a definite term, which designation may be considered by the director of probation and parole as the opinion of the judge under the facts and circumstances then appearing of the appropriate term recommended by him to be served by the person sentenced. Imprisonment under a general sentence shall not exceed the maximum term prescribed by law for the crime for which the prisoner was convicted, less such good time allowance as is provided by sections twenty-seven and twenty-seven-a, article five, chapter twenty-eight of this code, in the case of persons sentenced for a definite term. Every other sentence of imprisonment in the penitentiary shall be for a definite term or for life, as the court may determine. The term of imprisonment in jail, where that punishment is prescribed in the case of conviction for felony, shall be fixed by the court.
CHAPTER 22
(House Bill No. 236—By Mr. Farley)

AN ACT to amend and reenact section ten, article ten, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to pool rooms.

[Passed March 7, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 10. Crimes Against Public Policy.
Section 10. Pool room defined; selling tickets and chances thereat; penalty.

Be it enacted by the Legislature of West Virginia:

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

Section 10. Pool Room Defined; Selling Tickets and Chances Thereat; Penalty.—The word “pool room”, wherever the same is used in this section, shall be held and construed to mean any room where any pool ticket, chance voucher or certificate is sold entitling or purporting to entitle the holder or promisee thereof, or any other person, to money or other thing of value, contingent upon the result of any horse race, prize fight, game of chance, game of skill or science, or other sport or contest. Any person who shall set up or promote, or be connected with or interested in the management or operation of any pool room, his agents, servants or employees, they, and each of them, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than two hundred nor more than one thousand dollars for each offense, and may, in the discretion of the court, be confined in jail not to exceed one year. The buying, selling or transferring of tickets or chances in any lottery shall be and the same is hereby prohibited.
CHAPTER 23

AN ACT to amend article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be designated section forty-nine-a, relating to the sale of used, second-hand, rebuilt, repossessed, reconstructed or reconditioned watches, clocks, or other instruments used for keeping time.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 3. Crimes Against Property.

Section 49-a. Unlawful sale of used, second-hand, rebuilt, repossessed, etc., watches and clocks; penalty; revocation of license to sell.

Be it enacted by the Legislature of West Virginia:

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

Section 49-a. Unlawful Sale of Used, Second-hand, Rebuilt, Repossessed, etc., Watches and Clocks; Penalty; Revocation of License to Sell.—It shall be unlawful for any person, firm, corporation, association or copartnership, either foreign or domestic, to display, barter, sell, offer or expose for sale, any clock or watch or other instrument or contrivance by which the progress of time is perceived or measured, or which instrument or contrivance is intended for such use, and which has before been used, rebuilt, repossessed, reconstructed or reconditioned, without at all times having the same marked by label plainly written or printed in the English language, and attached thereto, with the words thereon, “Used”, “Second-hand”, “Rebuilt”, “Repossessed”, “Reconstructed” or “Reconditioned”, as the case may be.

Any person, firm, corporation, association or copartner-
ship, foreign or domestic, who or which shall violate the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall, for the first offense, be fined not less than twenty-five nor more than one hundred dollars; and for a second offense shall be fined not less than fifty dollars nor more than two hundred fifty dollars, and in addition thereto, the owner, manager or acting agent of the seller shall be imprisoned in the county jail not less than ten nor more than sixty days; and upon conviction for a third or subsequent offense, shall be fined not less than one hundred dollars nor more than five hundred dollars, and in addition thereto the owner, manager or acting agent of the seller shall be confined in the county jail not less than thirty days nor more than six months, at the discretion of the court, and upon conviction for such third or subsequent offense, in addition to the penalty herein provided, the license of the offender for the sale of merchandise shall be revoked and shall not be renewed for the period of six months from the date of such third conviction, and then only upon the offender executing bond with approved security in the sum of one thousand dollars, conditioned that he or it will not violate the provisions of this act.

CHAPTER 24

(House Bill No. 144—By Mr. Janes)

AN ACT to amend and reenact section five, article two, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to indictments for embezzlement, allegations, and proof, by adding thereto what description and proof of United States currency is sufficient in prosecutions for larceny thereof, for obtaining the same
by false pretense or token, and for receiving the same knowing it to have been stolen.

[Passed March 7, 1941; in effect ninety days from passage. Approved by the Governor.]

**Article 2. Presentments and Indictments.**

Section 5. Indictment for embezzlement; what description and proof of money sufficient in prosecutions for embezzlement, larceny, obtaining the same by false pretense or token, or for receiving the same knowing it to have been stolen.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Indictment for Embezzlement; What Description and Proof of Money Sufficient in Prosecutions for Embezzlement, Larceny, Obtaining the Same by False Pretense or Token, or for Receiving the Same Knowing It to Have Been Stolen.*—In a prosecution against a person accused of embezzling, or fraudulently converting to his own use, bullion, money, bank notes, or other security for money, it shall be lawful, in the same indictment, to charge and thereon to proceed against the accused, for any number of distinct acts of such embezzlement or fraudulent conversion which may have been committed by him within six months from the first to the last of such acts; and it shall be sufficient to allege the embezzlement or fraudulent conversion to be of money, bullion, bank notes, or security for money without specifying the particular kind of money, bank notes, bullion or security for money, as the case may be; and such allegation, so far as it regards the description of the property, shall be sustained, if the accused be proved to have embezzled or fraudulently converted to his own use, any bullion, money, bank note, or security for money, (although the particular item or thing embezzled or converted be neither alleged nor proved).

And in a prosecution for the larceny of United States currency or for obtaining United States currency by a
false pretense or token, or for receiving United States currency knowing the same to have been stolen, it shall be sufficient to allege the larceny, or the obtaining thereof by a false pretense or token, or the receiving thereof knowing it to have been stolen, to be of United States currency, without specifying the number and denomination thereof, and such allegation, so far as it regards the description of said United States currency, shall be sustained if the accused be proved guilty of the larceny of national bank notes or United States treasury notes, certificates for either gold or silver coin, fractional coin, currency, or any other form of money issued by the United States government, or of obtaining the same by false pretense or token, or of receiving the same knowing it to have been stolen, although the particular species be not proved.

CHAPTER 25

(Com. Sub. for Senate Bill No. 7—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section five, article seven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to state licenses to carry weapons and the exception thereto as to sheriffs and certain regularly appointed officers and deputies.

(Passed February 28, 1941; in effect ninety days from passage. Approved by the Governor.)

Article 7. Dangerous Weapons.

Section 5. Exception as to sheriffs and certain regularly appointed officers and deputies; bonds; liability thereon.

Be it enacted by the Legislature of West Virginia:

That section five, article seven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:
Section 5. Exception as to Sheriffs and Certain Regularly Appointed Officers and Deputies; Bonds; Liability Thereon.—Nothing in this article shall be so construed as to prohibit sheriffs, their regularly appointed full time deputies who have been duly confirmed by the county court, and all constables in their respective counties and districts, and all regularly appointed police officers of their respective cities, towns or villages, all jailers and game protectors who have been duly appointed as such, the state fire marshal, the deputy state fire marshal, and such assistant state fire marshals as are full time employees of the state and fully paid by the state, and members of the department of public safety of this state, from carrying the weapons mentioned in section one of this article, who shall have given bond in the penalty of not less than three thousand five hundred dollars, conditioned for the faithful performance of their respective duties, which said officers shall be liable upon their said official bonds, for the damages done by the unlawful or careless use of any such weapon or weapons, whether such bond is so conditioned or not.

CHAPTER 26

(Proposal No. 310—By Mr. James R. Ewing)

AN ACT to amend chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article designated article thirteen, to confer upon all courts of record jurisdiction to make binding declarations of rights and determine questions of construction; whether any consequential relief is or could be claimed or not, and to prescribe whether, and how, and with what effect proceedings seeking the exercise of such jurisdiction shall be brought and conducted, and how this
act, known as the "Uniform Declaratory Judgments Act", shall be construed.

(Passed March 3, 1941; in effect ninety days from passage. Approved by the Governor.)


Section 1. Powers of courts to declare rights, status and other legal relations.  
2. Who may have determination and obtain declaration.  
3. Construction of contract before or after breach.  
4. Declaration concerning trusts and estates.  
5. Enumeration not restriction.  
6. When court may refuse judgment or decree.  
7. Review of orders, judgments and decrees.  
8. Further relief on petition; showing by adverse party.  
9. Issues of fact; trial and determination.  
10. Award of costs.  
11. Parties to action; municipal ordinance or franchise involved.  
12. Act remedial; liberal construction and administration.  
13. “Person” defined.  
15. Interpretation and construction.  
16. Citation of act.

Be it enacted by the Legislature of West Virginia:

Section 1. Powers of Courts to Declare Rights, Status and Other Legal Relations.—Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

Sec. 2. Who May Have Determination and Obtain Declaration.—Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.
Sec. 3. Construction of Contract Before or After Breach. —A contract may be construed either before or after there has been a breach thereof.

Sec. 4. Declaration Concerning Trusts and Estates.—Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic or insolvent, may have a declaration of rights or legal relations in respect thereto:
   (a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; or
   (b) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or
   (c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

Sec. 5. Enumeration Not Restriction.—The enumeration in sections two, three, and four does not limit or restrict the exercise of the general powers conferred in section one, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

Sec. 6. When Court May Refuse Judgment or Decree.—The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

Sec. 7. Review of Orders, Judgments and Decrees.—All orders, judgments and decrees under this act may be reviewed as other orders, judgments and decrees.

Sec. 8. Further Relief on Petition; Showing by Adverse Party.—Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient, the court shall, on reasonable notice,
UNIFORM DECLARATORY JUDGMENTS ACT

Sec. 9. Issues of Fact; Trial and Determination.—When a proceeding under this act involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

Sec. 10. Award of Costs.—In any proceeding under this act the court may make such award of costs as may seem equitable and just.

Sec. 11. Parties to Action; Municipal Ordinance or Franchise Involved.—When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be unconstitutional, the attorney general of the state shall also be served with a copy of the proceeding and be entitled to be heard.

Sec. 12. Act Remedial; Liberal Construction and Administration.—This act is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered.

Sec. 13. “Person” Defined.—The word “person”, wherever used in this act, shall be construed to mean any person, partnership, joint stock company, unincorporated association or society, or municipal or other corporation of any character whatsoever.

Sec. 14. Provisions Severable; Exceptions.—The several sections and provisions of this act, except sections
Ch. 27] ADOPTION 135

one and two, are hereby declared independent and sever-
able, and the invalidity, if any, of any part or feature
thereof shall not affect or render the remainder of the
act invalid or inoperative.

Sec. 15. Interpretation and Construction.—This act shall
be so interpreted and construed as to effectuate its gen-
eral purpose to make uniform the law of the states which
enact it, and to harmonize, as far as possible, with fed-
eral laws and regulations on the subject of declaratory
judgments and decrees.

Sec. 16. Citation of Act.—This act may be cited as the
"Uniform Declaratory Judgments Act".

CHAPTER 27
(Senate Bill No. 128—By Mr. Randolph, Mr. President)

AN ACT to amend and reenact article four, chapter forty-eight
of the code of West Virginia, one thousand nine hundred
thirty-one, relating to adoption.

(Passed March 7, 1941; in effect ninety days from passage. Approved by the
Governor.)

Article 4. Adoption.
Section
1. Jurisdiction.
2. Persons who may adopt.
3. Venue; form of petition.
4. Social investigation.
5. Consent.
6. Hearing.
7. Order of adoption.
8. Effect of adoption; descent of property.
10. Records of adoption proceedings.
11. Annulment of adoption.
12. Adoption of adults.

Be it enacted by the Legislature of West Virginia:

That article four, chapter forty-eight of the code of West
Virginia, one thousand nine hundred thirty-one, be amended
and reenacted to read as follows:
Section 1. Jurisdiction.—Juvenile courts shall have exclusive original jurisdiction over all proceedings instituted under the provisions of this article.

Sec. 2. Persons Who May Adopt.—Any adult person who is a resident of this state may petition for permission to adopt a minor child. No petition by a married person shall be granted unless the husband or wife joins therein, except that when the petitioner is married to the natural father or mother of the child, joinder by such father or mother shall not be necessary.

Sec. 3. Venue; Form of Petition.—The petition shall be filed in the juvenile court of the county in which the petitioner resides. The judge of such court may, if upon investigation it is deemed desirable, transfer the cause to the juvenile court of some other county. The petition shall be made on forms prescribed and furnished by the state department of public assistance.

Sec. 4. Social Investigation.—Upon the filing of a petition for the adoption of any child the court shall cause an investigation to be made of the former environment and antecedents of the child, for the purpose of ascertaining whether he is a proper subject for adoption, and of the home of the petitioner to determine whether it is a suitable home for the child. Within five days after the filing of a petition, a copy thereof shall be sent by registered mail to the state department of public assistance. The investigation shall be made by the department or by some agency selected by it. The results of the investigation shall be embodied in a full written report, which shall be submitted to the court at or prior to the hearing upon the petition, and shall be filed with the records of the proceeding and become a part thereof. The report shall contain a full statement of the facts found in the investigation, including such information as is necessary for submission to the state registrar of vital statistics under the provisions of section nine of this article, and a recommendation as to the desirability of the adoption.
Sec. 5. Consent.—Except as otherwise provided in this section, no adoption shall be permitted except with the acknowledged written consent of the parents or guardian of a child, or of the mother of a child born out of wedlock. The consent of a minor parent shall be effective only when concurred in by the state department of public assistance. In the case of a child twelve years old, the consent of such child shall also be required and must be given in writing in the presence of the court. If the parental rights have been terminated by order of a court, or by other legal means, and the care, custody, and guardianship of the child have been given to some authorized agency, the consent of such agency must be obtained before adoption is allowed. If the child has no parent or guardian and is not under the guardianship of an approved public or private child-placing agency, consent must be given by the state department of public assistance before adoption is allowed.

Sec. 6. Hearing.—Upon the filing of a petition for adoption, the court shall appoint a time and place for the hearing, allowing reasonable time of not less than sixty days for the prior investigation required by section four of this article. The court may in its discretion postpone the hearing from time to time. The petitioner and the child to be adopted, if twelve years old, shall be required to attend the hearing in person, but a younger child shall not be required to attend unless the court so orders. In contested cases the child, if he has no other counsel, shall be represented by the prosecuting attorney of the county in which the hearing is held. If in any case, however, the state department of public assistance deems it to be in the best interests of the child, it may appoint special counsel instead of the prosecuting attorney to represent the child.

Sec. 7. Order of Adoption.—If upon the hearing the court is satisfied that the child is suitable for adoption, that the facts stated in the petition are true, and that all legal requirements relating to adoption have been com-
plied with, it may, at any time after the child has lived
with the petitioner for one year, enter an order setting
forth all the jurisdictional facts and providing that from
and after the date thereof the child shall be deemed to
all legal intents and purposes the child of the petitioners.
In the order the name of the child may, if so desired, be
changed to that of the parent or parents by adoption.

Sec. 8. Effect of Adoption; Descent of Property.—By
such order the child shall be to all intents and purposes
the child and legal heir of the adopting parent or parents,
entitled to all the rights and privileges and subject to
all the obligations of a child of such parent or parents
born in lawful wedlock. On consummation of the adopt-
tion, the natural parents shall be divested of all legal
rights and obligations in respect to such child and the
child shall be free of all legal obligations of obedience and
maintenance in respect to them. If, however, the adopt-
ing parent is married to one of the natural parents of the
child, the relation of the child to such natural parent
shall be in no way altered.
The adopted child shall not be capable of taking prop-
erty expressly limited to the heirs of the body of the
adopting parent or parents, nor property coming from the
collateral kindred of such adopting parent or parents
by right of representation. A child shall not by adoption
lose his right to inherit from his natural parents or
kindred. Upon the death of the adopting parent or
parents and the subsequent death of the adopted child,
without issue and without having disposed, by deed
during his life or by will upon his death, of any property
which came to him from the adopting parent or parents,
such property shall descend to and be distributed among
the next of kin of such parent or parents and shall not
descend to the next of kin of the adopted child.

Sec. 9. Notice to Registrar of Vital Statistics.—After
entry of the order of adoption, the clerk of the court shall
immediately report to the state registrar of vital statistics
such facts in regard to the adoption as may be required by
the registrar.
Sec. 10. Records of Adoption Proceedings.—All records of proceedings in adoption cases and all papers and records relating to such proceedings shall be kept in a separate file and shall not be open to inspection or copy by anyone other than the parties of record or their representatives, except upon order of the court for good cause shown. No person in charge of adoption records shall disclose the names of the adopting parent or parents unless ordered to do so by the court.

Sec. 11. Annulment of Adoption.—Failure to comply in adoption proceedings with the essential requirements of this article shall be ground for annulment of the order of adoption at any time within two years after the order was entered. Any person who was a party to the adoption proceedings, or who claims property through or under one who was a party, may apply by petition to the court in which the adoption order was entered for annulment of the order. The court shall fix a time for hearing and shall cause notice thereof to be given to the adopting parents and to the adopted child if he is twelve years old. Upon the hearing the court may in its discretion annul or affirm the adoption. Any order for adoption heretofore or hereafter made by a court of record of this state shall be binding on all persons and in all proceedings after two years from the date of entry thereof, and any person who was a party to the proceedings or who makes claim to property through or under one who was a party shall not thereafter be allowed to attack the validity of the adoption proceedings.

Sec. 12. Adoption of Adults.—Any adult person who is a resident of West Virginia may petition the juvenile court for permission to adopt one who has reached the age of twenty-one years, and, if desired, to change the name of such person. The consent of the person to be adopted is the only consent necessary. The order of adoption shall create the same relationships between the adopting parent or parents and the person adopted and the same rights of inheritance as in the case of an adopted minor child. If a change in name is desired, the order of adoption shall so state.
CHAPTER 28
(Senate Bill No. 162—By Mr. Jimison)

AN ACT to amend and reenact section seventeen, article one, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to marriage out of the state to evade law.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

Section 17. Marriage out of state to evade law.

Be it enacted by the Legislature of West Virginia:

That section seventeen, 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 17. Marriage Out of State to Evade Law.—If any person resident of this state shall, in order to evade the law, and with an intention of returning to reside in this state, go into another state or country, and there intermarry in violation of section one, article two of this chapter, and shall afterwards return and reside here, such marriage shall be governed by the same law, in all respects, as if it had been solemnized in this state.

CHAPTER 29
(House Bill No. 424—By Mr. Perry, of Logan)

AN ACT to amend and reenact section eleven, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the allocation of state aid to public schools.

[Passed March 8, 1941; in effect April 15, 1941. Approved by the Governor.]

Article 9-a. State Aid for Schools.
Section 11. Allocation of state aid.

Be it enacted by the Legislature of West Virginia:

That section eleven, article nine-a, chapter eighteen of the
Ch. 29]  Allocation of State Aid for Schools  141

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

Section 11. Allocation of State Aid.—The board of finance shall then proceed to allocate the amount available for distribution as state aid (as certified by the state auditor in accordance with section six-a, article nine of this chapter) among the several counties as follows:

(1) The board shall first allocate to each county (a) forty-five per cent of the cost of the foundation program for that county, or (b) an amount equal to the difference between the cost of the foundation program for that county and the local share of revenue for that county; whichever of (a) or (b) is greater.

(2) The board shall then allocate the amount remaining for distribution as state aid, after the requirements of (1) above have been met, among the several counties of the state in a uniform proportion to the amount actually levied for current school purposes in each county during the preceding year. The amount to be received by a county under this subsection shall be computed by multiplying the amount available for distribution to all counties by the amount actually levied for current school purposes by the county, divided by the amount actually levied for such purposes by all counties.

The amount of state aid to be received by each county shall be the sum of the amounts determined as the result of (1) and (2) above, and shall be used by the several counties in the support of the schools generally. No county shall employ more than the allotted number of teachers, without the prior consent of the board of school finance. By allotted number of teachers is meant the sum of three per cent of the corrected average daily attendance in elementary schools and four per cent of the corrected average daily attendance in high schools. In determining the corrected average daily attendance, under this paragraph, a non-isolated elementary school shall be counted as one full school and not as one-fourth of a school.
AN ACT to amend article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be numbered section thirteen-a, relating to the employment by boards of education of a county director or directors of instrumental music.

(Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.)

Article 5. District Board of Education.
Section 13-a. Employment of county director of instrumental music.

Be it enacted by the Legislature of West Virginia:

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

Section 13-a. Employment of County Director of Instrumental Music.—The board, subject to the provisions of this chapter and the rules and regulations of the state board, shall have authority to employ a county director or directors of instrumental music on a twelve months' basis, from any funds of the board available for such purpose.

CHAPTER 31
(House Bill No. 104—By Mr. Perry, of Logan)

AN ACT to amend article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by repealing all of sections sixteen, seventeen, eighteen, nineteen, twenty, twenty-one and twenty-
two; by repealing sections twenty-three, twenty-four, twenty-five, twenty-six and twenty-seven, and substituting and enacting in lieu thereof five new sections bearing these same numbers; by adding and enacting a new section to be designated as section twenty-seven-a; and by amending and reenacting sections thirty, thirty-one and thirty-two, relating to the certification of teachers.

[Passed March 6, 1941; in effect from passage. Approved by the Governor.]

Article 7. Teachers.

Section

23. Authority of state superintendent of free schools to issue certificates.
25. High school certificates.
26. Certificates valid in both elementary and high schools.
27. Administrative certificates.
27-a. Certificates to be issued with approval of state board of education.
32. Revocation of certificates.

Be it enacted by the Legislature of West Virginia:

That all of sections sixteen, seventeen, eighteen, nineteen, twenty, twenty-one and twenty-two, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, are hereby repealed; that sections twenty-three, twenty-four, twenty-five, twenty-six and twenty-seven of said article and chapter are repealed, and five new sections bearing these same numbers are hereby substituted and enacted in lieu thereof; that a new section designated as section twenty-seven-a is hereby enacted; and that sections thirty, thirty-one and thirty-two are hereby amended and reenacted to read as follows:

Section 23. Authority of State Superintendent of Free Schools to Issue Certificates.—The state superintendent of free schools shall have authority to issue certificates valid in the public schools of the state, in accordance with standards and requirements approved by the state board of education.

Sec. 24. Elementary School Certificates.—Certificates
valid in the elementary schools are authorized to include:

1. First class elementary certificate, valid for five years, issued to college graduates who complete a required curriculum in an approved institution.

2. Provisional elementary certificate, valid for one year, issued to college graduates who complete a required curriculum in an approved institution.

3. Second class elementary certificate, valid for four years, issued to persons who complete a required curriculum of ninety-six semester hours in an approved institution.

4. Third class elementary certificate, valid for three years, issued to persons who complete a required curriculum of sixty-four semester hours in an approved institution, issuance to begin with the series of one thousand nine hundred forty-three.

5. Standard normal certificate, valid for five years, issued to persons who complete a required curriculum of sixty-four semester hours in an approved institution: Provided, That the issuance of the normal certificate as such will be discontinued at the end of the one thousand nine hundred forty-two series.

Sec. 25. High School Certificates.—Certificates valid in high schools are authorized to include:

1. First class high school certificate, valid for five years, issued to college graduates who complete a required curriculum in an approved institution.

2. Provisional high school certificate, valid for one year, issued to college graduates who complete a required curriculum in an approved institution.

High school certificates, as above described, shall be valid in the junior and senior high schools of the state. High school certificates may be used in the elementary schools, provided the holders have had one full year or more teaching or principalship experience in the elementary grades prior to one thousand nine hundred thirty-four. In all such cases, the teacher or principal shall file with his certificate a certified statement of elementary experience to meet the above requirements.
Sec. 26. Certificates Valid in Both Elementary and High Schools.—Certificates valid in both elementary schools and high schools are authorized to include:

1. First class public school certificate, valid for five years, issued to college graduates who complete a required curriculum in an approved institution.
2. Provisional public school certificate, valid for one year, issued to college graduates who complete a required curriculum in an approved institution.
3. First class special nonacademic certificate, valid for five years, issued to college graduates who complete a required curriculum in an approved institution.
4. Provisional special nonacademic certificate, valid for one year, issued to college graduates who complete a required curriculum in an approved institution.
5. Special nonacademic permit, valid for one year, issued to persons who complete a required curriculum of sixty-four semester hours in an approved institution.

Sec. 27. Administrative Certificates.—Administrative certificates are authorized to include:

1. County superintendents certificate, valid for five years, issued upon completion of a master’s degree in an institution approved to give graduate work, provided the requirements of the state board of education are met.
2. Elementary principals certificate, valid for five years, issued upon completion of a master’s degree from an institution approved to give graduate work in elementary education, provided the requirements of the state board of education are met.
3. High school principals certificate, valid for five years, issued upon completion of a master’s degree from an institution approved to give graduate work in secondary education, provided the requirements of the state board of education are met.

Sec. 27-a. Certificates to Be Issued With Approval of State Board of Education.—Other certificates, valid in the
3 public schools, are authorized to be issued by the state su-
4 perintendent with the approval of the state board of edu-
5 cation.

Sec. 30. Certificate Renewals.—All first class certificates,
2 valid during the school year one thousand nine hundred
3 forty and one thousand nine hundred forty-one, and all
4 such certificates issued thereafter, shall be renewable,
5 subject to the following conditions:
6 (1) Application is made prior to October one of the
7 fifth year following expiration.
8 (2) Six semester hours approved credit are completed
9 within the five-year period immediately preceding the
date of application for renewal.
11 Holders of first class certificates who do not apply for
12 renewal within five years from date of expiration shall
13 be granted renewals under the following conditions:
14 (1) Application is made prior to October one of the
15 tenth year following expiration.
16 (2) Twelve semester hours approved credit are com-
17 pleted following the expiration of the certificate, six hours
18 of which must be earned during the five-year period im-
19 mediately preceding the date of application for renewal.
20 Provisional certificates, and certificates not requiring
21 college graduation, valid for the school year of one thou-
22 sand nine hundred forty and one thousand nine hun-
23 dred forty-one, or any year thereafter, shall be renewable
24 for the number of years for which the original certificate
25 was issued, provided the application is made by October
26 one of the third year following expiration of the certifi-
27 cate and the applicant shall have earned, after the issu-
28 ance of the certificate to be renewed, six semester hours of
29 approved work in an accredited college and meets other
30 requirements of the state board of education.
31 At the end of the second renewal period, the holder of
32 a five-year certificate shall receive a similar certificate
33 valid for life, provided the holder has complied with the
34 renewal requirements mentioned above for each five-year
35 period.
36 Persons with five years' experience, who meet the re-
37 quirements for any first class certificate and hold a mas-
ter's degree, shall, upon application, be granted a certificate valid for life.

Persons holding life certificates of any type, who meet the requirements for first class certificates as defined by this act and complete eighteen semester hours of graduate credit, shall, upon application, be issued a certificate of the same class and grade valid for life.

Each application for renewal shall be accompanied by a recommendation from the county superintendent where the applicant last taught or resides.

If the applicant seeking renewal has cause to believe that his county superintendent refuses to give a recommendation without just cause, he shall have the right in such cases to appeal to the state superintendent of schools.

Sec. 31. Certificate Fees.—The fee for the issuance or renewal of any certificate shall be one dollar.

Sec. 32. Revocation of Certificates.—The state superintendent may, after ten days' notice and upon proper evidence, revoke the certificates of any teacher for drunkenness, untruthfulness, immorality, or for any physical, mental or moral defect which would render him unfit for the proper performance of his duties as a teacher, or for any neglect of duty or refusal to perform the same, or for using fraudulent, unapproved, or insufficient credit, or for any other cause which would have justified the withholding of a certificate when the same was issued.

It shall be the duty of any county superintendent who knows of any immorality or neglect of duty on the part of any teacher to report the same, together with all the facts and evidence, to the state superintendent for such action as in his judgment may be proper.

If a certificate has been granted through an error, oversight, or misinformation, the state superintendent of schools shall have authority to recall the certificate and make such corrections as will conform to the requirements of law and the state board of education.

Sections sixteen, seventeen, eighteen, nineteen, twenty, twenty-one and twenty-two, article seven, chapter eigh-
AN ACT to amend article eight, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by adding thereto a new section to be designated as section five-a, relating to compulsory school attendance.

(Passed March 6, 1941; in effect ninety days from passage. Approved by the Governor.)

Article 8. Compulsory School Attendance.
Section 5-a. Child dismissed, suspended, or expelled from school for failure to comply with requirements and regulations treated as unlawfully absent.

Be it enacted by the Legislature of West Virginia:

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

Section 5-a. Child Dismissed, Suspended, or Expelled from School for Failure to Comply with Requirements and Regulations Treated as Unlawfully Absent.—If a child be dismissed, suspended, or expelled from school because of refusal of such child to meet the legal and lawful requirements of the school and the established regulations of the county and/or state board of education, fur-
8 other admission of the child to school shall be refused until
9 such requirements and regulations be complied with. Any
10 such child shall be treated as being unlawfully absent
11 from the school during the time he refuses to comply
12 with such requirements and regulations, and any person
13 having legal or actual control of such child shall be liable
14 to prosecution under the provisions of this article for the
15 absence of such child from school.

CHAPTER 33
(Senate Bill No. 52—By Mr. Smith, by request)

AN ACT to amend and reenact sections one, two, nine, and ten,
article four, and section thirty-two, article five, chapter
eighteen of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to election, quali­
fications, term, traveling expenses, and duties of county
superintendents and assistant county superintendents.

[Passed March 4, 1941; in effect ninety days from passage. Approved by the
Governor.]

Article
4. County Superintendent of Schools.
5. District Board of Education.

Be it enacted by the Legislature of West Virginia:

That sections one, two, nine, and ten, article four, and sec­
tion thirty-two, article five, chapter eighteen of the code of West Virginia, one thousand nine
hundred thirty-one, be amended and reenacted to read as follows:

Article 4. County Superintendent of Schools.

Section
1. Election and term.
2. Qualifications; health certificate.
3. Reimbursement for traveling expense; voucher.
4. Duties.

Section 1. Election and Term.—The county superin­tendent shall be elected by the county board of education
for a term of not less than one nor more than four years. Such elections shall be held on the first Monday in July, the superintendent taking office immediately thereafter. A superintendent who fills a vacancy caused by an incomplete term, shall be appointed to serve till the following first Monday in July. 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; Health Certificate.—The superintendent at the time of his election shall hold a certificate valid in West Virginia and an approved bachelor's degree including at least twelve semester hours in school administration and supervision, and at least five years experience in public school teaching and/or supervision: Provided, A superintendent who held office during the school year of one thousand nine hundred forty-one thousand nine hundred forty-one may be elected to succeed himself in office.

Before entering upon the discharge of his duties the superintendent shall file with the president of the board 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. 9. Reimbursement for Traveling Expense; Voucher. —The board may reimburse the superintendent from the current expense fund for traveling expenses, not to exceed five hundred dollars, incurred in the performance of his duties. But no allowance shall be made except upon sworn itemized statements.

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) Nominate all teachers, principals, and assistant superintendents to be employed; in case the board of education refuses to appoint any or all of the persons nomi-
nated, the superintendent shall nominate others and submit the same to the board of education at such time as the board may direct, but no teacher, or principal, or assistant superintendent, shall be employed except on the nomination of the county superintendent;

(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 school demand.

Article 5. District Board of Education.

Section 32. Assistants; Term; Number; Qualifications; Board May Employ Agricultural Club Agents.

Section 32. Assistants; Term; Number; Qualifications; Board May Employ Agricultural Club Agents.—The board, upon the recommendation of the county superintendent, may employ an assistant whose term of office shall not be less than one nor more than four years; provided, such term shall not exceed that of the incumbent county superintendent. The salary of the assistant superintendent shall be paid in monthly installments, and in addition thereto the assistant shall be reimbursed for his necessary traveling expenses, not to exceed five hundred dollars, when a sworn itemized monthly statement is presented.

The board shall not employ more than one assistant for
each two hundred teachers: Provided, however, That in such districts in which assistants are employed and fifty or more negro teachers are employed therein, the board may employ one negro assistant superintendent.

The superintendent shall direct the work of the assistant superintendents and define their duties.

At the time of his appointment, the assistant superintendent shall hold a certificate valid in West Virginia, and an approved bachelor's degree including at least twelve semester hours in school administration and supervision, with at least five years experience in one or any combination of the following types of work; public school teaching, supervision, or administration: Provided, That an assistant superintendent who held office during the school year one thousand nine hundred forty and one thousand nine hundred forty-one may be appointed to succeed himself in office.

The board may also cooperate with the extension division of the college of agriculture in employing an agricultural club agent for the organization and direction of boys' and girls' agricultural clubs.

CHAPTER 34

(Com. Sub. for House Bill No. 99—Originating in the House Committee on Education)

AN ACT to amend article five, chapter eighteen of the code of West Virginia, by amending and reenacting section twenty-one of that article, as amended and reenacted by chapter fifty-two, acts of the Legislature, one thousand nine hundred thirty-nine, and by adding five new sections to that article, to be respectively designated as sections twenty-one-a, twenty-one-b, twenty-one-c, twenty-one-d and twenty-one-e, which said five new sections amend and reenact chapter fifty-one of the acts of the Legislature, one
thousand nine hundred thirty-nine, all relating to free textbooks for use in the schools of the state.

[Passed March 8, 1941; in effect July 1, 1941. Approved by the Governor.]

Article 5. District Board of Education.

Section 21. Free textbooks.
21-a. Board of education to furnish textbooks to pupils in free schools whose parents are unable to provide same.
21-b. Board of education may furnish textbooks to pupils in private schools whose parents are unable to provide same.
21-c. State superintendent of schools to distribute free textbook funds; how amount of money a county shall receive to be determined.
21-d. “Free textbook account”; use of surplus; grade or subject preference; purchase of library books, supplementary materials, and used textbooks.
21-e. Rules and regulations for care, distribution and use of free textbooks; boards of education to make reports; funds may be withheld from county for violation of rules.

Be it enacted by the Legislature of West Virginia:

That article five, chapter eighteen of the code of West Virginia be amended by amending and reenacting section twenty-one of that article, as amended and reenacted by chapter fifty-two, acts of the Legislature, one thousand nine hundred thirty-nine, and by adding five new sections to that article, to be respectively designated as sections twenty-one-a, twenty-one-b, twenty-one-c, twenty-one-d and twenty-one-e, which said five new sections amend and reenact chapter fifty-one, acts of the Legislature, one thousand nine hundred thirty-nine, all to read as follows:

Section 21. Free Textbooks.—The board of education of every county may purchase the necessary textbooks to be used in the free schools by the pupils thereof. All textbooks so purchased shall be kept in charge by the county superintendent and furnished to the pupils of the free schools of the county as hereinafter provided. All such books shall be furnished by the county board as prescribed by law, and purchased at the net wholesale price.

In such case, at the commencement of every term, the county superintendent shall deliver to the teachers of the various schools the textbooks necessary for the use of the
several pupils enrolled therein for the ensuing term of school and shall take from them receipts showing the number and kind of textbooks so received. It shall be the duty of the teachers to take charge of such textbooks and to distribute them among the pupils of their schools as needed; and said teachers shall have and exercise general control of all such textbooks, and at the close of the school term, and before receiving an order for salary for the last month of such term, shall collect and gather together all textbooks so used and deliver them to the county superintendent.

If any of the textbooks delivered to any pupils shall be unnecessarily injured or destroyed, they shall be replaced by the pupils who injured or destroyed them.

Sec. 21-a. Board of Education to Furnish Textbooks to Pupils in Free Schools Whose Parents are Unable to Provide Same.—The board of education of every county shall provide the textbooks to be used in the free schools for the pupils whose parents, in the judgment of the board, are unable to provide the same; such textbooks shall be those adopted by the state board of education.

Sec. 21-b. Board of Education May Furnish Textbooks to Pupils in Private Schools Whose Parents are Unable to Provide Same.—The board of education of every county, upon application of the proper authorities of any private school, may likewise provide state adopted textbooks for use of the pupils enrolled therein whose parents, in the judgment of the board, are unable to provide same.

Sec. 21-c. State Superintendent of Schools to Distribute Free Textbook Funds; How Amount of Money a County Shall Receive to be Determined.—In accordance with the provisions of this act, the state superintendent of schools shall distribute among the several counties of the state each year such amounts of free textbook money as the Legislature may provide for such distribution. The amount of money that a county shall so receive shall be determined as follows:

(1) Each county shall share in state aid for the purchase of state adopted textbooks according to the ratio
which its total net enrollment in public schools, grades one to eight inclusive, for the preceding school year, bears to the total net enrollment in public schools for the state as a whole, grades one to eight inclusive, for the preceding year.

Sec. 21-d. "Free Textbook Account"; Use of Surplus; Grade or Subject Preference; Purchase of Library Books, Supplementary Materials, and Used Textbooks.—The money allocated to a county board of education under this act shall be kept by such county board in a separate account to be known as the "Free Textbook Account" and may be used for no other purpose except as otherwise provided by this section. Any balances being held in the "Textbook Aid Account", as provided by law, are by this act authorized and directed to be transferred to said "Free Textbook Account" to be used in accordance with the provisions of this act.

After complying with section twenty-one-a and twenty-one-b of this article, the county board of education shall use any proceeds remaining in the "Free Textbook Account" for the purchase (including replacement and repair) of textbooks for all pupils enrolled in the public schools of the county, grades one to eight inclusive, who are not provided with free textbooks under the requirements of sections twenty-one-a and twenty-one-b of said article. Such textbooks shall be those adopted by the state board of education for the elementary schools of the state. The order of preference used in providing free textbooks for such pupils shall be either by grade preference in accordance with the plan as stated in subsection one below, or by subject preference in accordance with the plan as stated in subsection two below. The county board of education shall be required to adopt the one of these plans considered preferable for the county, and shall so advise the state superintendent of schools in writing before the plan so chosen is made operative through the requisition or purchase of textbooks in accordance therewith.

(1) In furnishing free textbooks by grade preference, the order of such preference shall be to begin with grade
one and to continue by consecutive grades to and including grade eight.

(2) In furnishing free textbooks by subject preference, the order of such preference shall be to begin with the lowest grade and to continue by consecutive grades through grade eight as follows: Reading, arithmetic, history, health and elementary science, music, English, geography, writing, spelling, civics: Provided, That the order of subject preference as specified in subsection two above may be changed with prior approval of the state board of education, upon written application of any county stating reasons for wishing to make such change.

In any county in which the provisions of sections twenty-one-a, twenty-one-b, and twenty-one-d of this article shall have been fully complied with, any proceeds yet available in the “Free Textbook Account” shall be used for the purchase of approved library books and other supplementary materials for grades one to eight: Provided, That such purchase shall have the prior approval of the state board of education.

In providing free textbooks to pupils under the provisions of this act, the county board of education shall have authority to purchase state adopted textbooks from pupils who own them, or from their parents, at a price commensurate with the usable value of said books at the time, but in no case to exceed one half the original purchase price of the textbook to the pupil as determined by reference to the official contract price entered into between the publisher and the state board of education at the time of adoption of said textbook. All such purchases shall conform to the order of preference, either by grade or by subject, adopted by the county board of education under the provisions of subsection one and two above of this section for furnishing free textbooks to the pupils of said county.

Nothing in this act shall be construed to prevent a county board of education from supplementing its “Free Textbook Account” with county school funds available for that purpose and so approved in the annual school budget.
Sec. 21-e. Rules and Regulations for Care, Distribution and Use of Free Textbooks; Boards of Education to Make Reports; Funds May be Withheld from County for Violation of Rules.—The state board of education shall have authority to prescribe rules and regulations governing the care, distribution and use of free textbooks provided under this act, including their rebinding and reconditioning, replacement, and return, storage facilities, and such other measures as may be necessary for the most efficient and economical administration of this act: Provided, however, That no used textbooks shall be transferred from white schools to negro schools, or from negro schools to white schools.

The state board of education is further authorized to prescribe and require reports to be made by the various county boards of education concerning the expenditures and distributions and conditions of inventories at such time and in such form as the board may require.

The state superintendent of schools is authorized by this act to withhold the state allotment of free textbook money from any county for violation of the rules and regulations herein authorized.

If any provisions of this act are declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the act and the applicability thereof to other persons and circumstances shall not be affected thereby.

CHAPTER 35

(House Bill No. 356—By Mr. Speaker, Mr. Arnold)

AN ACT to amend and reenact section five, article nine-a, and to amend article nine-b, by adding thereto section eleven-a, all of chapter eighteen of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating to public school finance.

[Passed March 6, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 9-a. State Aid for Schools.
9-b. State Board of School Finance.

Be it enacted by the Legislature of West Virginia:

That section five, article nine-a, be amended and reenacted, that article nine-b be amended by adding thereto section eleven-a, all of chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to read as follows:

Article 9-a. State Aid for Schools.

Section 5. Computation; values to apply.

Section 5. Computation; Values to Apply.—For the purpose of computing the foundation program, the following values shall be applied:

1. Values shall be assigned for the number of terms of experience for each teacher as follows: For experience of from one to five terms, inclusive, three-fifths of the number of terms of experience; for experience of from six to nine terms, inclusive, two plus one-fifth of the total number of terms of experience; for experience of ten or more terms, four.

2. Values shall be assigned to teacher certification for each certificate as follows:
   - Second grade certificate, thirteen;
   - First grade certificate, seventeen;
   - Short normal certificate, eighteen;
   - Certificate based on sixty-four hours college training, twenty-one;
   - Certificate based on ninety-six hours college training, twenty-two;
   - Bachelor degree certificate, twenty-four;
   - Master degree certificate, twenty-seven.
Article 9-b. State Board of School Finance.

Section 11-a. Adjustments in schedule for average school attendance.

Sec. 11-a. Adjustments in Schedule for Average School Attendance.—If as a result of epidemics or other abnormal circumstances any county suffers an abnormal reduction in attendance during any year, the board of school finance, in order to assure an equitable allocation of aid, may in its computation for such aid, make adjustments in the average daily attendance figure.

The maximum limit to such adjustment shall be the average daily attendance used as a base in computing the allocation of aid for the previous year multiplied by the ratio that the net enrollment for the adjusted year bears to the net enrollment for the base year.

CHAPTER 36

(House Bill No. 272—By Mr. Speaker, Mr. Arnold)

AN ACT to repeal and reenact article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, pertaining to the establishment of a retirement system for teachers of West Virginia.

[Passed March 6, 1941; in effect ninety days from passage. Approved by the Governor.]

Be it enacted by the Legislature of West Virginia:

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

Article 7-a. State Teachers' Retirement System.

Section

1. Establishment of retirement system.
2. Supplemental benefits.
3. Definitions.
4. The retirement board.
5. Membership of the retirement board.
Section 1. Establishment of Retirement System.—A retirement system to be known as the “State Teachers’ Retirement System” is hereby established for the purpose of providing retirement allowances for the teachers of West Virginia.

Sec. 2. Supplemental Benefits.—Nothing in this article shall be construed to preclude any employer from providing retirement benefits to retired teachers not eligible to benefits under this article; nor shall it be construed to preclude any employer from supplementing retirement benefits to be received by any of its employees under this article.

No such benefits, however, shall be paid to a present teacher who elects not to become a member of the teachers’ retirement system.

Sec. 3. Definitions.—“Teacher” shall include the following:

(a) Any person regularly employed for instructional service in the public schools of West Virginia,
(b) principals,
(c) public school librarians,
(d) county superintendents of schools and assistant county superintendents of schools,
(e) county school attendance directors holding a West Virginia teachers' certificate,
(f) the secretary of the retirement board,
(g) members of the research, extension, administrative, and library staff of the public schools,
(h) the state superintendent of schools, heads and assistant heads of the divisions created under his supervision, or any other employee thereunder performing services of an educational nature,
(i) employees of the state board of education who are performing services of an educational nature.

"Retirement system" shall mean the West Virginia teachers' retirement system provided for in this act.
"Former teacher" shall mean a teacher whose period of employment ceased prior to the effective date of this act.
"Present teacher" shall mean any person who was a teacher on the effective date of this act, and whose membership in the retirement system created by this act has been continuous.
"Total service" shall mean all service as a teacher of a member of the retirement system since last becoming a member and, in addition thereto, all his prior service.
"New entrant" shall mean any person who becomes a teacher subsequent to the effective date of this act.
"Prior service" shall mean all service as a teacher completed in this state prior to the effective date of this act.
"Average final salary" shall mean the average annual salary earned as a teacher during the last fifteen years of prior service, or if prior service is less than fifteen years, the average annual salary for that period. If the records for so determining "final average salary" cannot reasonably be established by the retirement board, then the term shall mean the legal minimum salary of such teacher during the last year of service.
“Accumulated contributions” shall mean the sum of all the amounts deducted from the compensation of a contributor and credited to his individual account in the employees’ accumulation fund.

“Regular interest” shall mean interest at three per cent per annum compounded annually, or a higher earnable rate if approved by the board.

“Employer” shall mean the agency of and within the state which has employed or employs a member.

“Contributor” shall mean a member of the retirement system who has an account in the employees’ accumulation fund.

“Beneficiary” shall mean the recipient of payments made under the retirement system.

“Earnable compensation” shall mean the full compensation received by members for service as teachers whether or not a part of such compensation is received from other funds, federal or otherwise, than those provided by the state or its subdivisions.

“Annuities” shall mean the annual (superannuation) payments for life derived from contributions made by a member.

“Member” shall mean a member of the teachers’ retirement system.

“Public schools” shall mean all publicly supported schools, including normal schools, colleges and universities in this state.

The masculine gender shall be construed so as to include the feminine.

Age in excess of seventy years shall be deemed to be seventy years.

Sec. 4. The Retirement Board.—The general administration and the management of the retirement system are hereby vested in a “Teachers’ Retirement Board”. The retirement board shall have the right to sue and be sued, plead and be impleaded, contract and be contracted with, and shall make all necessary rules and regulations to carry out the provisions of this article. All of the business of the board shall be transacted, all of its funds invested, all warrants for money drawn and pay-
ments made, and all of its cash and securities and other property shall be held in the name of the "Teachers' Retirement Board".

Sec. 5. Membership of the Retirement Board.—The retirement board shall consist of the following seven members: (a) The governor, who shall be ex officio chairman; (b) the state superintendent of free schools; (c) the state treasurer; (d) the state insurance commissioner; (e) three teacher members of the retirement system, appointed for the first term by the governor, upon recommendation of the state superintendent of schools. The first member under subsection (e) shall be appointed for a term of one year, the second for a term of two years, and the third for a term of three years. After the terms of these appointed members shall have expired, the members under subsection (e) shall thenceforth be elected for three-year terms by the members of the retirement system. The manner and mode of such election shall be determined by the retirement board. Vacancies occurring in the terms of the elected membership of the retirement board shall be filled for the unexpired periods by the governor upon recommendation of the state superintendent of schools.

Sec. 6. Compensation.—The members of the retirement board shall serve without compensation, but they shall be reimbursed from the expense fund for all necessary expenses incurred. No member of the retirement board shall suffer loss of salary while performing his duties as a member of the retirement board.

Sec. 7. Quorum.—A majority of the members of the retirement board shall constitute a quorum for the transaction of any business.

Sec. 8. Legal Adviser.—The attorney general of the state shall be the legal adviser of the retirement board.

Sec. 9. Meetings of the Retirement Board.—The retirement board shall hold meetings in the state capitol at least twice a year.
Sec. 10. Employment of Secretary and Other Employees.—The retirement board shall employ an executive secretary and is authorized to secure the services of such technical and administrative employees as may be necessary for the transaction of the business of the retirement system.

The executive secretary shall receive compensation not to exceed the maximum prescribed for the office of county superintendent of schools. The retirement board may require the executive secretary to furnish adequate bond with satisfactory corporate surety, the cost of which shall be paid from the expense fund.

Sec. 11. Records; Actuarial Data.—The retirement board shall maintain an individual account with each member, showing the amount of the member's contributions and the interest accumulations thereon. It shall collect and keep in convenient form such data as may be necessary for the preparation of the required mortality and service tables, and for the compilation of such other information as may be needed for the actuarial valuation of the funds created by this article. The retirement board shall adopt appropriate tables for the purpose of evaluating and computing retirement allowances.

Sec. 12. Reports by Retirement Board.—At such times as the retirement board may deem it necessary, but at least once within the first three years of the operation of this article and each quinquennial period thereafter, the retirement board shall employ a competent actuary to prepare a report containing an evaluation of the present and prospective assets and liabilities of the funds created by this article.

The retirement board shall publish an annual report showing the condition of the various funds created by this article. It shall certify in such report the amount of accumulated cash and securities in the funds and shall present a full account of the operation of the system.

Sec. 13. Membership in System.—The membership of the retirement system shall consist of the following:

(a) All persons employed as teachers on the effective
4 date of this act, who, within a year from such date notify
5 the retirement board in writing of their decision to be-
6 come members. Such persons shall automatically be
7 constituted members one year after the effective date of
8 this act unless the retirement board receives written no-
9 tice from such persons of their decision not to become
10 members.
11 (b) New entrants, whose membership in the system
12 shall herein be compulsory upon employment as teachers.
13 (c) Former teachers retired under the state teachers'
14 retirement fund created in one thousand nine hundred
15 thirty-nine.
16 The membership of any person in the retirement system
17 shall cease:
18 (1) Upon the withdrawal of his accumulated contribu-
19 tions after the cessation of teaching service, or
20 (2) Upon retirement, or
21 (3) At death, or
22 (4) If service amounts to less than five years in any
23 period of ten consecutive years.
24 Any person in subsection (a) of this section who
25 elects to become a member after having declined to ac-
26 cept membership, shall be permitted to enter the retire-
27 ment system, but shall be accorded only the rights of a
28 new entrant.
29 If any person resumes membership once it has ceased,
30 such member shall be accorded only the rights of a new
31 entrant.

Sec. 14. Contributions by Members.—At the end of each
2 month of the school year beginning with the year one
3 thousand nine hundred forty-one, every member of the
4 retirement system shall contribute four per cent of his
5 earnable compensation to the accumulation fund. Such
6 contributions, however, shall only be made upon that
7 part of the member's earnable compensation which does
8 not exceed two thousand five hundred dollars. The
9 contributions shall be deducted from the salaries of the
10 members as hereinafter prescribed, and every member
11 shall be deemed to have given his consent to such deduc-
12 tions.
Payment by an employer to a member of the sum specified in the employment contract minus the amount of the employee's contributions shall be deemed to be a full discharge of the employer's contractual obligation as to earnable compensation.

Sec. 15. Collection of Member Contributions.—Each employer shall compile a list of all members in its employ and shall specify the amount of the contributions to be made by such members for the ensuing school year. Such data shall be filed with the retirement board. The monthly payments, which members would receive from employers as compensation for service in the absence of this article, shall be decreased to the amount of the contributions due under this article. The amount of such deductions shall be retained in the fund containing the state appropriations to such employer, until such time as the retirement board shall make appropriate requisition for such sums. Each employer shall be held accountable for the sum composing the contributions made by its member employees. During any period which the retirement board deems appropriate, it shall make requisition upon the state auditor to issue warrants for the total amount of the paid contributions of the members. Such sum shall be paid to the retirement board from the fund containing the state appropriations made to such employers.

Sec. 16. Payment of Employer Contributions.—The aggregate of employer contributions due and payable under this article shall be paid from general fund appropriations for the teachers' retirement system. Such amount shall equal four per cent of the aggregate earnable compensation of the members. The retirement board shall make and certify each year to the governor an estimate of the maximum employers' contributions to be due at the end of each school year. The governor is hereby authorized to order the transfer of three-fourths of the amount of such certified estimate
12 from general appropriation funds to the retirement board
13 at the beginning of each fiscal year. The balance of the
14 employers' contributions due, computed on the basis of
15 the records available at the end of each school year, shall
16 be transferred from general appropriation funds to the
17 retirement fund during the last week of each fiscal year.

Sec. 17. Statement and Computation of Teacher's Service.—Under such rules and regulations as the retirement board may adopt, each teacher shall file a detailed statement of his length of service as a teacher for which he claims credit. The retirement board shall determine what part of a year is the equivalent of a year of service. In computing such service, however, it shall credit no period of more than a month's duration, during which a member was absent without pay, nor shall credit for more than one year service performed in any calendar year.

Subject to the above restrictions and to such other rules and regulations as the retirement board shall adopt, the board shall verify as soon as practicable the statements of service submitted.

The retirement board shall issue prior service certificates to members eligible to receive prior service pensions under this article. Such certificates shall state the length of such prior service in the state.

Sec. 18. Funds Created; Uses and Purposes.—The funds hereby created are the teachers' accumulation fund, the employers' accumulation fund, the benefit fund, the expense fund, and the reserve fund.

(a) The teachers' accumulation fund shall be the fund in which contributions from the compensation of members shall be accumulated. The accumulated contributions of a member returned to him upon his withdrawal, or paid to his estate or designated beneficiary in the event of his death, shall be paid from the teachers' accumulation fund. Any accumulated contributions forfeited by failure to claim such contributions shall be transferred from the accumulation fund to the reserve fund.

Any member shall be permitted to deposit in the teach-
ers' accumulation fund such amounts in multiples of one hundred dollars as such members shall desire.
(b) The employers' accumulation fund shall contain the contributions paid by employers. Upon the retirement of a member, the full amount of the employer's contributions shall be transferred from the employers' accumulation fund to the benefit fund.
(c) The benefit fund shall be the fund from which retirement allowances shall be paid. Upon the retirement of a member, his accumulated contributions shall be transferred from the teachers' accumulation fund to the benefit fund; the employer's contributions and a sum for prior service pension, if any, shall be transferred from the employers' accumulation fund to the benefit fund.
(d) The retirement board is hereby authorized to accept gifts and bequests. Any funds that may come into possession of the retirement system in this manner or which may be transferred from the teachers' accumulation fund by reason of lack of claimant or because of a surplus in any of the funds; or any other moneys whose disposition is not otherwise provided for shall be credited to the reserve fund. The retirement board shall allow regular interest on the sums in the teachers' accumulation fund. Such regular interest shall be paid from the reserve fund and credited to the teachers' accumulation fund. Any deficit occurring in any fund which would not be automatically covered by the payments to that fund as otherwise provided by this article shall be met by payments from the reserve fund to such fund.
(e) The expense fund shall be the fund from which shall be paid the expense incurred in the administration of the retirement system.

Sec. 19. Custody of Funds; Bond of Custodian.—The state treasurer shall be the custodian of the funds and securities of the retirement system. Disbursements from the funds of the retirement system shall be made by the custodian only upon warrants signed by a member or members of the retirement board, or an official thereof, authorized to do so by resolution of the retirement board. The state treasurer shall give a separate and additional
bond in such amount as may be fixed by the governor for
the faithful performance of the duties as custodian of
the retirement system. Such bond shall be approved by
the governor and filed in the same office as are the bonds
of other state officers. The cost of such bond shall be paid
from the expense fund.

The custodian shall furnish annually to the retirement
board a sworn statement of the amount of the funds in
his custody belonging to the retirement system.

Sec. 20. Investment of Funds.—The members of the
retirement board shall be the trustees of the several
funds created by this article, and shall determine from
time to time what part of the moneys belonging to the
retirement system shall be invested. When such board
shall determine to invest any moneys or to convert
or sell any securities, it shall by resolution so direct the
custodian. The board of public works is hereby em-
powered to determine in what securities the investments
shall be made, but such investments shall be made only
in those securities to which the board of public works is
limited in the investment of workmen’s compensation
funds under section two, article three, chapter twenty-
three of the code of West Virginia, one thousand nine
hundred thirty-one, as amended. It shall be the duty of
every county, school district or municipality issuing any
bonds to offer them in writing to the retirement board,
prior to advertising the bonds for sale. The board of
public works, within fifteen days after receipt of such
offer, may accept or reject such offer in whole or in part.
It shall be the duty of the custodian to collect the prin-
cipal and the interest on investments when they become
due and payable and to credit such collections to the re-
tirement system.

Sec. 21. Misuse of Funds; Penalties.—No member nor
employee of the retirement board, for himself or as an
agent or partner of others, or for a corporation of which
he is an officer, stockholder or member, shall directly or
indirectly borrow any of the funds or deposits of the
retirement board or in any manner use such funds except
TEACHERS’ RETIREMENT

Sec. 22. Eligibility for Prior Service Pensions.—The following shall be eligible for prior service pensions as prescribed in subsection (c), section twenty-six of this article:

(a) Present members, upon retirement;
(b) Any person who has served at least thirty years as a teacher prior to the enactment of this article;
(c) Former teachers retired under the state teachers’ retirement fund created in one thousand nine hundred thirty-nine.

A new entrant shall not be eligible to receive prior service pensions.

When membership ceases, prior service credits due a member previous to cessation shall be void and not renewable.

Sec. 23. Withdrawal and Death Benefits.—Benefits upon death or upon withdrawal from service prior to retirement shall be payable as follows:

(a) A member who withdraws from service for any cause other than death or retirement shall, on demand, be paid his accumulated contributions made up to the date of his withdrawal.
(b) A member with twenty years of total service at the time of withdrawal from service may elect (1) to receive his accumulated contributions at the time of such withdrawal; (2) or receive at retirement age an annuity which is the actuarial equivalent of his accumulated contributions plus the employer’s contributions.
(c) Should a member die before retirement, his accumulated contributions shall be paid to his estate or to such person as he shall have nominated by written designation duly executed and filed with the retirement board.

Sec. 24. Disposition of Accumulated Contributions.—A person who ceases to be a member for any cause other
than death or retirement, shall, upon demand, be paid the
accumulated contributions standing to his credit in the
accumulation fund. Ten years after such cessation of
service, if no previous demand has been made, the accumu-
lated contributions of such member shall be returned to
him or to his legal representative. If the member or his
legal representative cannot be found, his accumulated con-
tributions shall be forfeited to the retirement system and
credited to the reserve fund.

Sec. 25. Eligibility for Retirement Allowance.—Any
member, who has attained the age of sixty years or who
has had thirty-five years of total service as a teacher in
West Virginia, regardless of age, shall be eligible for re-
tirement allowance. No new entrant nor present member
shall be eligible for retirement allowance, however, if
either has less than five years of service to his credit.
The request for a retirement allowance shall be made
in writing to the retirement board.

Sec. 26. Allowance upon Retirement.—Upon retirement,
a member shall be granted a retirement allowance con-
sisting of an annuity which shall be the sum of the fol-
lowing:
(a) The actuarial equivalent of the contributions and
deposits of the member up to the time of his retirement,
with regular interest.
(b) The actuarial equivalent of the contributions of the
employer up to the time of the member's retirement,
which shall equal the sum in subsection (a) of this
section minus deposits.
(c) Where prior service credit has been granted, an
allowance of one and twenty-five hundredths per cent
of the member's final average salary multiplied by the
number of years of prior service credited to him.

For the purposes of this subsection:
(1) An allowance for prior service, shall in no case ex-
ceed one-half of the member's final average salary.
(2) Final average salary shall in no instance be deemed
to exceed the sum of two thousand five hundred dollars.
(3) Teachers retired under the state teachers' retire-
ment fund created in one thousand nine hundred thirty-nine shall be deemed to have retired at the age of sixty years.

Sec. 27. Regular Interest.—Regular interest shall be added to all sums, except for prior service, due and payable to beneficiaries under this article.

Sec. 28. Options to Beneficiaries.—The retirement board is hereby authorized to offer plans, optional with the beneficiary, for the payment of allowances due such beneficiary for retirement, withdrawal or prior service pensions under the retirement system. No plans shall be offered, however, which are not approved by competent actuaries.

Sec. 29. Protection against Fraud; Penalties.—Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of the retirement system in any attempt to defraud such system shall be guilty of a misdemeanor, and, upon conviction, be punished by a fine not exceeding one thousand dollars, or imprisonment in jail not exceeding one year, or both.

Sec. 30. Exemption from Taxation, Garnishment and Other Process.—The moneys in the various funds and the right of a member to a retirement allowance, to the return of contributions, or to any benefit under the provisions of this article, are hereby exempt from any state or municipal tax; shall not be subject to execution, garnishment, attachment or any other process whatsoever; and shall be unassignable except as is provided in this article.

Sec. 31. Unexpended Funds under Prior Appropriations.—Any unexpended funds for teachers’ retirement benefits, which were appropriated from general revenue prior to the enactment of this article, shall be credited and transferred to the reserve fund of the retirement system.

Sec. 32. Inconsistent Acts Repealed.—All previous acts and parts of acts inconsistent with this act are hereby repealed.
Sec. 33. Constitutionality.—If any part of this act is declared unconstitutional, it shall not affect any portion which remains, but the remaining portions of the act shall be in full force and effect as if the portions declared unconstitutional had never been a part of the act.

CHAPTER 37
(Com. Sub. for House Bill No. 7—Originating in the House Committee on Education)

AN ACT to amend and reenact section two, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter eleven, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, and by chapter forty, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, and by chapter fifty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to basic salaries for public school teachers and advanced salaries for experience.

[Passed March 3, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 7. Teachers.

Section 2. Salaries for teachers; basic salaries; advanced salaries.

Be it enacted by the Legislature of West Virginia:

That section two, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter eleven, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, and by chapter forty, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, and by chapter fifty-five, acts of the Legislature, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:
Section 2. Salaries for Teachers; Basic Salaries; Advanced Salaries.—Boards of education shall fix the rate of salary to be paid teachers in accordance with the following classifications and requirements:

(A) Basic salaries shall be the salaries for teachers who are teaching their first regular term of school. Such salaries shall be fixed according to the following schedule:

1. For teachers holding five-year certificates secured by examination or other first grade certificates, not less than eighty-five dollars a month;
2. For teachers holding short course certificates, not less than ninety dollars a month;
3. For teachers holding normal school or other certificates which required at the time of issuance at least two years of collegiate work, not less than one hundred five dollars a month;
4. For teachers holding certificates which required at the time of issuance at least three years of collegiate training, not less than one hundred ten dollars a month;
5. For teachers who have received a master's degree in an institution qualified and approved to do graduate work, holding the collegiate elementary, first class high school, or other certificate of equal rank based on a bachelor's degree earned in an approved institution, not less than one hundred thirty-five dollars a month;
6. For teachers who have received a doctor's degree from an institution of university rank qualified and approved to confer the doctor's degree, holding the collegiate elementary, first class high school, or other certificate of equal rank, at least one hundred forty dollars a month;

(B) Advanced salaries shall be the salaries fixed for teachers who have taught one or more regular terms of school. Such salaries shall be fixed according to the following schedule:

1. For teachers who have taught one regular term
of school and not more than five regular terms, the rate of salary shall be the basic salary plus at least three dollars a month for the second term; the basic salary plus at least five dollars a month for the third term; the basic salary plus at least seven dollars and fifty cents for the fourth term; and the basic salary plus at least ten dollars a month for the fifth term.

(2) For teachers who have taught five regular terms of school and less than ten regular terms, the rate of salary shall be at least fifteen dollars more a month than the rate of the basic salary of teachers holding similar credentials.

(3) For teachers who have taught ten regular terms of school or more, the rate of salary shall be at least twenty dollars a month more than the rate of the basic salary for teachers holding similar credentials.

If a teacher who has taught one or more terms secures a certificate of the third class, or a certificate of the second class, or a certificate of the first class, his advanced salary shall be increased by at least as much as is allowed for such preparation, in each case fixing basic salary.

Basic salaries shall be uniform throughout the district for teachers holding similar credentials, and advanced salaries shall be uniform throughout the district for teachers in the same classification as to experience, and holding similar credentials. But boards of education may fix higher salaries for principals of elementary and high schools, teachers of one room schools, and any teachers assigned to or employed for duties in addition to their regular teaching duties, consistent with the extra duties and responsibilities of said positions.

In determining the number of regular terms of school a teacher has taught, boards of education shall credit as regular teaching, service in the United States army and navy in the World War, and active work in educational positions other than teaching, but no teacher shall be given credit for teaching more than one regular term in any school year.

Salaries of colored teachers shall be the same as the
salaries of other teachers in the same district with the
same training and experience and holding similar cre-
dentials. Any board of education failing to comply with
the provisions of this paragraph may be compelled to do
so by mandamus.
All acts and parts of acts inconsistent with this act are
hereby repealed.

CHAPTER 38
(Senate Bill No. 50—By Mr. Reed)

AN ACT to amend and reenact section nine, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the teaching and course of study in the public schools and other schools located within this state, including the teaching of Americanism and temperance, and providing penalties for the violation thereof.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 2. State Board of Education.

Section 9. Courses of instruction in history, civics, constitutions, alcoholic drinks, narcotics; textbooks on health, biology and social sciences to contain appropriate materials on effects of alcoholic drinks and narcotics; violations; penalties.

Be it enacted by the Legislature of West Virginia:

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

Section 9. Courses of Instruction in History, Civics, Constitutions, Alcoholic Drinks, Narcotics; Textbooks on Health, Biology and Social Sciences to Contain Appropriate Materials on Effects of Alcoholic Drinks and Narcotics; Violations; Penalties.—In all public, private, parochial and denominational schools located within this state there shall be given regular courses of instruction in
history of the United States, in civics, and in the constitutions of the United States and of the state of West Virginia, for the purpose of teaching, fostering and perpetuating the ideals, principles and spirit of Americanism, and increasing the knowledge of the organization and machinery of the government of the United States and of the state of West Virginia. The state board of education shall, with the advice of the state superintendent of schools, prescribe the courses of study covering these subjects for the public elementary and grammar schools, public high schools and state normal schools. It shall be the duty of the officials or boards having authority over the respective private, parochial and denominational schools to prescribe courses of study for the schools under their control and supervision similar to those required for the public schools.

The state board of education shall cause to be taught in all of the public schools of this state the subject of scientific temperance, including the nature of alcoholic drinks and narcotics, with special instruction as to their effect upon the human system and upon society in general; and the textbooks on the subjects of health and hygiene, biology and the social sciences, adopted for the use in the public schools of the state, shall contain appropriate material for such teaching.

Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding ten dollars for each violation, and each week during which there is a violation shall constitute a separate offense. If the person so convicted occupy a position in connection with the public schools, he shall also automatically be removed from such position, and shall be ineligible for reappointment to that or a similar position for the period of one year.
CHAPTER 39
(House Bill No. 16—By Mr. James R. Ewing)

AN ACT to amend and reenact sections six and eight, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, relating to announcement and certification and posting of candidacies.

(Passed March 7, 1941; in effect ninety days from passage. Approved by the Governor.)


Section 6. Announcement of candidacies.
8. Certification and posting of candidacies.

Be it enacted by the Legislature of West Virginia:

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

Section 6. Announcement of Candidacies.—Any person who is eligible to hold an office (including that of member of a state or county executive committee) may file with the secretary of state, if it be an office to be filled by the voters of more than one county, or with the clerk of the circuit court, if it be for an office to be filled by the voters of a county or a subdivision less than a county, a certificate declaring himself a candidate for the nomination for such office; which certificate shall be in form or effect as follows:

I, ___________________________, hereby certify that I am a candidate for the nomination for the office of__________________________ to represent the__________________________ party, and desire my name printed on the official ballot of said party to be voted at the primary election to be held on the______________ day of________________________, 19________; that I am a legally qualified voter of the county of________________________; State of West Virginia; that my residence is number_________ of________________________ street in the city (or town) of________________________ in________________________ county.
Ch. 39] ANNOUNCEMENT OF CANDIDACIES

21 in said State; that I am eligible to hold the said office; 
22 that I am a member of and affiliated with said political 
23 party; that I am a candidate for said office in good faith. 
24
25 Candidate. 
26
27

Signed and acknowledged before me this day of 
28 19

29 Signature and official title 
30 of person before whom 
31 signed.
32
33 Such announcement shall be signed and acknowledged 
34 by the candidate before some officer qualified to admin- 
35 ister oaths, who shall certify the same: Provided, That 
36 no person may be a candidate for nomination for office 
37 in any political party, unless it be openly known that 
38 such person is a bona fide member of such party.
39
40 Such certificate shall be filed with the secretary of 
41 state or the clerk of the circuit court, as the case may be, 
42 on or before the fifth Saturday preceding the primary 
43 election day, and must be received before midnight, east- 
44 ern standard time, of that day or, if mailed, shall be post- 
45 marked before that hour.

*Sec. 8. Certification and Posting of Candidacies.—On 
the Monday following the fifth Saturday preceding the 
day fixed for the primary election, the secretary of state 
shall arrange the names of all the candidates, who have 
filed announcements with him, as provided in this article, 
and who are entitled to have their names printed on any 
political party ballot, in accordance with the provisions of 
this chapter, and shall forthwith certify the same under 
his name and the lesser seal of the state, and file the same 
in his office, and make and transmit a duplicate thereof 
by registered mail to the clerk of the circuit court of 
each county, in the state, in which such candidate or 
candidates is or are to be voted for. He shall also post a 
duplicate of such list or lists in a conspicuous place in 
his office, and keep the same posted until after the pri- 
mary election. In case of emergency, the secretary of

*This section was also amended and reenacted by chapter 42 of this volume.
CHAPTER 40
(Senate Bill No. 19—By Mr. Smith)

AN ACT to amend and reenact section twenty-nine, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, relating to elections and the nominations of candidates by certificate, and providing for authority to investigate the validity of such certificates and the institution of legal proceedings, and penalties for violations.

[Passed February 11, 1941; in effect ninety days from passage. Approved by the Governor.]


Section 29. Certificate nominations; qualifications of signers and solicitors; penalties.

Be it enacted by the Legislature of West Virginia:

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

Section 29. Certificate Nominations; Qualifications of Signers and Solicitors; Penalties.—(a) Groups of citizens having no party organization may nominate candidates for public office otherwise than by conventions or primary elections. In such case, the candidate or candidates, jointly or severally, shall file a declaration containing the name of the political party he or they propose to represent, its platform, principles or purposes,
with the secretary of state, if the office is to be filled by
the voters of more than one county, or with the clerk
of the circuit court of the county if the office is to be
filled by the voters of one county or political sub-
division thereof; such declaration to be filed at least
thirty days prior to the time of filing the certificate
provided by section thirty of this article, and at the
time of filing of such declaration each candidate shall
pay the filing fee required by law, and if such declaration
is not so filed or the filing fee so paid the certificate
shall not be received by the secretary of state, or clerk
of the circuit court, as the case may be.

(b) The person or persons soliciting or canvassing sig-
natures of duly qualified voters on such certificate or
certificates, shall be residents and qualified, registered
voters, of the magisterial district of the county in which
such solicitation or canvassing is made, and may solicit or
canvass duly registered voters resident within their own
respective magisterial district, but must first obtain from
the clerk of the county court of which such canvasser or
solicitor is a resident, credentials which must be ex-
hibited to each voter canvassed or solicited, which creden-
tials may be in the following form or effect:

State of West Virginia, County of ____________, ss:

This certifies that ________________, a duly registered voter
of Precinct No. ____________, _______________ District, of this
county and state; whose postoffice address is ____________,
is hereby authorized to solicit and canvass duly regis-
tered voters residing in _______________ District of this
County to sign a certificate purporting to nominate
______________ (here place name of candidate head-
ing list on certificate) for the office of ________________, and
others, to represent the _______________ Party at the
general election to be held on ________________, 19____.

Given under my hand and the seal of my office this
________ day of ________________, 19____.

Clerk, County Court of ____________ County.

The clerk of each county court, upon proper applica-
tion made as herein provided, shall issue such creden-
tials and shall keep a record thereof.
(c) The certificate shall be personally signed by duly registered voters, in their own proper handwriting or by their marks duly witnessed, who must be residents within the magisterial district of the county wherein such canvass or solicitation is made by the person or persons duly authorized. Such signatures need not all be on one certificate. The number of such signatures shall be equal to not less than one per cent of the entire vote cast at the last preceding general election for the office in the state, circuit, district, county or other political division for which the nomination is to be made, but in no event shall the number be less than twenty-five. Where two or more nominations may be made for the same office, the total of the votes cast at the last preceding general election for the candidates receiving the highest number of votes on each ticket for such office shall constitute the entire vote. No signature on such certificate shall be counted unless it be that of a duly registered voter of a precinct within the magisterial district wherein such certificate was presented. No person signing such certificate shall vote at any primary election to be held to nominate candidates for office to be voted for at the election to be held next after the date of signing such certificate.

(d) Such certificates shall state the name and residence of each of such candidates; that he is legally qualified to hold such office; that the subscribers are legally qualified and duly registered as voters and desire to vote for such candidates; and shall designate, by not more than five words, a brief name of the party which such candidates represent and may adopt a device or emblem to be printed on the official ballot. All candidates nominated by the signing of such certificates shall have their names placed on the official ballot as candidates, as if otherwise nominated under the provisions of this chapter. At the top of each certificate shall be the following form or to the following effect:

State of West Virginia, County of ____________, ss:

This is to certify that we, the undersigned, are duly registered voters, resident within the magisterial district of ____________, County of ____________, State of
West Virginia, and do hereby make the following nominations for public office, to-wit:

For House of Delegates

A_______ B_______, Residence________________________

(And so on for each nomination so made)

And, we further certify that each of said candidates is legally qualified to hold the office for which he is nominated; that we are legally registered and qualified voters and desire to vote for said candidates and acknowledge that we are aware that no person signing this certificate can legally vote at the primary election next ensuing after the date of the filing of this certificate. The name of the party which the candidates represent is (here state name) and the device or emblem of the party is (here affix device).

Signature  Precinct No.  Residence  Postoffice Address

(Names  (Number of  (Describe  (Name of office)
of Voters)  precinct  it)
in magisterial  district)

(e) The secretary of state, or the clerk of the circuit court, as the case may be, may investigate the validity of such certificates and the signatures thereon, and if upon such investigation there may be doubt as to the legitimacy and the validity of such certificate, he may request the attorney general of the state, or the prosecuting attorney of the county, to institute a quo warranto proceeding against the nominee or nominees by certificate to determine his or their right to such nomination to public office, and upon request being made, the attorney general or prosecuting attorney shall institute such quo warranto proceeding.

(f) Any person violating the provisions hereof, in addition to penalties prescribed elsewhere for violations of this chapter, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one thousand dollars, or confined in the county jail for not more than one year, or both, in the discretion of the court.

All acts, or parts of acts, in conflict with the provisions hereof, are hereby repealed; and if any clause, sentence, paragraph, or part of this section 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 section, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

CHAPTER 41

(Com. Sub. for House Bill No. 161—Originating in the Committee on the Judiciary)

AN ACT to amend article eight, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, by adding section eleven-a, and sections fourteen to twenty, inclusive, relating to corrupt and pernicious practices during elections.

[Passed March 6, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 8. Things Required; Practices Forbidden; Penalties.

Section 11-a. Penalties for violation of limitations upon campaign expenditures.

14. Intimidation and coercion of state and other employees; penalties.

15. Promise of employment of other benefits; penalties.

16. Limitations of contributions; penalties.

17. Persons or firms negotiating for or performing governmental contracts; penalties.

18. Definitions.

19. Applicability of penalties.

20. Existing laws.

Be it enacted by the Legislature of West Virginia:

That article eight, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding section eleven-a, and sections fourteen to twenty, inclusive, to read as follows:

Section 11-a. Penalties for Violation of Limitations upon Campaign Expenditures.—Any person who shall violate the provisions of section eleven, article eight, chapter three of the code of West Virginia, shall, upon convic-
tion, be disqualified from holding any public office or em-
ployment during a period of five years subsequent to the
date of conviction. If elected to occupy any public office
or employment, such person shall immediately, upon
conviction, be deemed to have vacated such office or to
have ceased such employment.

Sec. 14. Intimidation and Coercion of State and Other
Employees; Penalties.—It shall be unlawful for any per-
son to solicit any contribution from any non-elective sal-
aried employee of the state government or of any of its
subdivisions, or to coerce, or intimidate, such employee
into making such contribution. It shall be unlawful for
any person to coerce, or intimidate any non-elective sal-
aried employee of the state government or of any of its
subdivisions into engaging in any form of political activ-
ity. Any person violating the provisions of this section
shall be guilty of a misdemeanor, and, upon conviction,
be fined not more than one thousand dollars, or im-
prisoned for not more than one year, or both.

Nothing in this section, however, shall be construed to
prevent any such employee, within the limits of this
article, from making such a contribution or from engag-
ing in political activity voluntarily, that is, without coer-
cion, intimidation, or solicitation.

Sec. 15. Promise of Employment or Other Benefits; Pen-
alties.—It shall be unlawful for any person, directly or in-
directly, to promise any employment, position, work,
compensation, or other benefit provided for, or made pos-
sible, in whole or in part by act of the Legislature, to any
person as consideration, favor, or reward for any political
activity for the support of or opposition to any candidate,
or any political party in any election. Any person violat-
ing this section shall be guilty of a misdemeanor, and,
upon conviction, be fined not more than one thousand dol-
ars or imprisoned for not more than one year, or both.

Sec. 16. Limitations of Contribution; Penalties.—It shall
be unlawful for any person to make contributions, directly
or indirectly, in excess of the value of five thousand dollars
in connection with any campaign for nomination or elec-
tion to or on behalf of any elective office in the state or
any of its subdivisions, or in connection with or on behalf
of any committee or other organization or person engaged
in furthering, advancing or advocating the nomination
or election of any candidate for any such office. Any
person violating this section shall, upon conviction, be
guilty of a misdemeanor and fined not more than one
thousand dollars or imprisoned for not more than one
year, or both.

Sec. 17. Persons or Firms Negotiating for or Performing Governmental Contracts; Penalties.—No person enter-
ing into any contract with the state or its subdivisions, or any department or agency thereof, either for
rendition of personal services or furnishing any material,
supplies or equipment or selling any land or building to
the state, or its subdivisions, or any department or agency
thereof, if payment for the performance of such contract
or payment for such material, supplies, equipment, land
or building is to be made in whole or in part from public
funds shall, during the period of negotiation for or per-
formance under such contract or furnishing of materials,
supplies, equipment, land or buildings, directly or indi-
rectly make any contribution to any political party, com-
mittee or candidate for public office or to any person for
political purposes or use; nor shall any person or firm
solicit any contributions for any such purpose during
any such period. Any person who violates the provisions
of this section shall be guilty of a misdemeanor, and, upon
conviction, fined not more than one thousand dollars or
imprisoned for not more than one year, or both.

Sec. 18. Definitions.—In construing sections fourteen
through seventeen of this article:
(1) The term "person" shall include an individual,
partnership, committee, association, corporation, and any
other organization or group of persons.
(2) The term "contribution" shall include a gift, sub-
scription, loan, advance, or deposit of money, or anything
of value given or offered in connection with political activ-
ity. It shall also include a contract, promise, or agree-
ment, whether or not legally enforceable, to make a contribution.

(3) The term "subdivisions" shall include any county, city, town, village or any other governmental unit.

(4) The term "election" shall include primaries, general and special elections.

Sec. 19. Applicability of Penalties.—In all cases of violations of this act by a partnership, committee, association, corporation, or other organization or group of persons, the officers, directors, or managing heads thereof, who knowingly and willingly participate in such violation, shall be subject to the punishment herein provided.

Sec. 20. Existing Laws.—Nothing in this act shall be construed to legalize that which is made illegal by any provision of law now in force.

CHAPTER 42
(Senate Bill No. 37—By Mr. Randolph, Mr. President)

AN ACT to amend and reenact section one, to add sections one-a, one-b and one-c, to amend and reenact section two, article five, 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; to add section five-a, to amend and reenact sections eight, nine and twelve, to add sections twenty-two-a and twenty-three-a to article four; and to add section four-a to article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, all relating to the nonpartisan nomination and election of school board members.

(Passed March 1, 1941; in effect ninety days from passage. Approved by the Governor.)

Be it enacted by the Legislature of West Virginia:

That section one be amended and reenacted, that sections one-a, one-b, and one-c be added, that section two, article
five, 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; that section five-a be added, that sections eight, nine and twelve be amended and reenacted, and that sections twenty-two-a and twenty-three-a, article four, be amended and reenacted, and that section four-a be added to article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, to read as follows:

Chapter 18. EDUCATION

Article
5. District Board of Education.

Article 5. District Board of Education.
Section
1. Members; non-partisan nomination and election.
1-a. Eligibility.
1-b. Term of office.
1-c. President of board of education.
2. Filling vacancies.

Section 1. Members; Non-partisan Nomination and Election.—Each county school district shall be under the supervision and control of a county board of education, which shall be composed of five members, nominated and elected by the voters of the respective county, without reference to political party affiliation. No more than two members shall be elected from the same magisterial district.

Sec. 1-a. Eligibility.—No person shall be eligible for membership on any county board of education who is not a citizen, resident in such county, or who accepts a position as teacher in any school district, or who holds membership in any political party executive committee, or who becomes a candidate for or is appointed to any public office: Provided, however, That the foregoing provisions of this section shall in no manner affect the term of office of any member of a board of education who holds an unexpired term under prior existing law, or any person who shall have been elected such member at the general election held on November fifth, one thousand nine hundred forty.
No member of any board of education shall be eligible for nomination for, or appointment to, any public office, other than to succeed himself, unless and until his membership on the board has been terminated at or before the time of his filing for such nomination for, or appointment to, such public office.

For the purposes of this section the term "public office" shall be construed to include any position of public trust, responsibility or service in any municipality, county, state, or federal government, or any subdivision or combined unit or units thereof, regardless of whether such position be remunerative or not.

Sec. 1-b. Term of Office.—At the general election in the year one thousand nine hundred forty-two, two members shall be elected for a term of six years and one member for a term of four years; at the general election in the year one thousand nine hundred forty-four, two members shall be elected for a term of six years. As the terms provided above expire, the offices shall be filled for six-year terms.

The term of office of any member of any county board of education shall immediately cease, and a vacancy shall exist, upon occurrence of ineligibility as prescribed in section one-a of this article.

This section, however, shall in no manner be construed so as to affect the unexpired terms of county school board members who hold office or were elected under prior existing law.

Sec. 1-c. President of Board of Education.—On the first Monday in July following each general election each respective board of education shall organize and elect for a two-year term a president from its own membership.

Sec. 2. Filling Vacancies.—The board shall, by appointment, fill within thirty days any vacancy that occurs in its membership. Such appointments shall continue until the next general election, when the voters shall elect a successor for the unexpired term. In the event that the board does not fill the vacancy within thirty days, the
7 state superintendent of schools shall appoint a person to
8 fill the vacancy.

Chapter 3. ELECTIONS

Article
5. Conducting Election; Ascertaining and Certifying the Result.


Section
5-a. Announcement of candidacy for membership on board of education.
8. Certification and posting of candidacies.
9. Publication and printing of ballots.
12. Form and contents of ballots.
22-a. Non-partisan primary nominees.
23-a. Vacancy or absence of nominees in non-partisan primary.

Section 5-a. Announcement of Candidacy for Membership on Board of Education.—Any person who is eligible to hold office as a member of any county board of education may, at least thirty days prior to the primary election day, file a certificate with the clerk of the circuit court of the county, declaring himself a candidate for the nomination of such office and the length of term sought for such office. Such certificate shall be substantially in the following form:

I, __________________________, hereby certify that I am a candidate for the non-partisan nomination for membership on the ______________ County Board of Education, and desire my name printed on the ballot to be voted at the primary election to be held on the ______ day of ______________, 19_____; that I am a legally qualified voter of the county of __________________________; State of West Virginia; that my residence is number __________ of ______________ in ______________ county in said state; that I am eligible to hold the said office; and that I am a candidate for said office in good faith.

_____________________________ Candidate

_____________________________ Signed and acknowledged before me this _______ day of ______________, 19_____.

_____________________________ Signature and official title of person before whom signed.
Such announcement shall be signed and acknowledged by the candidate before some officer qualified to administer oaths, who shall certify the same.

*Sec. 8. Certification and Posting of Candidacies.—At least thirty days before the day fixed for the primary election, the secretary of state shall, as provided in this article, arrange a list of names of all the candidates who have filed announcements with him, and who are entitled to have their names printed on the ballot. He shall forthwith certify the list under his name and the lesser seal of the state, and file it in his office, and make and transmit a duplicate thereof by registered mail to the clerk of the circuit court of each county in the state, in which such candidate or candidates is or are to be voted for. He shall also post a duplicate of such list in a conspicuous place in his office, and keep the same posted until after the primary election. In case of emergency the secretary of state may transmit such duplicate list by telegraph. The certificates to be made by the secretary of state shall, as herein provided, give the name and residence of each candidate, the office for which he is a candidate, the name of the political party, if any, of which he is a candidate, and upon what ballot or ballots his name is to be printed.

Sec. 9. Publication and Printing of Ballots.—At least twenty-five days before the holding of any primary election, the ballot commissioners of each county shall prepare from the lists and certificates of announcements, as provided in this article, a sample official primary ballot for each party, placing thereon the names of all the candidates of the respective political party, and, as the case may be, the non-partisan candidates to be voted for at such primary election. They shall publish the same in two issues of a newspaper of general circulation published in such county and representing such party, if one there be; if not, then in some other newspaper published in such county in two issues of such newspaper.

The ballot commissioners shall cause official ballots, to at least one and one-half times the number of registered voters in each election precinct of each political

*This section was also amended and reenacted by chapter 39 of this volume.
party, to be printed and delivered to them for holding
the primary election.

Sec. 12. Form and Contents of Ballots.—The official
primary ballot shall contain at the left of each column
of names of candidates, a perpendicular column, and shall
be so printed as to leave a square at the left of each
name on the ballot.

On such primary ballot, the names of candidates for
president of the United States, for United States senator,
for representatives in Congress, and for delegates and
alternate delegates to the national convention of the
party, shall be placed in the first column of candidates;
the names of candidates for all state offices, except judges
of the supreme court of appeals, and all other offices to
be filled by the voters of a political division greater than
a county, including the state executive committee and
excluding judges of the circuit courts, in the second
column. The names of all candidates for county offices,
including members of the house of delegates, and con-
gressional, judicial and senatorial executive committees
(except judges of the circuit court, in cases where a single
county constitutes a judicial circuit, and judges of inferior
courts) shall be placed in the third column; and the
names of all candidates for office in the magisterial dis-
tricts, in the fourth column.

The face of every primary election ballot shall con-
form as nearly as practicable to that used at the general
election.

The secretary of state, or the circuit court clerk, as the
case may be, shall arrange the names of the candidates
to be printed on the ballot in alphabetical order, accord-
ing to the surname, under the title of the respective
offices upon the ballot.

Immediately below the space provided on the ballot for
listing the candidates affiliated with the respective politi-
cal party, shall be printed in bold type, the caption, “Non-
partisan Nomination for Candidates for County Board of Education.” The names of the candi-
dates for nomination to the respective county board of
education, the length of term for which they announce
their candidacy and the number of candidates for which
Ch. 42] ELECTION OF SCHOOL BOARD MEMBERS

40 each person is entitled to vote shall be printed beneath
41 said caption, without reference to political party affilia-
42 tion.
43 In printing each set of ballots the position of the names
44 of the candidates shall be changed in each office division
45 as many times as there are candidates in that office divi-
46 sion. As nearly as possible an equal number of ballots
47 shall be printed after each change. In making the
48 change of position, the printer shall take the line of
49 type containing the first name in the office division
50 concerned and place it at the bottom of the list of
51 names in that division and move up the column so that
52 the name that before was second shall be first, after the
53 change. After the ballots are printed they shall be kept
54 in separate piles, one pile for each change of position,
55 and shall then be gathered by taking one from each pile.
56 Sample ballots shall be in the same form as the official
57 ballot, but the order of the names thereon need not
58 be alternated.
59 All ballots used in primary elections shall be printed
60 on paper conforming as nearly as practicable in weight,
61 texture, and color to the samples furnished by the secre-
62 tary of state, and the paper shall be sufficiently thick so
63 that the printing cannot be discernible from the back.
64 On the back of the ballot shall be printed in black ink,
65 and in plain, legible, black face pica type, the name of
66 the political party as contained in the heading, followed
67 by the word “ballot”. Under this designation shall be
68 printed two blank lines followed by the words “poll
69 clerks”.

Sec. 22-a. Non-Partisan Primary Nominees.—There
2 shall be no more than two nominees for each position
3 sought on the respective county board of education ex-
4 cept in case of a tie vote. The person who receives the
5 greatest number of votes and the person who receives the
6 next greatest number of votes for each position to be
7 voted upon as listed on the ballot shall be deemed nomi-
8 nated for that respective position: Provided, That in
9 case there is only one candidate for such a position, that
10 candidate shall be deemed nominated.
11 If there is more than one position to be filled for the
12 office of county board of education, the nominations for
13 each additional position shall go to the two persons re-
14 ceiving the next highest respective number of votes.

Sec. 23-a. Vacancy or Absence of Nominees in Non-
2 Partisan Primary.—In the event of death, withdrawal or
3 disqualification of a nominee for any office appearing on
4 the non-partisan ballot, subsequent to the primary, and
5 prior to the general election, the person or persons receiv-
6 ing the next highest respective votes in the primary elec-
7 tion for the position in question shall be deemed nomi-
8 nated.
9 If for any reason there are no candidates for nomination
10 on the non-partisan primary election the procedure as
11 prescribed in section twenty-three of this article, for fill-
12 ing vacancies in party nominations, shall be followed.

Article 5. Conducting Election; Ascertaining and Certifying
the Result.

Section 4-a. Form and arrangement of ballots for election of members of
1 county boards of education.

Sec. 4-a. Form and Arrangement of Ballots for Election
2 of Members of County Boards of Education.—At every
3 general election in which members of county boards of
4 education are to be elected there shall be printed in bold
5 type on the lower extremity of the official ballot pre-
6 scribed in section four of the article, the caption “Non-
7 partisan Election of Members of __________County Board of Education.” Beneath such caption shall
8 be printed the names of the nominees for membership
9 and the term of office sought on the respective county
10 boards of education without reference to political party
11 affiliation. In all other matters consistent with the pur-
12 pose of this act, the procedures in article five shall apply.
AN ACT to amend and reenact section one, to add sections one-a and ten-a to article one; to repeal and reenact article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, for the purpose of establishing a uniform system of permanent registration of voters.

[Passed March 6, 1941; in effect ninety days from passage. Approved by the Governor.]

Be it enacted by the Legislature of West Virginia:

That section one be amended and reenacted, that sections one-a and ten-a be added to article one; that article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, be repealed and reenacted so as to read as follows:

Chapter 3. ELECTIONS

Article
1. General Election; Officers to Be Chosen; Precincts.
2. Registration of Voters.

Article 1. General Election; Officers to Be Chosen; Precincts.

Section
1. Scope of chapter.
1-a. Persons entitled to vote.
10-a. Municipal precincts.

Section 1. Scope of Chapter.—The provisions of this chapter shall, unless restricted by the context, apply to every general, primary, or special election in which candidates are nominated or elected or in which the electorate passes upon any public question submitted to it, except that such provisions shall be construed to be operative in municipal elections only in those instances in which they are made expressly applicable.

Sec. 1-a. Persons Entitled to Vote.—Citizens of the state shall be entitled to vote at all elections, including primaries held within the precincts of the counties and municipalities in which they respectively reside. But no
person who has not been registered as a voter as required by law, or who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony or bribery in an election, or who, in the case of state-county elections has not been a bona fide resident of the state for one year and of the county in which he offers to vote for sixty days next preceding such election, or who in the case of municipal elections has not been a bona fide resident of the state for one year and of the municipality in which he offers to vote for sixty days next preceding such election, shall be permitted to vote at such election while such disability continues: Provided, That subject to the qualifications otherwise prescribed in this section, a minor shall be permitted to vote in a primary election if he will have reached the age of twenty-one on the date of the election next to be held after the primary election.

Sec. 10-a. Municipal Precincts.—The governing bodies of all municipalities shall, for the purpose of municipal elections, provide by ordinance for making the voting precincts in the respective municipalities coincide, as nearly as possible, to the boundaries of the voting precincts fixed by the county court for all state and county elections.

Article 2. Registration of Voters.

Section
1. Purpose; short title.
2. Definitions.
3. Registration prerequisite for voting.
4. Qualifications for registration.
5. Permanent and uniform registration.
6. Election commission.
7. Term of office.
8. Qualifications of members.
10. Office and place of meeting.
11. Meetings.
12. Powers and duties of members.
13. Secretary of state; powers; duties.
16. Selection of registrars.
17. Salaries of registrars.
18. Clerical assistance.
19. Registration record files.
20. Custody of registration records; public inspection.
21. Registration form.
22. Filling of registration forms.
23. Power to administer oaths.
25. Quadrennial check-up.
26. Registration procedure in office of the clerk of the county court.
27. Duties of registrars after completion of initial registration and quadrennial check-ups.
28. Registration of applicants unable to write.
29. Disability suffered since registration.
31. Statement of party affiliation.
32. Challenge of right to register.
33. Transfers.
34. Time of transfer.
35. Change of name.
36. Preparation, posting and furnishing of precinct lists.
37. Hearings before county court; appeals.
38. Time of hearings before county court.
39. Sessions of courts in registration cases.
40. Changes in precinct boundaries.
41. Re-registration.
41-a. Purchase of equipment for initial registration.
41-b. Appropriations from general revenues.
42. Appropriation by county court.
43. Disposition of registration records under prior laws.
44. Unlawful registration or rejection of voter; penalties.
45. Neglect of duty by registration officers; penalties.
46. Alteration or destruction of registration records; penalties.
47. Withholding of information; penalties.
48. Interference with registration of voters; penalties.
49. Destruction of registration records; penalties.
50. Inconsistent acts repealed.
51. Constitutionality.

Section 1. Purpose; Short Title.—The purpose of this article is to establish a uniform permanent registration system for all elections within the state. It may be cited as the “Permanent Registration Law”.

Sec. 2. Definitions.—For the purpose of this article, unless the context clearly requires a different meaning:

“Qualified voter” shall mean any person who possesses the statutory and constitutional requirements for voting.

“Election” shall mean the procedure whereby the voters of this state or any subdivision thereof elect persons to fill public offices, or vote on public questions.

“Any election” or “all elections” shall include every general, primary, or special election held in this state, or in any of its subdivisions, for the purpose of nominating or electing federal, state, county, city, town or village officers of any subdivision now existing or hereafter created, or for voting upon any public question submitted.
to the people of the state or any of the aforesaid sub-

divisions.

The masculine pronoun shall be construed to include

the feminine.

"Subdivision" shall mean any county, city, town, village

or any other unit in which the voters are authorized to
elect public officers or to vote upon public questions sub-

mitted to them.

"County court" shall, where such tribunal has not been
established, be construed to mean the tribunal created in

lieu thereof.

"Clerk of the county court" shall be construed to include

any authorized deputy.

"Office" shall be construed to mean public office.

"Public question" shall mean any issue or proposition,

now or hereafter required by the governing body of this

state or of any of its subdivisions, to be submitted to the

voters of the state or subdivision for decision at elections.

"Initial registration" shall mean the first registration

under this article preparatory to the primary election of

the year one thousand nine hundred forty-two.

"Quadrennial check-up" shall mean the process by

which the registrars, every four years subsequent to the

initial registration, proceed to register all persons who

are not registered, but who qualify for registration; or to

alter, amend, correct, or cancel the registration records

of those persons previously registered.

"Registration form" shall mean the unfilled form to be

used for the registration of voters.

"Registration record" shall mean the filled registration

form.

"Registrar" shall be construed to include deputy regis-

trar.

In determining or reckoning any period of time men-
tioned in this act, the day upon which the act is done, paper
filed, or notice given shall be excluded from, and the date
of any election, hearing or other subsequent event, as the
case may be, shall be included in the calculation or reckon-
ing: Provided, however, That if the last day upon which
any act may be done, paper filed, or notice given, shall fall
Sec. 3. Registration Prerequisite for Voting.—No voter otherwise qualified shall be permitted to vote at any election unless he shall have been duly registered or shall have placed himself within the “Challenged Voters” provision of this chapter.

Sec. 4. Qualifications for Registration.—Any person who possesses the constitutional and statutory requirements for voting, except as to age, shall be permitted to register: Provided, That such person shall have reached the age of twenty-one years by the time of the next ensuing election.

Sec. 5. Permanent and Uniform Registration.—A permanent registration system shall hereby be established which shall be uniform throughout the state and all of its subdivisions. No voter so registered shall be required to register again for any election while he continues to reside at the same address or, having moved from such address, is properly transferred according to the provisions of section thirty-three of this article: Provided, That if a voter fails to vote at least once during a period of five years from the date of his last vote, his registration shall be cancelled, and he shall be given proper notice thereof by the clerk of the county court, to the effect that in order to vote he must register again.

Sec. 6. Election Commission.—There shall hereby be created “The State Election Commission”, which shall be composed of five members, appointed by the governor, by and with the consent of the senate. The commission shall, from this membership, elect a chairman for a term of two years.

Sec. 7. Term of Office.—The term of office of members of the commission shall be six years, except that the governor, upon the adoption of this law, shall appoint the members of the commission 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 made for six years.

Sec. 8. Qualifications of Members.—No member of the commission shall be a candidate for or hold any public office other than that of membership in the commission; nor shall he be a member of any committee of a political party. At least one member shall be selected with special reference to his expert knowledge as a student of the problems of public elections. Of the remaining four members, not more than two shall be affiliated with the same major political party. In case a member becomes a candidate for or is appointed to any other public office or political committee, his office as member of the commission shall be deemed immediately vacated.

Sec. 9. Expenses.—Each member of the commission shall receive his actual and necessary traveling expense incurred in the performance of his duties.

Sec. 10. Office and Place of Meeting.—The office and place of meeting of the commission shall be the office of the secretary of state in the state capitol.

Sec. 11. Meetings.—The commission shall hold meetings at least six months prior to every primary election. Special meetings may be convened on the call of the chairman, the governor, or the secretary of state.

Sec. 12. Powers and Duties of Members.—The members of the commission shall serve as an advisory body to the secretary of state, and, as such, shall have the following powers and duties:

1. To recommend policies and practices to the secretary of state, relating to his duties as registration official (for voting) and election officer, imposed by law.

2. To investigate the work of the secretary of state, and for this purpose to have access at reasonable times to pertinent records, books, papers and documents.

3. To consider and study the election practices of other jurisdictions, with a view to determining the techniques used in eliminating fraud in elections and in simplifying election procedure.
(4) To advise or make recommendations to the governor relative to election practices and policy in the state.
(5) To keep minutes of the transactions of each session, regular or special, which shall be public records and filed with the secretary of state.

Sec. 13. Secretary of State; Powers; Duties.—The secretary of state shall be the chief registration official of the state. He shall have authority, upon consultation with the state election commission, of which he is hereby created an ex officio member, to make, amend and rescind such rules, regulations and orders as may be necessary to carry out the policy of the Legislature, as contained in this article. It shall be the duty of all registration officials to abide by such rules, regulations and orders, which shall include:
(a) Uniform rules of procedure for registrars and other registration officials in the performance of their duties, as to time and manner of performance.
(b) Uniform rules for the purging of registration records.
(c) Uniform rules for challenging registrants.
(d) Any other rules, regulations, or directions necessary to standardize and make effective the administration of the provisions of the act.

It shall be his further duty to advise with registration officials; to furnish to the registration officials a sufficient number of indexed copies of the current registration laws of West Virginia and the administrative orders issued thereunder; to investigate the administration of registration laws, frauds, and irregularities in any registration; to report violations of registration laws to the appropriate prosecuting officials, and to prepare an annual report of registration.

The secretary of state shall also have the power to issue subpoenas, administer oaths and affirmations, summon witnesses, compel the production of books, papers, records and other evidence, and fix the time and place for hearing any matters relating to the administration and enforcement of this article. In case of disobedience to a subpoena or other process, he may invoke the aid of any circuit
Sec. 14. Powers and Duties of Appointees.—All powers and duties vested in the secretary of state under this article may be exercised by appointees of the secretary of state at his discretion, but the secretary of state shall be responsible for their acts.

Sec. 15. Powers of County Court.—Subject to the authority of the secretary of state, the county court shall be the chief registration authority in each respective county and all subdivisions therein, and shall supervise the county clerk and registrars in the performance of their respective duties.

The county court shall have power on its own motion to summon and to interrogate any person concerning the registration of voters or any matter related thereto, to investigate any irregularities, in registration, to summon and examine witnesses, to require the production of any relevant books and papers, and to administer oaths and affirmations. Each person testifying before the county court shall first be duly sworn or affirmed.

Sec. 16. Selection of Registrars.—The county court of each county in the state shall, not less than eight weeks prior to the date of the first registration under this act and not less than eight weeks nor more than ten weeks prior to each quadrennial check-up thereafter, appoint for each voting precinct in the county two competent persons as registrars, one each from the political parties which, at the last preceding election, cast the highest and next highest number of votes in the county in which the election is to be held. If at any time during such session, however, the county executive committee of either political party from which registrars are to be selected, through its chairman or secretary, shall present to the county court or file in the office of the clerk of the county court a writing signed by the chairman of such committee, on behalf of the committee, requesting the appointment as registrar of a qualified voter of their political party, the court shall appoint the person named in such writing as registrar.
Every writing so presented shall be filed and preserved for one year by the clerk of such court in his office.

However, no person shall be eligible to appointment as registrar, or in any way act as such, if he has been convicted of a felony; or if he holds any elective or appointive office, or is a public employee, under the laws of this state, or of the United States; or if he is not a qualified voter in the precinct for which appointed; or cannot read or write the English language; or is a candidate to be voted for at such election. If in any precinct there should not be a competent person, in the opinion of the chairman of the executive committee, or of the county court, the chairman of such committee may recommend, and the court shall appoint, some competent voter of such county from some other precinct therein to act as registrar. If any such registrar shall fail or refuse to serve or is properly dismissed, the vacancy shall be filled either by the county court or by the clerk thereof, in vacation, in the manner provided for the appointment of registrars. Each registrar, before entering upon the discharge of his duties, shall take an oath that he will perform the duties of the office to the best of his ability, and that he is a regular member of the party for which appointed. Such oath shall be filed in the office of the clerk of the county court.

Sec. 17. Salaries of Registrars.—For registering qualified voters during the initial registration, each registrar shall be compensated at a rate fixed by the respective county court of not more than ten cents nor less than five cents for each name registered. For registering qualified voters or for checking the registration record of any qualified voter during the periods of the quadrennial check-up, each registrar shall receive not more than six cents for each name registered or each record checked. In the event of a re-registration, the registrars shall receive the same payment as that prescribed for the initial registration. Any part or all of the salary of any registrar may be withheld by the county court until such time as the county court shall have agreed that the duties of such registrars have been fulfilled.
Sec. 18. Clerical Assistance.—The county court shall have power to provide for clerical assistance at reasonable compensation, to aid in the administration of registration.

Sec. 19. Registration Record Files.—The registration records to be used in county-state elections shall be kept in a separate file and arranged, where possible, according to precinct, street and sequence of house, apartment or room numbers. A duplicate set of these registration records shall be made and kept in a separate file, and shall be arranged in alphabetical order. Such file shall herein be referred to as the “alphabet file”.

The registration records to be used in municipal elections shall be kept in a separate file and arranged, where possible, according to precinct, street, and sequence of house, apartment or room numbers.

Sec. 20. Custody of Registration Records; Public Inspection.—The registration records shall not be removed from the custody of the county court except for use in an election, or by the order of a court of record. The registration records in the alphabet file shall be open for public inspection under reasonable regulations prescribed by the county court. Such inspection shall be carried on in the presence of the clerk of the county court.

Sec. 21. Registration Form.—The registration form shall be prescribed by the secretary of state substantially as follows. The forms for county-state elections and municipal elections, shall be identical, save for color.
<table>
<thead>
<tr>
<th>NAME (Last name first)</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Information in this space to be typed in at office of clerk of county court)</td>
<td>(Upon change of address place sticker containing new address over former)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>YEAR</th>
<th>1942</th>
<th>1943</th>
<th>1944</th>
<th>1945</th>
<th>1946</th>
<th>1947</th>
<th>1948</th>
</tr>
</thead>
<tbody>
<tr>
<td>State-County Primary</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Municipal Primary</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General State-County Election</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Municipal Election</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special State-County Election</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Special Municipal Election</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(As the elector votes record fact of voting with a "v" in proper space, except at primaries record fact of voting by use of party initial or initials.)

<table>
<thead>
<tr>
<th>PARTY</th>
<th>AFFILIATION</th>
<th>DATE</th>
<th>Record of Change of Address</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Magisterial District</th>
<th>Precinct</th>
<th>Ward</th>
<th>Address</th>
<th>Apt. or Room</th>
<th>Date</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Last Name</th>
<th>First Name</th>
<th>Middle Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Miss.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mrs.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mr.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Will you have resided on day of next election in state one year? Yes No

Place and date of birth

Occupation

Color of eyes

Color of hair

Color of skin

Height

If Naturalised, Place Name

Name

Date

If Naturalised, State of nativity

If Naturalised, Date of nativity

Father

State of West Virginia, County of

I, being duly sworn on oath (affirmation) do swear (affirm) that the statements herein contained are, to the best of my knowledge and belief, true, and that I am legally qualified to vote.

Signature of Applicant

Signature of Registrar

Signature of Registrar

Signature of Person Taking Affidavit

Signature of Person Taking Affidavit

Signature of Clerk of County Court
Sec. 22. Filling of Registration Forms.—Two registration forms shall be filled for each applicant, one for use in county-state elections, the other for municipal elections. Only the form for the county-state elections shall be filled, however, if the applicant for registration is not eligible to vote in municipal elections. The signature of the applicant on both filled forms shall be written in ink.

Sec. 23. Power to Administer Oaths.—Whenever in any matter concerning registration, an oath or affirmation is required, the clerk of the county court and registrars shall have the power to administer the same.

Sec. 23-a. Issuance of Registration Receipts.—Upon the completion of the registration of any person, the registration official shall issue to such person a signed and dated receipt of such registration. The form for such receipt shall be prescribed by the secretary of state.

Sec. 24. Absentee Registration.—Any person who possesses the qualifications for registration, but who is absent from the state or county on account of occupation, or for any other necessary cause, during the time of the initial registration or quadrennial check-up, may register by mail during these respective periods, according to the procedure prescribed by the secretary of state.

Sec. 25. Quadrennial Check-up.—Four years subsequent to the initial registration, and the corresponding time every four years thereafter the registrars, according to directions prescribed by the secretary of state, shall proceed to register the names of all persons not registered but who are qualified to register, and shall also alter, amend, correct or cancel, where necessary, the registration records of the voters of the respective precincts so as to provide a complete and accurate record of all persons qualified to vote.

Sec. 26. Registration Procedure in Office of the Clerk of the County Court.—The clerk of the county court may register any qualified person by filling in the prescribed registration form or forms, as the case may be, and having them signed by the applicant under oath or affirmation,
except as is otherwise provided in this article. Upon
proper proof, the registration record of any voter may be
altered, amended, corrected, or cancelled by the clerk of
the county court.
The aforesaid registration or alteration, correction, or
cancellation of registration records shall be carried on
throughout the year, except during the two weeks preced-
ing any election. For the initial registration the county
court may, at its discretion, order the clerk of the county
court to maintain additional office hours in the evening.

Sec. 27. Duties of Registrars After Completion of Initial
Registration and Quadrennial Check-ups.—After the com-
pletion of the initial registration, and before every pri-
mary and general election which follows, the county
court shall station the registrars for two days at some
convenient place within the voting precinct for the pur-
pose of registering persons qualified to register and for
amending, correcting, and cancelling, where necessary, the registration records of the voters of the respective
precinct. The county court shall give notice of the time
and place of such procedure by posting notices at not less
than five conspicuous public places in the election pre-
cinct.

Sec. 28. Registration of Applicants Unable to Write.—
If an applicant, although physically able, shall allege in-
ability to sign his name, the registrar or clerk of the
county court shall require him to present an affidavit of a
qualified elector within the same county who is personally
acquainted with the applicant. Such elector shall, in his
affidavit, state his own residence and affirm that the state-
ments made by the applicant for registration are true.
Upon the presentation of such affidavit, the applicant shall
be permitted to sign the registration form by making his
mark.
If an applicant is literate, but physically unable to sign
his name, the registrar or clerk of the county court shall
insert the name of the applicant on the registration form
together with a notation of the nature of the disability.
Sec. 29. Disability Suffered Since Registration.—Any voter who has since the time of registration suffered a physical disability which renders him unable to sign his name, may at any time except the two weeks immediately preceding any election personally make application under oath to the clerk of the county court to have such fact entered on his registration record, together with a statement of the exact nature of his physical disability, and such entry shall be made accordingly. If such applicant is physically unable to appear before the clerk of the county court to cause such change to be made on the registration record, he may request the clerk of the county court to mail him the necessary forms, and the clerk of the county court upon receipt of such forms properly filled, together with a physician's certificate affirming such disability, shall alter the registration record of the voter accordingly: Provided, That when the clerk of the county court shall ascertain that any voter who has declared himself physically disabled or illiterate, no longer suffers from such physical disability or illiteracy, he shall forthwith cancel on the registration record the entry relating to physical disability or illiteracy and shall notify such elector by mail of his action.

Sec. 30. Naturalized Applicants.—Any naturalized citizen claiming the right to register, shall produce his naturalization papers or a certificate under the seal of the court in which his naturalization was effected. Any person claiming citizenship by reason of the naturalization of his parent during his minority, may be registered either by the production of his parent's original naturalization papers, or a certified copy thereof, or a certificate of the court. Any woman claiming citizenship by reason of her marriage prior to September twenty-second, one thousand nine hundred twenty-two, may be registered by the production of her husband's original naturalization papers, or a certified copy thereof, or a certificate of the court in which naturalization was effected.

Sec. 31. Statement of Party Affiliation.—Any person claiming the right to register shall be requested to state the name of the political party with which he desires to
affiliate, and such affiliation shall be indicated on the reg-
istration record in the proper space. Any person who
decides not to state any preference of party affiliation shall
be registered as "Independent" and such person shall not
be permitted to vote in any primary election.

Sec. 32. Challenge of Right to Register.—Any person
claiming the right to register may be challenged by the
clerk of the county court or by any registrar, or, provided
they appear in person at the office of the clerk of the
county court, by the chairman of a political party or any
other qualified voter. Such challenge shall be entered
upon a form prescribed by the secretary of state and shall
be filed as a matter of record in the office of the clerk of
the county court. Upon receipt of such form the clerk of
the county court shall mail to the person challenged a no-
tice, the form of which shall be prescribed by the secretary
of state. Any person so challenged may appear at the of-
lice of the clerk of the county court at any time, except
during the two weeks immediately preceding any election,
to show cause why the challenge should be removed.
Failure to appear shall automatically constitute a can-
cellation of such person’s registration record: Provided,
That in no case shall such registration record be cancelled
unless such person receives notice of such challenge by
registered mail with return receipt requested at least
three weeks preceding any election.

Sec. 33. Transfers.—Whenever a voter removes his resi-
dence from one place to another within the same county
he may request that the change be made on his registra-
tion record. Such request shall be made by filling in, and,
if he is able, signing under oath or affirmation the neces-
sary form, which may be procured in person or by mail
from the office of the clerk of the county court. The form
of such notice shall be prescribed by the secretary of state.
Upon receipt of such notice the clerk of the county
court shall cause the signature thereon to be compared
with the signature of the applicant upon his registration
record and, if such signatures correspond, shall make entry
of such change of residence upon all the registration rec-
ords and the necessary transfers in the files. If the clerk
of the county court is not satisfied as to the genuineness
of the signature on the notice of change of residence, and
if the right of such applicant to register is challenged, ac-
According to the procedure hereinbefore prescribed, such
transfer shall not be made.

Sec. 34. Time of Transfer.—Transfers of the registra-
tion record may be made throughout the year except dur-
ing the two weeks immediately preceding any election,
and if any voter shall move from one place to another
within the county within the said two weeks, he shall, for
that election only, vote in the precinct from which he
moved.

Sec. 35. Change of Name.—Whenever an elector, pre-
viously registered, shall change his name, such person
shall be required to register again. For this purpose such
person may register by mail in the same manner as an ab-
sentee registrant, according to the procedure of section
twenty-four of this article. Upon such registration the
clerk of the county court shall cancel the registration rec-
ord bearing the voter's former name. When such a
change of name is made during the two weeks immediate-
ly preceding any election, such elector, if duly registered,
may vote at the election under his former name.

Sec. 36. Preparation, Posting and Furnishing of Pre-
cinct Lists.—Prior to any election the clerk of the county
court shall, upon request, prepare lists which may be
photostated, typed, printed, or mimeographed at the dis-
ccretion of such clerk. Such lists shall contain exact
copies of the names, address, and political affiliation of
the registered voters in the order of their arrangement
in the respective county or municipal precinct registra-
tion files. Such copies shall be known as the “precinct
registration lists”.

Any person, municipality, corporation, or other entity
may obtain copies of precinct registration lists contain-
ing the name, address and political affiliation of each reg-
istered voter in such precinct from the clerk of the county
court, who shall charge a fee of one cent per name fur-
nished. The fees received by the clerk of the county court shall be kept in a separate fund under his supervision for the purpose of defraying the cost of the preparation of the precinct lists. Any unexpended balance in the fund shall be transferred to the general fund of the county court.

Sec. 37. Hearings Before County Court; Appeals.—Any person affected adversely in regard to any matter pertaining to his registration may obtain a hearing before the county court. The county court shall preserve and keep all record evidence offered at such hearing and shall have all oral evidence heard reduced to writing and preserved and kept with other records. From the decision of the county court such person or the person challenging his registration shall have, within thirty days, an appeal of right by petition to the circuit court of the respective county. Such appeal may be taken by petition without formal bill of exceptions or certification. The clerk of the county court shall give reasonable notice of such appeal thereof in writing to the party or parties to the proceedings.

The circuit court upon such appeal shall consider only the record before the county court, which record shall consist of the evidence considered by the county court in reaching its decision. Such record shall be properly authenticated by the clerk of the county court.

The circuit court may affirm the order of the county court, whether the order be affirmative or negative; but if it deems such order not to be reasonably justified by the evidence considered, it may reverse such orders of the county court in whole or in part as it deems just and right; and if it deems the evidence considered by the county court in reaching its decision insufficient, it may remand the proceedings to the county court for further hearing. Any such order or orders of the circuit court shall be certified to the county court.

Any party to such appeal, may, within thirty days after the date of a final order by the circuit court, apply for an appeal to the supreme court of appeals, which may grant or refuse such appeal at its discretion. The supreme
court of appeals shall have jurisdiction to hear and de-
termine the appeal upon the record before the circuit
court, and to enter such order as it may find that the cir-
cuit court should have entered.
Judges of the circuit and supreme court of appeals in
vacation shall have the same power as that prescribed in
this section for their respective courts.

Sec. 38. *Time of Hearings Before County Court.*—The
county court shall hold such hearings as shall be neces-
sary for the purpose of reviewing any case pertaining to
registration: *Provided,* That no such hearings shall be
held within the two weeks immediately preceding the
election in which the person whose registration is affected
seeks to vote.

Sec. 39. *Sessions of Courts in Registration Cases.*—It
shall be the duty of the circuit court and the supreme
court of appeals, in order to expedite registration and
election procedure, to hold such sessions as may be neces-
sary to determine any cases involving the registration of
voters.

Sec. 40. *Changes in Precinct Boundaries.*—Whenever a
new precinct has been created or the boundaries of any
precinct have been changed, the clerk of the county court
shall correct and transfer accordingly the registration
records of electors whose voting precincts have thus been
changed. The registration of an elector shall not be in-
validated by such alteration or transfer.

Sec. 41. *Re-registration.*—Whenever the county court
shall deem it necessary because of destruction of records,
or any other emergency, it shall have power to order a
re-registration in any precinct.

Sec. 41-a. *Purchase of Equipment for Initial Registra-
tion.*—The election commission, by resolution of the ma-
majority of the members, shall prescribe the type and
quantity of registration forms, poll books, and filing
equipment necessary for the completion of initial regis-
tration under this article, and shall make proper alloca-
tion of such materials to the counties.
The purchase of such forms, poll books and filing equipment shall be made by the director of purchases in accordance with the procedure prescribed in chapter twenty-five-a of the code of West Virginia.

Sec. 41-b. Appropriations from General Revenues.—Appropriations for the purchase of the registration forms, poll books, and filing equipment necessary for the completion of initial registration under this article shall be paid out of the state general revenue fund.

Sec. 42. Appropriation by County Court.—The county court shall budget the funds necessary for the payment of the compensation of registrars and other assistants and employees, and the fees of witnesses, and likewise for preparing, securing, distributing notices, stationery and other supplies, and other services which are necessary for the purpose of this article. The county court shall not include in its budget any sum for the purpose of preparing or printing precinct lists. Any unexpended balances of any appropriation heretofore made by the county court for the purpose of carrying out any provision of the existing registration law shall be transferred to and made available to the county court for the expenses of carrying out the provisions of this article.

Sec. 43. Disposition of Registration Records Under Prior Laws.—The registration records used prior to the date when this article goes into effect shall be preserved by the clerk of the county court for at least two years after this article becomes effective, and during said period shall be open for public inspection under proper regulations for their safe keeping. Such records shall not be destroyed without the previous consent in writing of the prosecuting attorney of the respective county.

Sec. 44. Unlawful Registration or Rejection of Voter; Penalties.—Any registrar or clerk of the county court who knowingly registers or permits to be registered a person not lawfully entitled to be registered, or who knowingly refuses to register a person entitled to be registered, or who knowingly assists in preventing such person from being registered, or who inserts or intentionally permits to
be inserted a name or other entries in any registration form, knowing or having reason to know that such entry should not be made, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one thousand dollars or confined in the county jail for not more than one year, or both, at the discretion of the court.

Any person who registers or applies to be registered, or who applies for a change of residence address, knowing or having reason to know that he is not entitled to be registered, or to have his residence address changed on his registration record, or any person who declares as his address a place or address which he knows is not his legal residence, or who impersonates another in an application for registration, or who knowingly offers false naturalization papers to establish his claim to be registered, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one thousand dollars or confined in the county jail for not more than one year, or both, at the discretion of the court.

Sec. 45. Neglect of Duty by Registration Officers; Penalties.—Any registrar or clerk of the county court or their authorized deputies or any other persons upon whom a duty is laid by the permanent registration law, who shall wilfully delay, neglect, or refuse to perform such duty, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one thousand dollars or confined in the county jail for not more than one year, or both, at the discretion of the court.

Sec. 46. Alteration or Destruction of Registration Records; Penalties.—Any person who intentionally inserts or permits to be wrongfully inserted any name or material entry on any registration form or any other record in connection with registration; or who wrongfully alters or destroys an entry which has been duly made; or who wrongfully takes and removes any such registration form, or any other record authorized or required in connection with registration, from the custody of any person having lawful charge thereof, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than one
12 thousand dollars or confined in the county jail for not
13 more than one year, or both, at the discretion of the court.

Sec. 47. Withholding of Information; Penalties.—Any
2 person who neglects or refuses to furnish to the secretary
3 of state or the county court any information which they
4 are authorized to obtain, in connection with registration,
5 or to exhibit any records, papers, or documents herein
6 authorized to be inspected by them, shall be guilty of a
7 misdemeanor, and, upon conviction, shall be fined not
8 more than one thousand dollars, or confined in the county
9 jail for not more than one year, or both, at the discretion
10 of the court.

Sec. 48. Interference with Registration of Voters; Pen-
2 alties.—Any person who intentionally interferes with,
3 hinders, or delays another in the performance of any act
4 or duty in connection with registration or any person
5 who knowingly and wilfully prevents another from being
6 duly registered shall be guilty of a misdemeanor, and,
7 upon conviction, shall be fined not more than one thou-
8 sand dollars or confined in the county jail for not more
9 than one year, or both, at the discretion of the court.

Sec. 49. Destruction of Registration Records; Penalties.
2 —Any person who without authority under the provisions
3 of this article destroys or attempts to destroy any regis-
4 tration document or record, or who removes or attempts
5 to remove such registration document or record, shall be
6 guilty of a misdemeanor, and, upon conviction, shall be
7 fined not less than one hundred dollars nor more than
8 one thousand dollars or confined in the county jail for not
9 more than one year, or both, at the discretion of the court.

Sec. 50. Inconsistent Acts Repealed.—All previous acts
2 and parts of acts inconsistent with this act are hereby re-
3 pealed.

Sec. 51. Constitutionality.—If any part of this act is
2 declared unconstitutional by a court of competent juris-
3 diction, its decision shall not affect any portion of this act
4 which remains, but the remaining portions shall be in full
5 force and effect as if the portions declared unconstitu-
6 tional had never been a part of the act.
AN ACT to repeal section two, to amend and reenact section thirteen, to add section thirteen-a, to amend and reenact section seventeen, to add sections seventeen-a, seventeen-b, seventeen-c, eighteen-a and twenty-a, to article four; to amend and reenact sections twelve and thirteen; to add section thirteen-a, to amend and reenact section sixteen, to repeal and reenact section nineteen, to add section nineteen-a, to repeal and reenact section twenty-one, to amend and reenact section twenty-five, to add section twenty-five-a, to amend and reenact section twenty-nine, to add section thirty-one-a, to repeal and reenact section thirty-nine, article five; to amend and reenact section ten of article six; to add sections twelve-a and twelve-b, to repeal sections thirteen and twenty-three of article seven, chapter three; to repeal section seven; to repeal and reenact section fourteen of article three, chapter eight; to amend and reenact section seven of article three, chapter eight-a, as enacted by chapter fifty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, all of the code of West Virginia, one thousand nine hundred thirty-one, for the purpose of integrating the machinery of primary and general elections throughout the state and its subdivisions with the system of permanent registration.

[Passed March 6, 1941; in effect ninety days from passage. Approved by the Governor.]

Be it enacted by the Legislature of West Virginia:

That section two be repealed, that section thirteen be amended and reenacted, that section thirteen-a be added, that section seventeen be amended and reenacted, that sections seventeen-a, seventeen-b, seventeen-c, eighteen-a and twenty-a be added to article four; that sections twelve and thirteen be amended and reenacted, that section thirteen-a be added, that section sixteen
be amended and reenacted, that section nineteen be repealed and reenacted, that section nineteen-a be added, that section twenty-one be repealed and reenacted, that section twenty-five be amended and reenacted, that section twenty-five-a be added, that section twenty-nine be amended and reenacted, that section thirty-one-a be added, that section thirty-nine of article five be repealed and reenacted; that section ten, article six, be amended and reenacted; that sections twelve-a and twelve-b be added, that sections thirteen and twenty-three of article seven, chapter three, be repealed; that section seven be repealed; that section fourteen, article three, chapter eight, be repealed and reenacted; and that section seven of article three, chapter eight-a, as enacted by chapter fifty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, all of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Chapter 3. ELECTIONS


Section 2. Repealed.

Sec. 13. Procuring ballots and other primary supplies.—It shall be the duty of the board of ballot commissioners to appoint one or more of the commissioners of election at each precinct of the county to attend at the offices of the clerks of the circuit and county courts, as the case may be, at least three days before each primary election to receive the ballots, ballot boxes, poll books, registration records and forms and all other supplies and materials for conducting the election at the respective
The commissioner or commissioners shall be given ballots for each party to the number of one and one-fifth times the number of registered voters of such party in the election precinct, and shall be given ballot boxes, election booths, and other supplies required to be furnished for conducting the election at such precinct.

The respective clerk shall take from the election commissioner or commissioners receipts for supplies and materials received, which receipts shall be filed in the office of the clerk of the county court or circuit court, as the case may be. It shall be the duty of such commissioner or commissioners to attend at such clerk's office and to receive such ballots and all other election supplies to be used in conducting the election at the respective precinct and to deliver the same, with the seal of all sealed packages unbroken, at his election precinct in time to open the election. Such commissioner or commissioners, if they perform such services, shall receive the per diem and mileage rate prescribed by law for this service. At the same time there shall be delivered to an election commissioner designated by the ballot commissioners the proper poll books bearing on each page the following headings: “Names of Persons Voting for Candidates at Precinct No. in the district of in the county of on this the day of 19 ; of .” Such poll books shall have columns headed respectively: “Number of Voters”, “Signature of Voters” and “Challenge of Voter”, and shall have under the heading “Number of Voters” numbers, in consecutive order, to the bottom of each page. Forms for oaths of commissioners of election and poll clerks shall be written or printed on the poll books, and one copy of such poll books shall be supplied at each voting precinct for each political party appearing on the primary ballot.

In case any commissioner of election so appointed shall fail to appear at the offices of the clerks of such county and circuit courts, by the close of the second day prior to any election, as required by this section, the board of ballot commissioners, or the chairman thereof, shall forthwith dispatch a special messenger to the commissioners of
51 election of each respective precinct with the ballots, registration records, ballot boxes, poll books and other supplies for such precinct. Such messenger shall be allowed two dollars for his time, and five cents a mile for the distance necessary to be traveled by him, and shall promptly report to the clerks of the circuit and county court respectively and file with such clerks the receipts of the person to whom he delivered such ballots and other supplies, and his affidavit, stating when and to whom he delivered them.

Sec. 13-a. Municipal Precinct Registration Records.—At least three days prior to each municipal primary election, it shall be the duty of the appropriate officer designated by the municipality to procure from the office of the clerk of the county court, the municipal registration records necessary for the conduct of elections. Such records shall, within ten days after the date of the municipal election, be returned to the office of the clerk of the county court by the appropriate officer or officers designated by the municipality.

In case of a contested municipal election, the registration records of any challenged voter shall be made available by the clerk of the county court to the officer or tribunal empowered to determine the contest. Such records shall be returned to the office of the clerk of the county court within a reasonable time after the contest shall have been finally decided.

The clerk of the county court shall acknowledge the release and return of the registration records under this section by the issuance of appropriate receipts.

In the event any municipal registration record is lost, destroyed, defaced, or worn in any way as to warrant replacement, it shall be the duty of the clerk of the county court to prepare a duplicate of such record and it shall be the duty of the municipality to pay for such replacement.

Sec. 17. Conducting Primary; Voting.—Any person offering to vote in a primary election shall be given a ballot by the poll clerks. Such person shall sign his name in the space marked “signature of voter” on the poll book prescribed in section thirteen of this article. If such person is physically or otherwise unable to sign his name,
his mark shall be affixed by one of the poll clerks in the presence of the other. The name of the poll clerk affixing the mark of such person shall be indicated beneath such affixation.

The clerks shall write their names at the place designated on the back of the official ballot called for and deliver it to the voter, who shall have but one ballot unless he shall return the same spoiled; if he shall return the same spoiled, the clerks shall immediately destroy the ballot so spoiled, and deliver to him another ballot in the same manner as they delivered the first one. The voter shall then forthwith, and without leaving the room, return alone to the booth or compartment prepared for the purpose, and there prepare his ballot. Any voter, because of illiteracy or disability, as shown by the registration record, may receive the assistance as provided for in section twenty-one, article five, chapter three of the code of West Virginia.

After preparing the ballot, the voter shall fold the same so that the face shall not be exposed, but so as to show plainly the name of the political party and the names of the poll clerks signed thereon. The voter shall then announce his name and present his ballot to the commissioner of his party, if there be one, who shall hand the same to another election official, who shall deposit it in the ballot box, if such ballot is the official one and properly signed. When the voter has voted, he shall retire immediately from the election room, and beyond the sixty foot limit thereof, and shall not return, except by permission of the commissioners.

Sec. 17-a. Challenges at the Polls.—It shall be the duty of the members of the receiving board, jointly or severally, to challenge the right of any person requesting a ballot to vote in a primary election, if such person's registration record is not available at the time of the election, or if the signature written by the person in the poll book does not correspond with the signature purported to be his on the registration record, or if the registration record of such person indicates any other legal disqualification.
Sec. 17-b. Voting by Challenged Voters.—Any person challenged in accordance with section seventeen-a of this article, shall nevertheless be permitted to vote in the primary election. Such person shall, however, be given a ballot not endorsed by the poll clerks. In lieu of such endorsements, the poll clerks shall fill and sign an appropriate form indicating the challenge and the reason thereof, and the name or names of the challengers. Such form shall be securely attached to the voter’s ballot and deposited together with the ballot in a separate box or envelope marked “challenged ballots”.

Sec. 17-c. Voting Record.—In any primary election, it shall be the duty of a poll clerk, with the approval of the other poll clerk, to indicate the fact that a person voted in such primary, by inserting on the registration record, if available, a distinguishing initial or initials of the political party for whose candidates he voted. If a person is challenged at the polls, such facts shall be indicated by the poll clerks on the registration record. The subsequent removal of the challenge shall be recorded on the registration record by the clerk of the county court.

Sec. 18-a. Ballots of Challenged Voters.—The ballot of any voter challenged according to sections seventeen-a and seventeen-b of this article shall not be counted by the election officials. The county court shall, on its own motion, at the time of the canvassing of the election returns, sit in session to determine the validity of such challenges. If the county court shall determine that the challenges are unfounded, the ballot of the challenged voter, if otherwise valid, shall be counted and tallied together with the regular ballots cast in the election. In such determinations the county court shall disregard technical errors, omissions, or oversights if it can reasonably be ascertained that the challenged voter was entitled to vote.

Sec. 20-a. Recount Procedure.—The provisions of article five of this chapter, relating to the recount of votes in final elections, shall, to the extent that they are applicable, be operative in primary elections.
Article 5. Conducting Elections; Ascertaining and Certifying the Results.

Section 12. Supplies for Holding Election.—The clerk of the county court of each county shall provide poll books, tally sheets, ballot boxes, voting booths, registration records and forms, strong and durable envelopes upon which to make returns, blank forms for certifying returns and whatever further supplies are needed for holding the election and making the return thereof. The poll books shall bear upon each page the following heading: “Names of persons voting at precinct No. _______ in the District of _______ in the county of _______ on this the ______ day of ________ in the year _________. “ Such poll books shall have columns headed respectively: “Number of Voters”, “Signature of Voter”, and “Challenge of Voter”, and shall have under the heading “Number of Voters”, numbers in consecutive order to the bottom of each page. Forms for oaths of commissioners of election and poll clerks shall be written or printed on the poll books. Each ballot box shall be provided with two locks with different keys so that the key for one lock will not open the other, and shall be so constructed as to be safely and securely closed and locked, with an opening in the lid of the box sufficient only for the passage of a single ballot.

Sec. 13. Delivery of Ballots and Supplies to Election Commissioners.—It shall be the duty of the board of ballot commissioners to appoint one or more of the commissioners of election at each precinct of the county to attend
at the offices of the clerks of the circuit and county courts
at least three days before the election, to receive the
ballots, ballot boxes, poll books, registration records and
forms and other supplies and materials for conducting the
election at the respective precinct. Such commissioner
or commissioners shall receive the per diem and mileage
rate prescribed by law for this service. It shall be the
duty of such commissioners to receive such supplies and
materials from the respective clerks and to deliver the
same, with the seal of all sealed packages unbroken, at
the election precinct in time to open the election. The
ballots shall be delivered in sealed packages; and there
shall be two ballot boxes for each precinct for which a
receiving and counting board of election commissioners
have been appointed. The clerks shall take a receipt for
the respective materials delivered to the above commis-
sioner or commissioners of election, and shall file such
receipt in their respective offices.

Sec. 13-a. Municipal Precinct Registration Records.—
At least three days prior to every municipal election other
than primary elections, it shall be the duty of the appro-
priate officer designated by the municipality to procure
from the municipal precinct file in the office of the clerk
of the county court the registration records necessary for
the conduct of such election.

Such records shall, within ten days after the date of the
municipal election, be returned to the office of the clerk
of the county court by the appropriate officer or officers
designated by the municipality.

In case of a contested municipal election, the registra-
tion record of any challenged voter shall be made avail-
able by the clerk of the county court to the officer or
tribunal empowered to determine the contest. Such rec-
ords shall be returned to the office of the clerk of the
county court within a reasonable time after the contest
shall have been finally decided.

The clerk of the county court shall acknowledge the
release and return of the registration records under this
section by the issuance of appropriate receipts.

In the event any municipal registration record is lost,
destroyed, defaced, or worn in any way as to warrant
replacement, it shall be the duty of the clerk of the county
court to prepare a duplicate of such record and it shall
be the duty of the municipality to pay for such replace-
ment.

Sec. 16. Opening and Closing the Polls.—At every pri-
mary, general or special election the polls shall be opened
in each precinct on the day of such election at six-thirty
o’clock in the forenoon and be closed at seven-thirty in
the evening, eastern standard time. In all precincts
wherein two election boards shall have been appointed
the receiving board shall attend at the time and open
the polls.

At the time of opening the polls, the election commis-
ioners shall examine the ballot box and ascertain that
there are no ballots in the same, and they shall thereupon
securely lock the box and give one key to one of the
commissioners and one to a commissioner of the opposite
political party, who shall hold the same, and such boxes
shall not be again opened until the time to begin counting
the votes arrives and for that purpose.

At or before opening the polls, the commissioners of
election shall open the package containing the ballots in
such manner as to preserve the seals intact and thereupon
deliver all of the ballots to the poll clerk.

Before any voter is permitted to vote, the commissioners
of election shall proclaim that such election is opened.
When the polls are closed, proclamation must be made
of the fact by one of the commissioners of election to the
people outside, in a loud and audible tone of voice, and a
minute of such proclamation and of the time when it
was made must be entered on the poll books by the clerks,
and, after such minute has been made and entered, no
ballot of any voter shall be cast or received.

Sec. 19. Conducting Elections Other Than Primaries;
Voting.—Any person offering to vote in an election shall
be given a ballot by the poll clerks. Such person shall
sign his name in the space marked “signature of voter”
on the poll book prescribed in section twelve of this
article. If such person is physically or otherwise unable
Ch. 44]

ELECTIONS

7 to sign his name, his mark shall be affixed by one of the
poll clerks in the presence of the other. The name of the
9 poll clerk affixing the mark of such person shall be in-
dicated beneath such affixation.

The clerks shall write their names at the place design-
nated on the back of the official ballot called for and de-
15 liver it to the voter, who shall have but one ballot un-
less he shall return the same spoiled; if he shall return
17 the same spoiled, the clerks shall immediately destroy
18 the ballot so spoiled, and deliver to him another ballot in
the same manner as they delivered the first one.

On receipt of the ballot the voter shall forthwith, and
19 without leaving the election room, retire alone to one of
21 the booths or compartments provided for the purpose and
shall prepare the ballot, using a black lead pencil or other
22 means for the purpose, and observing the following rules:

(a) If the voter desires to vote a straight ticket, or,
24 in other words, for each and every candidate for one party
25 for whatever office nominated, he shall either:
26 (1) Make a cross mark in the circular space below the
device and above the name of the party at the head of
the ticket; or
29 (2) Make a cross mark on the left and opposite the
name of each and every candidate of such party in the
blank space provided therefor; or
32 (3) Mark out, by lines, all the tickets on the ballot,
other than the ticket he desires to vote.
34 (b) If the voter desires to vote a mixed ticket, or, in
other words, for candidates of different parties, he shall
36 either:
37 (1) Omit making a cross in the circular space above
the name of the party, and make a cross mark in the blank
39 space before the name of each candidate for whom he
40 desires to vote on whatever ticket the name may be; or
41 (2) Make a cross mark in the circular space above the
42 name of the party for some of whose candidates he de-
sires to vote, and then make a cross mark before the
44 name of any candidate of any other party for whom he
45 may desire to vote; in which case the cross mark in the
46 circular space above the name of the party will cast his
vote for every candidate on the ticket of such party except for offices for which candidates are marked on other party tickets, and the cross marks before the name of such candidates will cast his vote for them; or

(3) Write with black lead pencil or other means the name of any person for whom he desires to vote in the space immediately below the name of the opposing candidate for the same office, on the ticket voted by him, and the name so written shall be counted.

If, in marking either a straight or mixed ticket as above defined, a cross mark is made in the circular space above the name of a party at the head of the ticket, and also one or more cross marks made before the name or names of candidates on the same ticket for offices for which candidates on other party tickets are not individually marked, such marks before the name of candidates on the ticket so marked shall be treated as surplusage and ignored.

If the voter desires to vote for any person whose name does not appear on the ticket, he may substitute the name by writing it with black pencil or other means in the proper place, and making a cross mark in the blank space at the left of the name so written.

If the voter marks more names than there are persons to be elected to an office, or if, for any reason, it is impossible to determine the voter's choice, for an office to be filled, the ballot shall not be counted for such office.

No ballot shall be rejected for any technical error which does not make it impossible to determine the voter's choice.

After preparing the ballot the voter shall fold the same so that the face shall not be exposed and so that the names of the poll clerks thereon shall be seen. The voter shall then announce his name and present his ballot to one of the commissioners who shall hand the same to another commissioner, of a different political party, who shall deposit it in the ballot box, if such ballot is the official one and properly signed. The commissioners of election may inspect every ballot before it is deposited in the ballot box, to ascertain whether it is single, but without unfolding or unrolling it, so as to disclose its content. When the
Sec. 19-a. Voting Record.—In any election under this article it shall be the duty of a poll clerk, in the presence of the other poll clerk, to indicate by a check mark inserted in the appropriate place on the registration record of each voter the fact that such voter voted in the respective election. If a person is challenged at the polls, such fact shall be indicated by the poll clerks on the registration record together with the name of the challenger. The subsequent removal of the challenge shall be recorded on the registration record by the clerk of the county court.

Sec. 21. Assistance to Voters Unable to Write.—Any person whose registration record indicates his inability to write may declare his choice of candidates to the poll clerks who, in the presence of the voter and in the presence of each other, shall prepare the ballot for voting in the manner hereinbefore provided, and, on request, shall read over to such voter the names of candidates on the ballot as so prepared; or such voter may require the poll clerks to indicate to him the relative position of the names of the candidates on the ballot, whereupon the voter shall retire to one of the booths or compartments to prepare his ballot in the manner hereinbefore provided, or may request the poll clerks to mark the ballot as he directs.

Sec. 25. Challenges at the Polls.—It shall be the duty of the receiving board, jointly or severally, to challenge the right of any person, requesting a ballot, to vote in the election, if such person’s registration record is not available at the time of the election, or if the signature written by the person in the poll book does not correspond with the signature purported to be his on the registration record, or if the registration record of such person indicates any other legal disqualification.

Sec. 25-a. Voting by Challenged Voters.—Any person challenged in accordance with section twenty-five of this article, shall nevertheless be permitted to vote in the elec-
Such person shall, however, be given a ballot not endorsed by the poll clerks. In lieu of such endorsements, the poll clerks shall fill and sign an appropriate form indicating the challenge and the reason thereof, and the name or names of the challengers. Such form shall be securely attached to the voter's ballot and deposited together with the ballot in a separate box or envelope marked "challenged ballots".

Sec. 29. Counting and Destruction of Ballots Not Voted; Recordation of Number of Voters.—Immediately on closing the polls, the commissioners of election shall ascertain the number of ballots destroyed during the election and count all of the ballots remaining not voted, and record the number of each on tally sheets. All such remaining ballots shall be destroyed immediately by fire or otherwise. The commissioners of election shall ascertain from the poll books the number of persons who voted and shall report the same, over their signatures, to the clerk of the county court.

Sec. 31-a. Ballots of Challenged Voters.—The ballot of any voter challenged according to sections twenty-five and twenty-five-a of this article shall not be counted by the election officials. The county court shall, on its own motion, at the time of the canvassing of the election returns, sit in session to determine the validity of such challenges. If the county court shall determine that the challenges are unfounded, the ballot of each challenged voter, if otherwise valid, shall be counted and tallied together with the regular ballots cast in the election. In such determinations the county court shall disregard technical errors, omissions or oversights, if it can reasonably be ascertained that the challenged voter was entitled to vote.

Sec. 39. Destruction of Affidavits, Certificates, and Designation of Election Officers.—At the expiration of one year after any election, the affidavits taken and returned by any registrar or any election officer, applications for absent voters' ballots, rejected absent voters' ballots, and certificates of nominations of candidates shall be de-
strewed; at the expiration of two years from the date of any election the written designations of election officers and of ballot commissioners shall be destroyed. If the further preservation of any of the documents mentioned in this section shall be required by the order of the court, the same shall be destroyed at the expiration of the time fixed for the further preservation thereof by such order.

Article 6. Voting by Absentees.

Section 10. Canvass of ballots.

Section 10. Canvass of Ballots.—At any time between the opening and closing of the polls on such election day, the commissioners of election of such precinct, in the presence of each other, shall open the outer or carrier envelope only, announce the absent voter's name and compare the signature upon the application with the signature upon the affidavit on the ballot envelope and upon the voter's registration record. In case the election commissioners find the affidavit properly executed and attested, that the signatures correspond, that the applicant is a duly qualified elector of the precinct, that he is duly registered, and that the applicant has not voted in person at such election, or, in case of a primary election, if he has not previously exercised the right of suffrage, if he shall have executed the proper declaration relative to his age and qualifications and the party with which he intends to affiliate, the election commissioner shall open the envelope containing the absent voter's ballot in such manner as not to deface or destroy the affidavit therein and take out the ballot or ballots inclosed therein, without unfolding or permitting the same to be unfolded or examined. The commissioners shall then deliver such ballot or ballots to the poll clerks, who shall at once proceed to write their names on the back of each of such ballots in the same manner as other ballots are required to be endorsed. A commissioner shall thereupon deposit the same in the ballot box, and the poll clerks shall indicate in the appropriate place on the registration record in the same manner as if he had appeared personally, the fact that such ab-
sent voter had voted, and shall enter the absent voter's name on the poll book. In the event that such affidavit is found to be insufficient, or that the signatures do not correspond, or that the applicant is not a duly qualified elector in such precinct, or that he has voted in person at such election, or that he has not registered, or that the ballot is open, or has been opened and resealed, or that the ballot envelope contains more than one ballot of any one kind, or, in case of a primary election, if he shall have failed to execute the proper declarations relative to his age and qualifications and the party with which he intends to affiliate, the procedure to be followed shall be as prescribed in this chapter relating to challenges at the polls: Provided, That a notice of such a challenge shall be sent by the clerk of the county court to the respective absentee voter by registered mail, with return receipt requested.

Article 7. Offenses and Penalties.

Section 12-a. Fraudulent conduct of election officers at the polls.

Section 12-b. Malicious or frivolous challenges.

Sec. 12-a. Fraudulent Conduct of Election Officers at the Polls.—Any election officer who refuses the vote of a duly registered and qualified voter, whom he knows is entitled to vote or who accepts the vote of a person whom he knows to be not lawfully registered, without challenging such persons, shall be guilty of a misdemeanor, and upon conviction fined not more than one thousand dollars or confined in the county jail for not more than one year, or both, at the discretion of the court.

Sec. 12-b. Malicious or Frivolous Challenges.—Any person who shall maliciously or frivolously, and without probable cause, challenge the right of any person to vote, shall be guilty of a misdemeanor, and upon conviction be fined not more than one hundred dollars or confined in the county jail for not more than ninety days, or both, at the discretion of the court.

Sec. 13. Repealed.—Section thirteen is hereby repealed.
Sec. 23. Repealed.—Section twenty-three is hereby repealed.

Chapter 8. MUNICIPAL CORPORATIONS

Article 3. Election, Appointment, and Qualification of Officers.

Section 7. Repealed.

Section 14. Integration of municipal elections with system of permanent registration.

Sec. 7. Repealed.—Section seven is hereby repealed.

Sec. 14. Integration of Municipal Elections with System of Permanent Registration.—It shall be the duty of each municipality by ordinance to make provision for integrating the conduct of all municipal elections with the system of "Permanent Registration of Voters". Such ordinances, shall, to the extent that they are reasonably applicable, parallel those provisions of chapter three of the official code, which integrate county-state elections with the "Permanent Registration System". The provisions of this act shall supersede conflicting provisions in existing municipal charters and shall be deemed as amendments to such charters.

Chapter 8-a. MUNICIPAL HOME RULE

Article 3. Home Rule Charters; Ordinances.

Section 7. Elections.

Section 7. Elections.—Regular city elections under a home rule charter shall be held on the first Tuesday in June at which election 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.

A home rule charter shall provide a method and time for nominating candidates, conducting elections, and determining and certifying results of elections. A charter may prescribe that the provisions of general law with respect to primary and general elections, so far as applicable, shall apply to city elections: Provided, That the provisions of section fourteen, article three, chapter eight of the official code, as herein amended, shall be construed as mandatory.
CHAPTER 45

(Senate Bill No. 111—By Mr. Hussion)

AN ACT to amend and reenact sections three to ten, both inclusive, article six, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty-nine, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, all relating to the examination, licensing and registration of persons engaged in the care, preparation or disposition of bodies of deceased persons, and providing penalties for the violation therefor.

Article 6. Embalmers and Funeral Directors.

Section

3. Oath; officers of board; salary and expenses; bond of treasurer; meetings of board; notice; rules and regulations; school of instruction; inspection.

4. Definitions.

5. Embalmers and funeral directors to be licensed; qualifications and requirements for licenses; requirements as to name under which funeral home is conducted; advertising; renewal of licenses; registration as apprentice; recognition of licenses of other states.

6. Examination, registration and renewal fees; disposition of fees; report to governor.

7. Refusal to grant or renew, suspension or revocation of license or certificate of registration.

8. Duty of public officers, physicians, etc., as to disposition of body of deceased person; penalty for violation of section; hearings on refusing, suspending, or revoking license; appeals from decision of board; penalty for engaging in business without license; purpose of act.

9. Act not to apply or interfere with duties of state board of health, officer of medical college, medical society, anatomical associations, etc., or rites of religious sect.

10. Licensing of assistant funeral director as funeral director.

Be it enacted by the Legislature of West Virginia:

That sections three to ten, both inclusive, article six, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty-nine, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:
Section 3. Oath; Officers of Board; Salary and Expenses; Bond of Treasurer; Meetings of Board; Notice; Rules and Regulations; School of Instruction; Inspection.

—Members of said board, before entering upon their duties, shall take and subscribe to the oath of office of the secretary of state.

Said board shall select from its own members a president, a secretary and a treasurer. Each member shall be reimbursed for his necessary traveling expenses and the necessary expenses incident to his attendance upon the business of the board, and in addition thereto the sum of ten dollars per day for each day actually spent by such member upon the business of the board. The secretary shall receive an annual salary not to exceed five hundred dollars, the amount and method of payment of which shall be fixed by said board, and in addition thereto shall receive traveling and other incidental expenses incurred in the performance of his duties.

All such expenses, per diem and compensation shall be paid out of the receipts of the board, but such allowances shall at no time exceed the receipts of the board.

The treasurer of the board shall give bond to the state of West Virginia in such sum as the board shall direct with two or more sureties or a reliable surety company approved by the board, and such bond shall be conditioned for the faithful discharge of the duties of such officer.

Such bond, with approval of the board endorsed thereon, shall be deposited with the treasurer of the state of West Virginia.

The board shall hold not less than one meeting annually for the purpose of examining applicants for licenses, such meeting or meetings to be held at such time and place as the board shall determine. The time and place of such meeting shall be announced by publication in three daily newspapers of general circulation in different locations in the state, and publication to be once a week for two consecutive weeks immediately preceding each such meeting.

The board may hold such other meetings as it may deem necessary and may transact any business at any such meeting. Three or more members shall comprise a
quorum authorizing the board to transact the business as
prescribed under this act.

The board shall have power and it shall be its duty to
make and enforce all necessary rules and regulations, not
inconsistent with this act, for the examination and licens-
ing of funeral directors and the general practice of funeral
directing; the examination and licensing of embalmers
and the general practice of embalming, and the registra-
tion and regulation of apprentices.

The board shall conduct annually a school of instruction
to apprise funeral directors and embalmers of the most
recent scientific knowledge and developments affecting
their profession. Qualified lecturers and demonstrators
may be employed by the board for this purpose. The
board shall give notice of the time and place at which
such school will be held for all licensed funeral directors
and embalmers, and it shall be the duty of every funeral
director or embalmer to attend at least one such school
in every three years.

The board or any of its members or any duly authorized
employee of the board shall have the authority to enter
at all reasonable hours for the purpose of inspecting the
premises in which the business or profession of funeral
directing is conducted or practiced, or where embalming
is practiced.

Sec. 4. Definitions.—For the purpose of this act, the
following terms shall be construed in the following man-
ner:

“Funeral director” shall mean any person engaged, or
holding himself out as engaged, in the business of funeral
directing as herein defined, and shall use in connection
with his name or business the words or terms “funeral
director”, “undertaker”, “mortician”, or any other word or
title to imply or designate him as a funeral director, un-
deraker, or mortician.

“Funeral directing” shall mean the business or profes-
sion of directing or supervising funerals for profit, or the
business or profession of preparing dead human bodies for
burial by means other than embalming, or the disposition
of dead human bodies; or maintenance of a place or estab-
Ch. 45]

EMBALMERS AND FUNERAL DIRECTORS

235

16 lishment for the preparation for disposition or for the care
17 or disposition of dead human bodies, or the use in connec18 tion with a business of the word or term "funeral di19 rector", "undertaker", "mortician", directing; or the hold20 ing out to the public that one is a funeral director.
21
"Embalmer" shall mean any person engaged in, or hold·
22 ing himself out to be engaged in, the practice of embalm23 ing, whether on his own behalf or in the employ of
24 another, and shall include any person who shall use in
25 connection with his name, the term "embalmer", or use
26 any word, term, or title intending to imply or designate
27 as an embalmer or as one engaged in embalming.
28
"Embalming" is the introduction into the vascular sys29 tern or hollow organs of a dead human body, by arterial
30 or by hypodermic injection, of any chemical substance,
31 fluids, or gases used for the purpose of preservation or
32 disinfection.
33
"Apprentice" shall mean any person engaged in this
34 state in the learning of the practice of embalming or of the
35 practice of funeral directing under the instruction and
36 personal supervision of a duly licensed embalmer or a
37 duly licensed funeral director, under the provisions of
38 this chapter.
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Sec. 5. Embalmers and Funeral Directors to Be Licensed; Qualifications and Requirements for Licenses; Requirements as to Name Under Which Funeral Home is
Conducted; Advertising; Renewal of Licenses; Registration as Apprentice; Recognition of Licenses of Other
States.-After July first, one thousand nine hundred

forty-one, no person shall engage in or hold himself out
as engaging in the business or profession of embalming, or
preserving in any manner dead human bodies in this
state, whether for himself or in the employ of another,
unless he holds an embalmer's license issued to him by
the board, and shall at the date of its issue have complied
with the provisions of this act.
After July first, one thousand nine hundred forty-one,
no person shall engage in, or hold himself out as engaging
in, the business or profession of funeral directing in this
state, unless he holds a funeral director's license issued to


him by the board, and shall at the date of issuance have
complied with the provisions of this act, or conduct a
funeral, unless he be a licensed funeral director or a duly
registered apprentice.

   No person shall be entitled to an embalmer's license
unless he is twenty-one years of age or over, a citizen of
the United States, of good moral character, shall hold a
certificate or diploma showing the completion of four
years high school course, shall be duly registered with
this board, shall have first completed a two years course
of apprenticeship under the supervision of a licensed
embalmer actively and lawfully engaged in the practice
of embalming in this state, such apprenticeship to consist
of diligent attention to the work in the course of regular
and steady employment and not as a side issue to another
employment or as casual funeral directing, under which
apprenticeship he shall have taken an active part in the
operation of embalming not less than thirty-five dead
human bodies, under supervision of licensed embalmer,
and shall possess a certificate or diploma of graduation
from a school of embalming which requires as a pre-
requisite to graduation the completion of a course of study
of not less than twelve months duration, and that said
school of embalming is duly approved by the board, and
the applicant shall pass such examination as the board
shall deem necessary to ascertain his qualifications and
ability to engage in the practice of embalming: Provided,
however, That any person who has been regularly and
lawfully practicing as funeral director for a period of five
years or more prior to the effective date of this act shall
be eligible to take the required examination for an em-
balmer's license, without having had a four-year high
school course, upon compliance with all other require-
ments as to eligibility for such examination. The board
will not recognize a course of instruction in embalming
obtained or apprenticeship served by any person who is
not first duly registered with the board and the holder of
a certificate of registration.

The board shall issue licenses separately to embalmers
and licenses separately to funeral directors.
An applicant for a funeral director's license must furnish satisfactory proof to the board that his business or profession of funeral directing is to be conducted in a fixed place or establishment equipped for the care and preparation for burial or disposition of dead human bodies. What shall be deemed "necessary equipment" shall be defined in the rules and regulations of the board, the same to be in compliance with the public health laws of the state or the rules of the state board of health of West Virginia. This shall not be so construed as to deny an applicant for a funeral director's license such a license because he is not the owner, or part owner, of an established or proposed funeral business.

Licenses issued under the provisions of this chapter shall not be transferable or assignable.

No person shall receive a license as a funeral director until he has been found by the board to be twenty-one years of age or over, a citizen of the United States, of good moral character and temperate habits. An applicant shall hold a certificate or diploma showing the completion of a four-year high school course, must have been duly registered with the board as an apprentice and served not less than two years apprenticeship under the personal supervision of a licensed funeral director actively and lawfully engaged in the business or profession of funeral directing in this state, such apprenticeship to consist of diligent attention to the work in the course of regular and steady employment and not as a side issue to another employment. The board will not recognize any apprenticeship served by any person who is not first duly registered with the board as an apprentice funeral director.

On or after the passage date of this amendment no funeral home or establishment or any other place pertaining to funeral directing or the conducting of funerals shall be established in the state of West Virginia under any name than that of the licensed holder of a West Virginia funeral director's license or the licensed holders of West Virginia funeral directors' licenses under whose direction such establishment is operated: Provided, That every establishment shall display in all advertising the
name of the licensed funeral director who is actually in charge of the establishment. All branch establishments must display the name of the funeral director who is actually in charge. At least one licensed funeral director shall supervise each main establishment and at least one licensed funeral director shall directly supervise each branch establishment.

Any person now holding a license as an embalmer or as a funeral director, or as an assistant funeral director, or as an apprenticed embalmer, shall not be required to make a new application, or submit to an examination, but shall, upon the payment of the fee therefor, be entitled to a renewal of his license upon the terms and conditions as are herein provided for the renewal of licenses of those who may be licensed after the passage of this act, but all such persons shall be subject to every provision of this act, and such rules and regulations as the board may adopt in pursuance of this act.

Any person now holding a certificate of registration as an apprentice shall be given full credit for his compliance to July first, one thousand nine hundred forty-one.

On and after July first, one thousand nine hundred forty-one, no person shall be registered as an apprentice until he has been found by the board to be eighteen years of age or over, a resident of West Virginia, of good moral character and temperate habits, and the holder of a certificate or diploma showing the completion of a four years high school course.

The board may recognize licenses issued to embalmers or funeral directors by state boards or the proper authorities of other states; and upon presentation of such licenses may issue to the lawful holders thereof an embalmer's license or a funeral director's license as herein provided. Such reciprocal licenses shall be renewed annually upon the payment of such renewal license fees as provided for in this act.

No person shall be entitled to a reciprocal license as a funeral director or embalmer unless he shows to the satisfaction of the board that he has, in the state in which he
Sec. 6. Examination, Registration and Renewal Fees; Disposition of Fees; Report to Governor.—The examination fee for a funeral director's license shall be fifty dollars and shall be remitted at the time the application for a funeral director's license is submitted to the board.

The examination fee for an embalmer's license shall be fifty dollars and shall be remitted at the time the application for an embalmer's license is submitted to the board.

The registration fee for apprentices shall be five dollars and shall be remitted at the time the application for registration is submitted to the board.

All licenses shall expire on the thirtieth day of June of each calendar year and the renewal date for all licenses shall be the first day of July of each calendar year.

The annual renewal fee for an embalmer's license shall be five dollars and shall be paid on or before the first day of July of each calendar year.

The annual renewal fee for a funeral director's license shall be five dollars and shall be paid on or before the first day of July of each calendar year.

The annual renewal fee for an assistant funeral director's license shall be five dollars and shall be paid on or before the first day of July of each calendar year.

Any person who has been duly licensed as a funeral director or as an embalmer under the laws of this state but who fails to renew his license within ninety days after the expiration date for renewals, may file an application for a renewal of his license, without examination, upon payment of a penalty of ten dollars and the required renewal fee.

Any person who has been duly licensed as a funeral director or as an embalmer under the laws of this state but who fails to renew his license within one year after the expiration date for renewals, may file an application for a renewal of his license, without examination, upon payment of a penalty of twenty-five dollars and the required renewal fee.
A funeral director or an embalmer whose license has lapsed one year or more shall make application to the board for a new license in compliance with the provisions of this act relating to unlicensed persons.

Any person who has been duly licensed as an assistant funeral director and fails to renew his license within ninety days after the expiration date for renewals may file an application for renewal of his license upon payment of a penalty of two dollars and the required renewal fee.

Otherwise, after the said period of ninety days, his license will automatically be cancelled.

All fees collected under the provisions of this act shall be paid to the treasurer of the board and by him deposited monthly with the state treasurer. Such fees shall be used for the purpose of defraying the necessary expenses and per diem of said board in the administration of this act.

It shall be the duty of said board on or before the first Monday in July of each year to make a report in writing to the governor containing a detailed statement of the nature and amount of its receipts and the amount and manner of its expenditures; any balance of money remaining at the end of the year after the payment of the necessary expenses, including the salary of the secretary, the per diem, traveling expenses, and other expenses incident to the proper discharge of their duties by the members and employees of said board, shall remain in the treasury of the state in the general fund.

Sec. 7. Refusal to Grant or Renew, Suspension or Revocation of License or Certificate of Registration.—The board may either refuse to issue, or may refuse to renew or may suspend, or may revoke any license, or certificate of registration issued by it for any one or combination of the following causes:

(a) The practice of fraud or deceit in obtaining or attempting to obtain a license or a certificate of registration;
(b) Conviction of a felony as shown by a certified copy of the record of the court of conviction;
(c) Violation of any of the provisions of this act or the public health laws of this state;
Ch. 45] EMBALMERS AND FUNERAL DIRECTORS 241

13 (d) The board shall publish in its rules and regulations the subjects to be covered in the said examination and the standards to be attained thereon. Changes in the rules and regulations shall be published and be given due publicity at least ninety days before becoming effective;
14 (e) The use of misleading advertising by any licensee or applicant for a license or certificate of registration;
15 (g) Upon satisfactory proof that a licensed embalmer or a licensed funeral director has taken undue advantage of his patrons or has committed a fraudulent act in the conduct of his business;
16 (h) Solicitation of business by the licensee, his agents, assistants or employees, whether such solicitation occurs after death or while death is impending: Provided, That this shall not be deemed to prohibit proper advertising;
17 (i) If the applicant therefor or holder thereof knowingly permits an unlicensed person to engage in the profession or business of embalming or funeral directing under his supervision;
18 (j) Employment by the licensee of persons known as “cappers”, “steerers” or “solicitors”, or other such persons to obtain funeral directing business;
19 (k) Employment directly or indirectly of any apprentice, agent, assistant, embalmer, employee or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director;
20 (l) The buying of business by the licensee, his agents, assistants, or employees, or the direct or indirect payment or offer of payment of a commission by the licensee, his agent, assistants, or employees for the purpose of securing business;
21 (m) Gross immorality;
22 (n) If the applicant therefor or holder thereof has been guilty of habitual drunkenness or is addicted to the use of morphine, cocaine or other habit forming drugs.

Sec. 8. Duty of Public Officers, Physicians, etc., as to Disposition of Body of Deceased Person; Penalty for Violation of Section; Hearings on Refusing, Suspending, or
Revoking Licenses; Appeals from Decision of Board; Penalty for Engaging in Business Without License; Purpose of Act.—No public officer, employee, physician or surgeon, or any other person having a professional relationship with the deceased, shall send, or cause to be sent, to any funeral director, undertaker, mortician or embalmer, the body of any deceased person without having first made due inquiry as to the desires of the next kin, or any persons who may be chargeable with the funeral expenses of such deceased person; and if any such kin or person can be found, his authority and direction shall be received as to the disposal of said corpse.

Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars, nor more than three hundred dollars, or imprisoned not less than ten days nor more than ninety days, or both.

The board may make investigations, subpoena witnesses, administer oaths, and conduct hearings.

No order refusing, suspending, or revoking a license shall be made until after a public hearing conducted by the board.

At least twenty days prior to the date of hearing, the board shall send a written notice of the time and place of such hearing to the applicant, together with a statement of the charges against him, by mailing the same to the last known address of such person.

The testimony presented and the proceedings had at such hearings shall be taken in shorthand, at the expense of the board, and preserved as records of the board. The board shall as soon thereafter as possible make its findings in determination thereof, and send a copy to each interested party.

Any person who has been refused a license for any cause or whose license has been revoked or suspended, may file with the secretary of the board, within thirty days after the decision of the board, a written notice of appeal therefrom to the circuit court of the county within which such person whose license has been refused, revoked or suspended resides. Upon the filing of such no-
Ch. 45] EMBALMERS AND FUNERAL DIRECTORS 243

45 tice, the secretary of the board shall transmit to the clerk
46 of said court, the record of such proceedings. Such court
47 shall thereupon hear and determine such case as in other
48 cases of appeal. The judgment of the circuit court may be
49 reviewed upon proceedings in error in the supreme court
50 of appeals.
51 No person shall engage in the profession or business
52 of embalming or funeral directing as defined in this act
53 unless he is duly licensed as an embalmer and/or as a
54 funeral director within the meaning of this act, and any
55 person who shall engage in either business or profes-
56 sion, or both, without having first complied with the pro-
57 visions of this act, shall be guilty of a misdemeanor, and,
58 upon conviction thereof in any court of competent juris-
59 diction, shall be fined not less than fifty dollars nor more
60 than two hundred fifty dollars.
61 The sanitary preparation of dead human bodies for
62 burial and the burial thereof is a public necessity, and it
63 has direct relation to the health, welfare and convenience
64 to the public, and the Legislature of this state hereby
65 finds, determines and declares that this act is necessary
66 for the immediate preservation of the public peace, wel-
67 fare, health and safety.

Sec. 9. Act Not to Apply or Interfere with Duties of
2 State Board of Health, Officer of Medical College, Med-
3 ical Society, Anatomical Associations, etc., or Rites of
4 Religious Sect.—No provision of this act shall apply to or
5 interfere with the duties of an officer of any local or state
6 board of health, who, in compliance with local or state
7 board of health rules, may be charged with the duty of
8 preparation for burial of a human body, when death was
9 caused by a virulent, communicable disease; nor with the
10 duties of an officer of a medical college, county medical
11 society, anatomical association or other recognized per-
12 son carrying out the provisions of the sections of the code
13 prescribing the conditions under which indigent dead
14 human bodies are held subject for anatomical study; nor
15 with the customs or rites of any religious sect in the burial
16 of its dead.
Sec. 10. Licensing of Assistant Funeral Director as Funeral Director.—Any person who on July first, one thousand nine hundred forty-one, has been engaged in the profession or business of funeral directing as an assistant funeral director for a continuous period of at least two years shall, by that date, register as a funeral director with the board on a form prescribed by said board, and upon the payment of a fee of fifty dollars, and examination by said board, such person shall be entitled to a license, and the board shall issue to such person a license as a funeral director; which such license shall remain in full force and effect until the first day of the year following the issuance of such license. Thereafter, such person or persons shall renew such license or licenses as herein provided for.

CHAPTER 46
(Senate Bill No. 106—By Mr. Paull, by request)

AN ACT to amend chapter thirty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred four, acts of the Legislature, regular session, one thousand nine hundred thirty-five, by adding thereto a new article, to be designated article three, providing for registration and sale of face-amount certificates, by whom such certificates may be sold, and penalties for the violations hereof, and to repeal article nine, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 3. Registration and Sale of Face-Amount Certificates.

Section
1. Definitions.
2. When certificates exempt from registration.
3. Restriction on sale.
4. Registration of certificates.
5. Fees for registration.
6. Expiration of registration; re-registration.
7. Nonresident issuer to file with application for registration written appointment of state auditor as attorney in fact; service and acceptance of process.
8. Sales to be made only by registered dealers.
9. Violations; penalties.
10. Applicability of sections.
12. Article nine, chapter thirty-three repealed.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, be repealed; and that chapter thirty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred four, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended, by adding thereto a new article, to be designated article three, to read as follows:

Section 1. Definitions.—For the purposes of this article the term “face-amount certificate” shall mean any certificate, investment contract, or other security which represents an obligation on the part of its issuer to pay a stated or determinable sum or sums at a fixed or determinable date or dates more than twenty-four months after the date of issuance in consideration of the payment of periodic installments of a stated or determinable amount; or any security which represents a similar obligation on the part of its issuer, the consideration for which is the payment of a single lump sum.

All other terms used herein shall have their respective meanings as provided in section two, article one of this chapter.

Sec. 2. When Certificates Exempt from Registration.—Face-amount certificates issued by a person licensed and supervised by the insurance commissioner of this state shall be exempt from registration under the provisions of this article.

Sec. 3. Restriction on Sale.—No face-amount certificates, except those exempt under the provisions of section two hereof, shall be sold within this state unless
such face-amount securities shall have been registered as hereinafter provided.

Sec. 4. Registration of Certificates.—Face-amount certificates shall be registered hereunder by the filing of an application with the commissioner by the issuer or by any dealer properly registered under the provisions of section twelve, article one of this chapter: Provided, That the issuer of such certificates is registered under the provisions of an act of Congress entitled "Investment Company Act of 1940". Such application is to be in the form prescribed by the commissioner. With each such application there shall be filed a certified copy of the registration statement which was filed by the issuer of such certificates with the securities and exchange commission pursuant to the provisions of section eight of the said "Investment Company Act of 1940".

The commissioner may require that the applicant file with him such additional data and information respecting the issuer as he shall deem necessary and pertinent to registration hereunder.

The commissioner shall have power and authority to place such conditions, limitations and restrictions on any registration as may be necessary to carry out the purposes of this article.

Sec. 5. Fees for Registration.—At the time of filing the application mentioned in section four of this article, the applicant shall pay to the commissioner a fee of one-twentieth of one per cent of the aggregate face-amount of the certificates to be sold in this state for which the applicant is seeking registration, but in no case shall such fee be less than twenty-five dollars, nor more than three hundred dollars.

Sec. 6. Expiration of Registration; Re-registration.—Every registration under this article shall expire on the thirtieth day of June in each year. New registrations for the succeeding year shall be issued upon written application, the applicant furnishing the commissioner, upon request, information as hereinbefore provided, and paying the commissioner a fee on the basis specified in section
five of this article on the aggregate face-amount of the
certificates to be sold in this state within the year to be
authorized by registration. Applications for renewal reg-
istration must be made not less than thirty days before
the first day of the ensuing registration year, otherwise
they shall be treated as original applications.

Sec. 7. Nonresident Issuer to File with Application for
Registration Written Appointment of State Auditor as
Attorney in Fact; Service and Acceptance of Process.—
When any issuer of face-amount certificates shall not be
domiciled in this state, he shall file with every applica-
tion for registration hereunder (whether such application
be made by the issuer in person or by or through a regis-
tered dealer) his irrevocable written appointment of the
state auditor, or his successor in office, to be his true and
lawful attorney in fact, who may accept, or upon whom
may be served, any lawful process or pleading in any ac-
tion or proceeding against him, in any court of record in
this state, and such filing shall constitute his consent that
any such process or pleading against him, which is prop-
erly served upon the state auditor or is accepted by the
state auditor, shall be of the same legal force and validity
as process or pleading duly served upon said issuer in this
state. In case any process or pleading is served upon the
state auditor, or accepted by him, such service shall be
made in duplicate, one copy of which shall be filed in the
office of the state auditor and the other immediately for-
warded by registered mail to the principal office of the
issuer against whom such process or pleading is directed.

Sec. 8. Sales to Be Made Only by Registered Dealers.—
Face-amount certificates shall be offered for sale and sold
in this state only by dealers and salesmen registered with
the commissioner under the provisions of section twelve,
article one of this chapter.

Sec. 9. Violations; Penalties.—Any person subject to
the provisions of this article, who shall sell or offer for
sale any face-amount certificates within this state without
complying with the provisions of this article, or who
continues to sell or offer for sale any such certificates
6 after his registration has expired, or has been revoked
7 or suspended by the commissioner, or who shall other-
8 wise neglect or refuse to comply with any of the pro-
9 visions of this article, shall be guilty of a felony, and,
10 upon conviction thereof, shall be punished by a fine of not
11 more than five thousand dollars, or by imprisonment in
12 the penitentiary for not more than five years, or by both
13 such fine and imprisonment, in the discretion of the court.

Sec. 10. Applicability of Sections.—Sections three, four,
2 six, nine, and twenty-seven, article one of this chapter,
3 shall not apply to this article. All other sections of this
4 chapter shall apply fully to this article.

Sec. 11. Provisions Severable.—If any part or section
2 of this act shall be declared unconstitutional or in-
3 valid by any court, such declaration shall not affect any
4 other part or section hereof.

Sec. 12. Article Nine, Chapter Thirty-three, Repealed.—
2 Article nine, chapter thirty-three of the code of West
3 Virginia, one thousand nine hundred thirty-one, is hereby
4 expressly repealed.

CHAPTER 47
(House Bill No. 159—By Mr. Hatten and Mr. Cole)

AN ACT to amend and reenact section ten, article three, chap-
2 ter twenty of the code of West Virginia, one thousand nine
3 hundred thirty-one, as last amended by chapter sixty-four,
4 acts of the Legislature, regular session, one thousand nine
5 hundred thirty-nine, relating to the sale of game, birds,
6 fish or frogs.

[Passed February 19, 1941; in effect ninety days from passage. Approved by the
Governor.]

Article 3. General Provisions Respecting Game, Birds, Fish
2 and Frogs.
3 Section
10. Sale of game, birds, fish or frogs.
Be it enacted by the Legislature of West Virginia:

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

Section 10. Sale of Game, Birds, Fish or Frogs.—No person shall purchase or offer to purchase, sell or offer to sell, expose for sale, or have in his possession for the purpose of sale:

1. Any, or any part of, elk, deer, raccoon, squirrel, rabbit, wild turkey, ruffed grouse, quail, woodcock, wild duck, wild goose, wild swan, wild brant, snipe, sandpiper, or any of the song or insectiverous birds of the state, except as permitted by section twelve-a, article three of this chapter.

2. Any, or any part of, trout of any species, salmon of any species, pike of any species, perch or wall-eyed pike, bass of any species, perch of any species, pickerel of any species, or any frogs, caught or captured within this state, except as permitted by section thirteen, article six of this chapter.

No person, including a common carrier, shall (except as permitted by section thirteen, article six of this chapter) transport, carry or convey, or receive for such purpose, any of the animals or birds, or of the fish or frogs, listed under (1) and (2) above, caught or killed in this state, if such person knows, or has reason to believe, that such animals, birds, fish or frogs have been or are to be sold.

The selling or exposing for sale, having in possession for sale, transporting or carrying in violation of this section shall each constitute a separate offense.

The director may extend the application of this section to animals, birds, fish or frogs not listed under (1) or (2) above, if he finds that such additional species require the protection accorded by this section.

The provisions of this section shall not apply to animals, birds, fish or frogs raised under the authority of a license issued in accordance with section twelve-a of this article.
CHAPTER 48
(House Bill No. 322—By Mr. Hudson and Mr. Casey)

AN ACT to authorize cities, towns, villages, counties and other public bodies to aid projects of housing authorities or of the United States of America, by conveying or dedicating property, by furnishing parks, playgrounds, streets, roads, water, sewer or drainage facilities and other improvements and facilities, by exercising certain other powers and by making agreements relating to such aid; to authorize cities, towns, villages, counties and other public bodies to purchase obligations of housing authorities, to make agreements respecting the exercise of their powers relating to the remedying or elimination of unfit dwellings, and to authorize cities and counties to pay money to housing authorities; and to repeal section thirteen, chapter ninety-three, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

Housing Cooperation Law.

Section
1. Citation of act.
2. Declaration of legislative purpose and necessity for act.
3. Definitions.
4. Powers conferred upon state public bodies.
5. City or county may lend or donate money to housing authority.
6. How exercise of powers granted to state public body authorized.
7. Section repealed.
8. Additional powers conferred.

Be it enacted by the Legislature of West Virginia:

Section 1. Citation of Act.—This act may be referred to as the “Housing Cooperation Law”.

Sec. 2. Declaration of Legislative Purpose and Necessity for Act.—It has been found and declared in the “Housing Authorities Law” (chapter ninety-three, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three) that there exist in the state unsafe and unsanitary housing conditions and a
shortage of safe and sanitary dwelling accommodations for persons of low income; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; and that the public interest requires the remedying of these conditions. It is hereby found and declared that the assistance herein provided for the remedying of the conditions set forth in the "Housing Authorities Law" constitutes a public use and purpose and an essential governmental function for which public moneys may be spent, and other aid given; that it is a proper public purpose for any state public body to aid any housing authority operating within its boundaries or jurisdiction or any housing project located therein, as the state public body derives immediate benefits and advantages from such an authority or project; and that the provisions hereinafter enacted are necessary in the public interest.

Sec. 3. Definitions.—The following terms, whenever used or referred to in this act, shall have the following respective meanings, unless a different meaning clearly appears from the context:

"Housing authority" shall mean any housing authority created pursuant to chapter ninety-three, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, and any amendments thereto.

"Housing project" shall mean any work or undertaking of a housing authority pursuant to such chapter, and any amendments thereto, or any similar work or undertaking of the federal government.

"State public body" shall mean any city, town, village, county, municipal corporation, commission, district, authority, other subdivision or public body of the state.

"Governing body" shall mean the council, board, commission, or other body having charge of the fiscal affairs of a state public body.

"Federal government" shall include the United States of America, the United States housing authority, or any
other agency or instrumentality, corporate or otherwise, of the United States of America.

Sec. 4. Powers Conferred Upon State Public Bodies.—

For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any state public body may, upon such terms, with or without consideration, as it may determine:

Dedicate, sell, convey or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to a housing authority or the federal government;

Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

Plan or replan, zone or rezone any part of such state public body; make exceptions from building regulations and ordinances; any city or town also may change its map;

Cause services to be furnished to the housing authority of the character which such state public body is otherwise empowered to furnish;

Enter into agreements with respect to the exercise by such state public body of its powers relating to the repair, closing or demolition of unsafe, insanitary, or unfit dwellings;

Employ (notwithstanding the provisions of any other law) any funds belonging to or within the control of such state public body, including funds derived from the sale or furnishing of property or facilities to a housing authority, in the purchase of the bonds or other obligations of a housing authority; and exercise all the rights of any holder of such bonds or other obligations;

Do any and all things necessary or convenient to aid
and cooperate in the planning, undertaking, construction or operation of such housing project;

Incur the entire expense of any public improvements made by such state public body in exercising the powers granted in this act; and

Enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary), with a housing authority respecting action to be taken by such state public body pursuant to any of the powers granted by this act. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by a state public body without appraisal, public notice, advertisement or public bidding.

Sec. 5. City or County May Lend or Donate Money to Housing Authority.—Any city or county located in whole or in part within the area of operation of a housing authority shall have the power from time to time to lend or donate money to such authority. A housing authority, when it has money available therefor, shall make reimbursements for all such loans made to it.

Sec. 6. How Exercise of Powers Granted to State Public Body Authorized.—The exercise by a state public body of the powers herein granted may be authorized by resolution of the governing body of such state public body adopted by a majority of the members of its governing body present at a meeting of said governing body, which resolution may be adopted at the meeting at which such resolution is introduced. Such a resolution or resolutions shall take effect immediately and need not be laid over or published or posted.

Sec. 7. Section Repealed.—Section thirteen, chapter ninety-three, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, is hereby repealed.

Sec. 8. Additional Powers Conferred.—The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law.
Sec. 9. Provisions of Act Severable.—Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act and the application of such provision to persons or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

CHAPTER 49

(House Bill No. 323—By Mr. Hudson and Mr. Casey)

AN ACT to amend and reenact sections three, five and twelve, and to repeal section sixteen, chapter ninety-three, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, relating to the creation and organization of housing authorities for cities and counties; and to add to said chapter ninety-three, new sections to be numbered one-a, seven-a, seven-b, twenty, twenty-one, twenty-two, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight and twenty-nine, relating to housing projects for farmers of low income, to the area of operation of housing authorities, to contracts and powers of housing authorities, to the operations in such projects to persons of low income, and providing for the issuance and security of bonds and other obligations of housing authorities and remedies of the holders of such obligations.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

State Housing Law.

Section
1-a. Definition of terms.
3. City and county housing authorities created; when to transact business or exercise powers; determination of need for housing authority; resolution of governing body proof of establishment; appointment of commissioners; term; removal.
5. Organization, officers and employees of the authority.
7-a. Power to include in contracts requirements as to wages and hours of labor, and compliance with conditions of federal government attached to financial aid.

7-b. Joint undertakings by authorities.

12. Report to mayor or county governing body.


20. Policy of state as to rentals.

21. Duties of authority as to rentals and tenant selection.

22. Power to issue bonds; how bonds secured.

23. Bonds; interest rate and life; form; denominations; redemption; how payable; sale; signatures of commissioners or officers; validity.

24. Powers of authority in connection with the issuance of bonds, incurring obligations and securing payment of same.

25. Actions by obligee of authority to enforce performance of contracts and covenants, and to enjoin unlawful acts.

26. Possession of project by obligee upon default by authority; appointment of receiver; accounting.

27. County authorities empowered to provide housing for farmers of low income.

28. Applications for low cost housing project for farmers.


Be it enacted by the Legislature of West Virginia:

That sections three, five and twelve, chapter ninety-three, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted; that section sixteen of said chapter be repealed; and that new sections to be known as and numbered one-a, seven-a, seven-b, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, and twenty-nine, be added thereto; all to read as follows:

Section 1-a. Definition of Terms.—The following terms, wherever used or referred to in this act, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Governing body" shall mean, in the case of a city, the council of the city, and in the case of a county, the commissioners of the county court.

(b) "Clerk" shall mean the clerk of the city or city recorder or the clerk of the county, as the case may be, or the officer charged with the duties customarily imposed on such clerk or recorder.

(c) "Area of operation": (1) In the case of a housing authority of a city, shall include such city and the area within five miles from the territorial boundaries thereof,
provided that the area of operation of a housing author-
ity of any city shall not include any area which lies
within the territorial boundaries of some other city; (2)
in the case of a housing authority of a county, shall in-
clude all of the county except that portion which lies
within the territorial boundaries of any city.

(d) "Persons of low income" shall mean persons or
families who lack the amount of income which is neces-
sary (as determined by the authority undertaking the
housing project) to enable them without financial assist-
ance to live in decent, safe and sanitary dwellings, with-
out overcrowding; and the term "persons of low income"
shall include "farmers of low income" as herein defined.

(e) "Farmers of low income" shall mean persons or
families who at the time of their admission to occupancy
in a dwelling of the authority: (1) Live under unsafe
and insanitary housing conditions; (2) derive their prin-
cipal income from operating or working upon a farm;
and (3) had an aggregate average annual net income for
the three years preceding their admission that was less
than the amount determined by the authority to be
necessary, within its area of operation, to enable them,
without financial assistance, to obtain decent, safe and
sanitary housing.

(f) "Bonds" shall mean any bonds, notes, interim
certificates, debentures, or other obligations issued by
an authority pursuant to this act.

(g) "Obligee of the authority" or "obligee" shall in-
clude any bondholder, trustee or trustees for any bond-
holders, or lessor demising to an authority property used
in connection with a housing project, or any assignee or
assignees of such lessor's interest or any part thereof, and
the federal government when it is a party to any con-
tract with the authority.

Sec. 3. City and County Housing Authorities Created;
When to Transact Business or Exercise Powers; Deter-
mination of Need for Housing Authority; Resolution of
Governing Body Proof of Establishment; Appointment
of Commissioners; Term; Removal.—In each city and in
each county there is hereby created a public body corpor-
Provided, however, That such authority shall not transact any business or exercise its powers hereunder until or unless the governing body of the city or the county, as the case may be, by proper resolution, shall determine at any time hereafter that there is need for an authority to function in such city or county:

And provided further, That nothing contained herein shall be construed as creating an additional housing authority in a city where a housing authority has been created pursuant to the provisions of chapter ninety-three, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, but each such housing authority created pursuant to said chapter ninety-three shall continue as a public body corporate and politic as though created pursuant to this act and shall have the area of operation defined in section one-a for a housing authority of a city.

With respect to the provisions of other sections of this act and their application to housing authorities of counties, the term “city” shall be construed as referring to a county unless a different meaning clearly appears from the context.

The determination as to whether or not there is such need for an authority to function (a) may be made by the governing body on its own motion or (b) shall be made by the governing body upon the filing of a petition signed by twenty-five residents of the city or county, as the case may be, asserting that there is need for an authority to function in such city or county and requesting that the governing body so declare. The governing body shall adopt a resolution declaring that there is need for a housing authority in the city or county, as the case may be, if it shall find (a) that insanitary or unsafe inhabited dwelling accommodations exist in such city or county or (b) that there is a shortage of safe or sanitary dwelling accommodations in such city or county available to persons of low income at rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary the governing body may
take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions exist in such buildings which endanger life or property by fire or other cause.

In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the governing body declaring the need for the authority. Such resolution shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the above enumerated conditions exist in the city or county, as the case may be. A copy of such resolutions duly certified by the clerk shall be admissible in evidence in any suit, action or proceeding.

When the governing body of a city adopts a resolution as aforesaid, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall appoint five persons as commissioners of the authority created for said city. When the governing body of a county adopts a resolution as aforesaid, said body shall appoint five persons as commissioners of the authority created for said county. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of five years, except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city or county for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified, unless sooner removed according to this act. A certificate of the appointment or reappointment of any commissioner
shall be filed with the clerk and such certificate shall be
considered conclusive evidence of the due and proper appointment
of such commissioner. A commissioner shall receive no
compensation for his services, but he shall be entitled to
the necessary expenses, including traveling expenses, in-
curred in the discharge of his duties.

For inefficiency or neglect of duty or misconduct in of-

For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by
the mayor (or in the case of an authority for a county,
by the governing body of such county), but a commis-
sioner shall be removed only after he shall have been
given a copy of the charges at least ten days prior to
the hearing thereon and had an opportunity to be heard
in person or by counsel. In the event of the removal of
any commissioner, a record of the proceedings, together
with the charges and findings thereon, shall be filed in
the office of the clerk. The powers of each authority shall
be vested in the commissioners thereof in office from
time to time.

Sec. 5. Organization, Officers and Employees of the Au-

As soon as possible after the establishment of
an authority the commissioners shall organize for the
transaction of business by choosing from among their
number a chairman and a vice chairman and by adopting
by-laws and rules and regulations suitable to the pur-
poses of this act. Three commissioners shall constitute a
quorum for the purpose of organizing the authority and
conducting the business thereof. The commissioners shall,
from time to time, select and appoint such officers and
employees, including engineering, architectural and legal
assistants, as they may require for the performance of
their duties, and shall prescribe the duties and compen-
sation of each officer and employee.

Sec. 7-a. Power to Include in Contracts Requirements
as to Wages and Hours of Labor, and Compliance with
Conditions of Federal Government Attached to Financial
Aid.—A housing authority, in addition to its other pow-
ers, shall have power (notwithstanding anything to the
contrary contained in this act or in any other provision
of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

Sec. 7-b. Joint Undertakings by Authorities.—Any two or more authorities may join or cooperate with one another in the exercise of any or all of their powers for the purpose of financing, planning, undertaking, constructing or operating a housing project or projects located within the area of operation of any one or more such authorities.

Sec. 12. Report to Mayor or County Governing Body.—At least once a year, an authority shall file with the mayor (or with the governing body in the case of a housing authority of a county) a report of its activities for the preceding year, and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this act.

Sec. 16. Repealed.—Section sixteen is hereby repealed.

Sec. 20. Policy of State as to Rentals.—It is hereby declared to be the policy of this state that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city or county. To this end an authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived) will be sufficient to pay, as the same become due, the principal and interest on the bonds of the authority; to meet the cost of, and to provide for, maintaining and operating the proj-
ects (including the cost of any insurance) and the admin-
istrative expenses of the authority; and to create (during
not less than six years immediately succeeding its issu-
ance of any bonds) a reserve sufficient to meet the largest
principal and interest payments which will be due on
such bonds in any one year thereafter and to maintain
such reserve.

Sec. 21. **Duties of Authority as to Rentals and Tenant
Selection.**—In the operation or management of housing
projects an authority shall at all times observe the follow-
ing duties with respect to rentals and tenant selection:
(a) It may rent or lease the dwelling accommodations
therein only to persons of low income and at rentals
within the financial reach of such persons; (b) it may rent
or lease to a tenant dwelling accommodations consisting
of the number of rooms (but no greater number) which it
deems necessary to provide safe and sanitary accommo-
dations to the proposed occupants thereof, without over-
crowding; and (c) it shall not accept any person or per-
sons (other than farmers of low income, as herein de-
efined) as tenants in any housing project if the person or
persons who would occupy the dwelling accommodations
have an aggregate annual net income in excess of five
times the annual rental of the quarters to be furnished
such person or persons, except that in the case of such
person or persons with three or more minor dependents,
such ratio shall not exceed six to one; in computing the
rental for the purpose of selecting tenants, there shall
be included in the rental the average annual cost (as de-
termined by the authority) to occupants of heat, water,
electricity, gas, cooking range and other necessary serv-
ices or facilities, whether or not the charge for such serv-
ices and facilities is in fact included in the rental.

Nothing contained in this or the preceding section shall
be construed as limiting the power of an authority to vest
in an obligee the right, in the event of a default by the
authority, to take possession of a housing project or cause
the appointment of a receiver thereof, free from all the
restrictions imposed by this or the preceding section.
Sec. 22. Power to Issue Bonds; How Bonds Secured.—
An authority shall have power to issue bonds from time
to time, in its discretion, for any of its corporate purposes.
An authority shall also have power to issue or exchange
refunding bonds for the purpose of paying, retiring, ex-
tending or renewing bonds previously issued by it. An
authority may issue such types of bonds as it may deter-
mine, including (without limiting the generality of the
foregoing) bonds on which the principal and interest are
payable from income and revenues of the authority and
from grants or contributions from the federal government
or other source. Such income and revenues securing the
bonds may be: Exclusively the income and revenues of
the housing project financed in whole or in part with the
proceeds of such bonds; exclusively the income and rev-
enues of certain designated housing projects, whether or
not they are financed in whole or in part with the pro-
ceeds of such bonds; or the income and revenues of the
authority generally. Any such bonds may be addition-
ally secured by a pledge of any income or revenues of the
authority, or a mortgage of any housing project, proj-
ects or other property of the authority.

Sec. 23. Bonds; Interest Rate and Life; Forms; Denom-
inations; Redemption; How Payable; Sale; Signatures of
Commissioners or Officers; Validity.—Bonds of an author-
ity shall be authorized by its resolution and may be issued
in one or more series and shall bear such date or dates,
mature at such time or times, bear interest at such rate
or rates, not exceeding six per cent per annum, be in such
denomination or denominations, be in such form, either
coupon or registered, carry such conversion or registration
privileges, have such rank or priority, be executed in
such manner, be payable in such medium of payment, at
such place or places, and be subject to such terms of re-
demption (with or without premium) as such resolution,
its trust indenture or mortgage may provide.

The bonds shall be sold at not less than par at pub-
lic sale held after notice published once at least five days
prior to such sale in a newspaper having a general circu-
lation in the city or county and in a financial newspaper
provided, however, That such bonds may be sold to the federal government at private sale at not less than par and, in the event less than all of the bonds authorized in connection with any project or projects are sold to the federal government, the balance of such bonds may be sold at private sale at not less than par at an interest cost to the authority of not to exceed the interest cost to the authority of the portion of the bonds sold to the federal government.

In case any of the commissioners or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such commissioners or 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.

Any provisions of any law to the contrary notwithstanding, any bonds issued pursuant to this act shall be negotiable.

In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of such character, and said project shall be conclusively deemed to have been planned, located and constructed in accordance with the purposes and provisions of this act.

Sec. 24. Powers of Authority in Connection with the Issuance of Bonds, Incurring Obligations and Securing Payment of Same.—In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, any authority, in addition to its other powers shall have power:

To pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may there-
To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

To covenant against pledging all or any part of its rents, fees and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it.

To covenant as to the bonds to be issued and as to the issuance of such bonds or otherwise, and as to the issuance of such bonds in escrow or otherwise and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

To covenant (subject to the limitations contained in this act) as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

To prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given.

To covenant as to use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof,
the insurance to be carried thereon and the use and dis-
position of insurance moneys.

To covenant as to the rights, liabilities, powers and du-
ties arising upon the breach by it of any covenant, con-
dition, or obligation; and to covenant and prescribe as to
events of default and terms and conditions upon which
any or all of its bonds or obligations shall become or may
be declared due before maturity, and as to the terms and
conditions upon which such declaration and its conse-
quences may be waived.

To vest in a trustee or trustees or the holders of bonds
or any proportion of them the right to enforce the pay-
ment of the bonds or any covenants securing or relating
to the bonds; to vest in a trustee or trustees the right, in
the event of a default by said authority, to take possession
and (so long as the authority shall continue in default)
to retain such possession and to use, operate and manage
any housing project or part thereof, and to collect the
rents and revenues arising therefrom and to dispose of
such moneys in accordance with the agreement of the
authority with said trustees; to provide for the powers
and duties of a trustee or trustees and to limit the liabil-
ities thereof; and to provide the terms and conditions upon
which the trustee or trustees or the holders of bonds or
any proportion of them may enforce any covenant or
rights securing or relating to the bonds.

To exercise all or any part or combination of the pow-
ers herein granted; to make covenants other than and in
addition to the covenants herein expressly authorized, of
like or different character; to make such covenants and to
do any and all such acts and things as may be necessary
or convenient or desirable in order to secure its bonds, or,
in the absolute discretion of said authority, as will tend
to make the bonds more marketable notwithstanding that
such covenants, acts or things may not be enumerated
herein.

Sec. 25. Actions by Obligee of Authority to Enforce Per-
formance of Contracts and Covenants, and to Enjoin Un-
lawful Acts.—An obligee of an authority shall have the
right in addition to all other rights which may be con-
ferred on such obligee, subject only to any contractual
restrictions binding upon such obligee:

By mandamus, suit, action or proceeding at law or in
equity to compel said authority and the commissioners,
officers, agents or employees thereof to perform each and
every term, provision and covenant contained in any con-
tract of said authority with or for the benefit of such
obligee, and to require the carrying out of any or all such
covenants and agreements of said authority and the ful-
fillment of all duties imposed upon said authority by this
act.

By suit, action or proceeding in equity, to enjoin any
acts or things which may be unlawful, or the violation of
any of the rights of such obligee of said authority.

Sec. 26. Possession of Project by Obligee Upon Default
by Authority; Appointment of Receiver; Accounting.—
An authority shall have power by its resolution, trust in-
denture, mortgage, lease or other contract to confer upon
any obligee holding or representing a specified amount in
bonds, or holding a lease, the right (in addition to all
rights that may otherwise be conferred), upon the hap-
pening of an event of default as defined in such resolu-
tion or instrument, by suit, action or proceeding in any
court of competent jurisdiction:

To cause possession of any housing project or any part
thereof to be surrendered to any such obligee which pos-
session may be retained by such bondholder or trustee so
long as the authority shall continue in default.

To obtain the appointment of a receiver of any housing
project of said authority or any part thereof and of the
rents and profits therefrom. If such receiver be appointed,
he may enter and take possession of such housing project
or any part thereof and (so long as the authority shall
continue in default) operate and maintain same, and col-
lect and receive all fees, rents, revenues, or other charges
thereafter arising therefrom, and shall keep such moneys
in a separate account or accounts and apply the same in
accordance with the obligations of said authority as the
court shall direct.

To require said authority and the commissioners thereof

STATE HOUSING LAW [Ch. 49

266

to account as if it and they were the trustees of an express trust.

Sec. 27. County Authorities Empowered to Provide Housing for Farmers of Low Income.—Housing authorities created for counties are specifically empowered and authorized to borrow money, accept grants and exercise their other powers to provide housing for farmers of low income. In connection with such projects, such housing authorities may enter into such leases or purchase agreements, accept such conveyances and rent or sell dwellings forming part of such projects to or for farmers of low income, as such housing authority deems necessary in order to assure the achievement of the objectives of this act. Such leases, agreements or conveyances may include such covenants as the housing authority deems appropriate regarding such dwellings and the tracts of land described in any such instrument, which covenants shall be deemed to run with the land where the housing authority deems it necessary and the parties to such instrument so stipulate. Nothing contained in this section shall be construed as limiting any other powers of any housing authority.

Sec. 28. Application for Low Cost Housing Project for Farmers.—The owner of any farm operated, or worked upon, by farmers of low income in need of safe and sanitary housing may file an application with a housing authority of a county requesting that it provide for a safe and sanitary dwelling or dwellings for occupancy by such farmers of low income. Such applications shall be received and examined by housing authorities in connection with the formulation of projects or programs to provide housing for farmers of low income.

Sec. 29. Provisions Severable.—Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.
CHAPTER 50

(House Bill No. 324—By Mr. Hudson and Mr. Casey)

AN ACT to authorize housing authorities to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities who would not otherwise be able to secure such dwellings within the vicinity thereof; to limit the initiation of the development of such projects until December thirty-first, one thousand nine hundred forty-three; to authorize housing authorities to cooperate with or act as agent of the federal government in the development and administration of such projects of the federal government, to acquire or lease such projects and to sell certain projects to the federal government; to authorize public bodies to assist such projects of housing authorities and of the federal government; and to declare valid all bonds, notes and obligations of housing authorities issued for projects heretofore undertaken to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

National Defense Housing.

Section
1. Declaration of legislative purpose.
2. Housing authorities authorized to develop and administer safe and sanitary housing for persons engaged in national defense activities.
3. Exercise of housing authority powers in cooperating with federal government in national defense projects; sale of low cost housing projects to government.
4. Rights and powers of public bodies to cooperate with housing authorities.
5. Bonds, notes, contracts, etc., of housing authorities validated.
6. Act independent authorization; not subject to limitations and requirements of other laws.
7. Definition of terms.
8. Additional and supplemental powers conferred.

Be it enacted by the Legislature of West Virginia:

Section 1. Declaration of Legislative Purpose.—It is hereby found and declared that the national defense program involves large increases in the military forces and
personnel in this state, a great increase in the number of
workers in already established manufacturing centers,
and the bringing of a large number of workers and their
families to new centers of defense industries in the state;
that there is an acute shortage of safe and sanitary dwell-
ings available to such persons and their families in this
state which impedes the national defense program; that it
is imperative that action be taken immediately to assure
the availability of safe and sanitary dwellings for such
persons to enable the rapid expansion of national defense
activities in this state and to avoid a large labor turnover
in defense industries which would seriously hamper their
production; that the provisions hereinafter enacted are
necessary to assure the availability of safe and sanitary
dwellings for persons engaged in national defense activ-
ities which otherwise would not be provided at this time;
and that such provisions are for the public use and pur-
pose of facilitating the national defense program in this
state. It is further declared to be the purpose of this act
to authorize housing authorities to do any and all things
necessary or desirable to secure the financial aid of the
federal government, or to cooperate with or act as agent
of the federal government, in the expeditious develop-
ment and the administration of projects to assure the
availability when needed of safe and sanitary dwellings
for persons engaged in national defense activities.

Sec. 2. Housing Authorities Authorized to Develop and
Administer Safe and Sanitary Housing for Persons En-
gaged in National Defense Activities.—Any housing au-
thority may undertake the development and administra-
tion of projects to assure the availability of safe and san-
itary dwellings for persons engaged in national defense
activities whom the housing authority determines would
not otherwise be able to secure safe and sanitary dwell-
ings within the vicinity thereof, but no housing authority
shall initiate the development of any such project pursu-
ant to this act after December thirty-first, one thousand
nine hundred forty-three.
In the ownership, development or administration of
such projects, a housing authority shall have all the rights,
powers, privileges and immunities that such authority has
under any provision of law relating to the ownership, de-
velopment or administration of slum clearance and hous-
ing projects for persons of low income, in the same man-
er as though all the provisions of law applicable to slum
clearance and housing projects for persons of low income
were applicable to projects developed or administered to
assure the availability of safe and sanitary dwellings for
persons engaged in national defense activities as provided
in this act, and housing projects developed or admin-
istered hereunder shall constitute "projects" as that term
is used in chapter ninety-three, acts of the Legislature of
West Virginia, second extraordinary session, one thousand
nine hundred thirty-three, and any amendments thereto:
Provided, That during the period (herein called the "Na-
tional Defense Period") that a housing authority finds
(which finding shall be conclusive in any suit, action or
proceeding) that within its authorized area of operation,
or any part thereof, there is an acute shortage of safe
and sanitary dwellings which impedes the national de-
fense program in this state, and that the necessary safe
and sanitary dwellings would not otherwise be provided
when needed for persons engaged in national defense ac-
tivities, any project developed or administered by such
housing authority (or by any housing authority cooperat-
ing with it) in such area pursuant to this act, with the
financial aid of the federal government (or as agent for
the federal government as hereinafter provided), shall
not be subject to the rentals and tenant selection limita-
tions contained in any other act: And provided further,
That during the national defense period, a housing au-
thority may make payments in such amounts as it finds
necessary or desirable for any services, facilities, works
privileges or improvements furnished for or in connec-
tion with any such projects. In the development or the
administration of projects hereunder, or in otherwise
carrying out the purposes hereof, a housing authority of
a city may exercise its powers within the territorial
boundaries of said city and an area within five miles from
said boundaries excluding the area within the territorial
boundaries of any other city which has heretofore estab-
lished a housing authority. After the national defense pe-
riod, any such projects owned and administered by a
housing authority shall be administered for the purposes
and in accordance with the provisions of chapter ninety-
three, acts of the Legislature of West Virginia, second
extraordinary session, one thousand nine hundred thirty-
three, and any amendments thereto, except as otherwise
provided in the preceding sentence of this section two.

Sec. 3. Exercise of Housing Authority Powers in Coop-
erating with Federal Government in National Defense
Projects; Sale of Low Cost Housing Projects to Govern-
ment.—A housing authority may exercise any or all of
its powers for the purpose of cooperating with, or acting
as agent for, the federal government in the development
or administration of projects by the federal government
to assure the availability of safe and sanitary dwellings
for persons engaged in national defense activities, and
may undertake the development or administration of any
such project for the federal government. In order to as-
sure the availability of safe and sanitary housing for per-
sons engaged in national defense activities, a housing au-
thority may sell (in whole or in part) to the federal gov-
ernment any housing project developed for persons of low
income but not yet occupied by such persons; such sale
shall be at such price and upon such terms as the housing
authority shall prescribe, and shall include provision for
the satisfaction of all debts and liabilities of the authority
relating to such project.

Sec. 4. Rights and Powers of Public Bodies to Cooperate
with Housing Authorities.—Any city, county or other
public body shall have the same rights and powers to co-
operate with housing authorities, or with the federal gov-
ernment, with respect to the development or administra-
tion of projects to assure the availability of safe and san-
itary dwellings for persons engaged in national defense
activities, that such city, county or other public body has
under any provisions of law for the purpose of assisting
the development or administration of slum clearance or
housing projects to persons of low income.
Sec. 5. Bonds, Notes, Contracts, etc., of Housing Authorities Validated.—All bonds, notes, contracts, agreements and obligations of housing authorities heretofore issued or entered into relating to financing or undertaking (including cooperating with or acting as agent of the federal government) in the development or administration of any project to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, are hereby validated and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

Sec. 6. Act Independent Authorization; Not Subject to Limitations and Requirements of Other Laws.—This act shall constitute an independent authorization for a housing authority to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities as provided in this act, and for a housing authority to cooperate with, or act as agent for, the federal government in the development or administration of similar projects by the federal government. In acting under this authorization, a housing authority shall not be subject to any limitations, restrictions or requirements of other laws (except those relating to land acquisition) prescribing the procedure or action to be taken in the development or administration of any public works, including slum clearance and housing projects for persons of low income or undertakings or projects of municipal or public corporations or political subdivisions or agencies of the state. A housing authority may do any and all things necessary or desirable to cooperate with, or act as agent for, the federal government, or to secure financial aid, in the expeditious development or in the administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities and to effectuate the purposes of this act.

Sec. 7 Definition of Terms.—(a) “Persons engaged in national defense activities”, as used in this act, shall include: Enlisted men in the military and naval services of the United States and employees of the war and navy de-
partments assigned to duty at military or naval reservations, posts or bases; and workers engaged or to be engaged in industries connected with and essential to the national defense program; and shall include the families of the aforesaid persons who are living with them.

(b) "Development", as used in this act, shall mean any and all undertakings necessary for the planning, land acquisition, demolition, financing, construction or equipment in connection with a project (including the negotiation or award of contracts therefor), and shall include the acquisition of any project (in whole or in part) from the federal government.

(c) "Administration", as used in this act, shall mean any and all undertakings necessary for management, operation or maintenance, in connection with any project, and shall include the leasing of any project (in whole or in part) from the federal government.

(d) "Federal Government", as used in this act, shall mean the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(e) The development of a project shall be deemed to be "initiated", within the meaning of this act, if a housing authority has issued any bonds, notes or other obligations with respect to financing the development of such project of the authority, or has contracted with the federal government with respect to the exercise of powers hereunder in the development of such project of the federal government for which an allocation of funds has been made prior to December thirty-first, one thousand nine hundred forty-three.

(f) "Housing Authority", as used in this act, shall mean any housing authority established or hereafter established pursuant to chapter ninety-three, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, and any amendments thereto.

Sec. 8. Additional and Supplemental Powers Conferred.

The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other
4 law, and nothing contained herein shall be construed as
5 limiting any other powers of a housing authority.

Sec. 9. Provisions of Act Severable.—Notwithstanding
2 any other evidence of legislative intent, it is hereby de-
3 clared to be the controlling legislative intent that if any
4 provision of this act, or the application thereof to any per-
5 sons or circumstances, is held invalid, the remainder of
6 the act and the application of such provision to persons or
7 circumstances other than those as to which it is held in-
8 valid, shall not be affected thereby.

CHAPTER 51
(Senate Bill No. 185—By Mr. Johnston, by request)

AN ACT to amend article three, chapter thirty-three of the
code of West Virginia, one thousand nine hundred thirty-
one, by adding thereto a new section designated section
thirty-five, providing for the deposit of securities with the
state treasurer by life insurance companies for the bene-
fit of policyholders generally.

[Passed March 5, 1941; in effect from passage. Approved by the Governor.]

Article 3. Life Insurance.

Section 35. Deposit of securities with state treasurer by life insurance com-
panies.

Be it enacted by the Legislature of West Virginia:

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

Section 35. Deposit of Securities with State Treasurer
by Life Insurance Companies.—Life insurance companies,
organized or chartered under the laws of this state or
having their principal place of business herein, may main-
tain a deposit in securities with the state treasurer, the
par value of which shall not be less than two hundred thousand dollars, in trust, for the protection of policyholders generally of such company. When such deposit is maintained with the state treasurer, and upon application by the company, the insurance commissioner shall issue apt and proper certificates specifying the nature and description of such securities and stating in such certificate that the deposit is held by the state treasurer, in trust, for the protection of policyholders generally of such company. The securities deposited as required herein may be substituted by the company with others of like kind and quality, or withdrawn, upon approval of such substitution or withdrawal by the insurance commissioner, in writing, and filed with the state treasurer. Interest or dividends accruing on such deposit shall be released by the state treasurer to the company making such deposit upon demand of the company.

CHAPTER 52

(House Bill No. 183—By Mr. Jones, by request)

AN ACT to amend and reenact section five, article five, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the general powers of indemnity companies.

[Passed March 3, 1941; in effect from passage. Approved by the Governor.]

Article 5. Indemnity Companies.

Section 5. General powers.

Be it enacted by the Legislature of West Virginia:

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

Section 5. General Powers.—An indemnity company organized under the provisions of this chapter, or organized under the laws of any other state and having a
license to do business in this state, and which has com-
plied with the provisions of this article, may become
surety of any person for the performance of any official
duty required by law, or of any person or corporation on
any bond or undertaking required in any proceeding in
any court, and/or of any person, persons, corporation or
corporations on any bond, writing or obligation for the
performance of any promise, duty or undertaking of
whatsoever terms or description, and/or may make con-
tracts and issue policies of insurance guaranteeing title
of, and freedom from liens of, any property, real or per-
sonal, and/or issue policies of insurance against loss
from any cause, other than by death of any person or by
fire: Provided, That any indemnity company may by its
charter be restricted to engaging in any one or more of
the branches of business above outlined.

Except as otherwise provided by law, any indemnity
company may prescribe such terms and conditions for
entering into any contract or undertaking and make such
charges for any such service as the officers thereof shall
deem advisable: Provided, however, That in the exercise
of any of the powers enumerated above, including any
prescribed terms and conditions for entering into any
contract or undertaking, there shall be no distinction or
discrimination in favor of individuals of the same class
or between risks of essentially the same hazard in this
state on account of race, creed or color.

The insurance commissioner shall have such powers and
authority, in respect to enforcement of the provisions of
this section, as are conferred upon him in chapter thirty-
three of the code of West Virginia.

CHAPTER 53
(House Bill No. 209—By Mr. Hall)

AN ACT to amend and reenact article three, chapter thirty-
three of the code of West Virginia, one thousand nine
hundred thirty-one, by adding thereto a new section, num-
bered section thirty-five, legalizing life insurance policies and other forms of contracts issued by life insurance companies entered into with persons not twenty-one years of age.

[Passed March 3, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 3. Life Insurance.

Section 35. Life insurance contracts by minors.

Be it enacted by the Legislature of West Virginia:

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

Section 35. Life Insurance Contracts by Minors.—Any person who is not of the full age of twenty-one years but who is of the age, as determined by the nearest birthday, of not less than fifteen years, shall be deemed competent to contract for life insurance upon the life of such minor, for the benefit of such minor or for the benefit of the father, mother, husband, wife, brother or sister, child or children, or any grandparent of such minor, and to exercise and enjoy every right, privilege and benefit provided by any life insurance contract on the life of such minor, subject to the foregoing limitations as to designation of beneficiary.

CHAPTER 54

(House Bill No. 184—By Mr. Jones, by request)

AN ACT to amend and reenact section four, article ten, chapter thirty-three of the code of West Virginia, one thousand
nine hundred thirty-one, relating to the powers of automobile mutual insurance companies.

[Passed March 3, 1941; in effect from passage. Approved by the Governor.]

Article 10. Automobile Mutual Insurance Companies.

Section 4. Powers.

Be it enacted by the Legislature of West Virginia:

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

Section 4. Powers.—Any corporation organized under the provisions of this article is empowered and authorized to make contracts of insurance, or to reinsure or accept reinsurance on any portion thereof, against loss, expense and liability resulting from the ownership, maintenance or use of any automobile or other vehicle.

Such contracts may be made with any person, firm, public or private corporation, board, association or estate or any trustee, or legal representative of same, in this state or elsewhere. Such corporation shall also have power to prescribe the qualifications and the manner and form of the admission and withdrawal of members; to make all necessary rules and regulations concerning the hazards incurred, the premium rates to be used and the adjustment and payment of losses; and to make all further necessary provisions concerning the conduct of its business or affairs: Provided, however, That in the exercise of any of the above enumerated powers, none of the contracts nor any of the rules and regulations made shall discriminate against any person or risk of essentially the same hazard on account of race, creed or color.
CHAPTER 55  
(Senate Bill No. 29—By Mr. Johnston, by request)

AN ACT to amend and reenact section four, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter seventy, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to specified standard provisions of group and family expense accident and health insurance policies.

(Passed February 22, 1941; in effect ninety days from passage. Approved by the Governor.)

Article 13. Group and Family Expense Accident and Health Insurance.

Section 4. Standard provisions of group policies.

Be it enacted by the Legislature of West Virginia:

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

Section 4. **Standard Provisions of Group Policies.**—

1. No policy of group accident or group health or group accident and health insurance and no certificate thereunder, shall be issued or delivered in this state unless the master policy contains in substance the provisions specified in paragraphs (a) to (o) following:

   2. (a) A provision that no statement made by the applicant or applicants for insurance shall void the insurance or reduce benefits thereunder unless contained in the written application signed by the applicant; and a provision that no agent has authority to change the policy or to waive any of its provisions and that no change in the policy shall be valid unless approved by an officer of the insurer and evidenced by endorsement on the policy;
16 (b) A provision that all statements contained in any
17 such application shall, in the absence of fraud, be deemed
18 representations and not warranties;
19 (c) A provision that all new employees of the em-
20 ployer or all new members of the organization, as the
21 case may be, in the groups or classes eligible for insur-
22 ance, must from time to time be added to such groups or
23 classes eligible for insurance;
24 (d) A provision that the insurer will issue to the em-
25 ployer or other person or organization in whose name
26 such policy is issued, for delivery to each member of the
27 insured group, an individual certificate setting forth in
28 summary form a statement of the essential features of
29 the insurance coverage of such employee or such mem-
30 ber, to whom benefits thereunder are payable, and such
31 additional information as the nature of the coverage
32 justly requires;
33 (e) A provision to the effect that the insurability of
34 any member of the insured group does not cease to exist
35 or terminate, by reason of age alone, until such member
36 has attained the age of sixty-five years;
37 (f) A provision stating the conditions under which
38 the insurer may decline to renew the policy;
39 (g) A provision specifying the ages, if any there be,
40 to which the insurance provided therein shall be limited;
41 the ages, if any there be, for which additional restric-
42 tions are placed on benefits, and the additional restrictions
43 placed on the benefits at such ages;
44 (h) A provision that written notice of sickness or of
45 injury must be given to the insurer within twenty days
46 after the date such sickness or injury occurred. Failure
47 to give notice within such time shall not invalidate nor
48 reduce any claim if it shall be shown not to have been
49 reasonably possible to give such notice and that notice
50 was given as soon as was reasonably possible;
51 (i) A provision that in the case of claim for loss of
52 time from disability, written proof of such loss must be
53 furnished to the insurer within thirty days after the com-
54 mencement of the period for which the insurer is liable,
55 and that subsequent written proofs of the continuance of
56 such disability must be furnished to the insurer at such
intervals as the insurer may reasonably require, and that
in the case of claim for any other loss, written proof
of such loss must be furnished to the insurer within
ninety days after the date of such loss. Failure to furnish
such proof within such time shall not invalidate nor
reduce any claim if it shall be shown not to have been
reasonably possible to furnish such proof and that such
proof was furnished as soon as was reasonably pos-
able;

(j) A provision that the insurer will furnish to the
policyholder such forms as are usually furnished by it
for filing proof of loss. If such forms are not furnished
before the expiration of fifteen days after the insurer
receives notice of any claim under the policy, the person
making such claim shall be deemed to have complied with
the requirements of the policy as to proof of loss upon
submitting within the time fixed in the policy for filing
proof of loss, written proof covering the occurrence,
character and extent of the loss for which claim is
made;

(k) A provision that the insurer shall have the right
and opportunity to examine the person of the insured
when and so often as it may reasonably require during
the pendency of claim under the policy and also the
right and opportunity to make an autopsy in case of
death where it is not prohibited by law;

(l) A provision that all benefits payable under the
policy other than benefits for loss of time will be pay-
able not more than sixty days after receipt of proof, and
that, subject to due proof of loss, all accrued benefits
payable under the policy for loss of time will be paid
not later than at the expiration of each period of thirty
days during the continuance of the period for which the
insurer is liable, and that any balance remaining unpaid
at the termination of such period will be paid immedi-
ately upon receipt of such proof;

(m) In any master policy providing benefits payable
after death, a provision shall be contained in each certifi-
cate issued thereunder that an employee or member in-
sured may designate a beneficiary; and change his desig-
nation of beneficiary by written request filed with the
insurer: Provided however, That this requirement shall not apply to group volunteer fire department policies and other similar forms of group insurance where the premium is payable annually in advance and such forms have been approved by the insurance commissioner;

(n) A provision that no action at law or in equity shall be brought to recover on the policy prior to the expiration of sixty days after proof of loss has been filed in accordance with the requirements of the policy and that no such action shall be brought at all unless brought within two years from the expiration of the time within which proof of loss is required by the policy;

(o) A provision that if any time limitation in the policy with respect to giving notice of claim or furnishing proof of loss or bringing action on the policy is less than that permitted by the laws governing the question of such limitation, such limitation is extended to agree with the minimum period permitted by such laws.

(2) No policy of group accident, or group health or group accident and health insurance and no certificate thereunder, shall be issued or delivered in this state, if such policy or certificate contains any provision inconsistent with any of the provisions of this section, except that the commissioner may approve any provision in any such policy or certificate which in his opinion is more favorable to policyholders or certificateholders than the provision herein prescribed.

CHAPTER 56

(Senate Bill No. 30—By Mr. Johnston, by request)

AN ACT to amend and reenact section fourteen, article ten, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, providing for a method of arriving at the taxable premiums, fees, dues, and assess-
ments of automobile mutual insurance companies licensed to transact business in this state.

[Passed February 21, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 10. Automobile Mutual Insurance Companies.

Section 14. Taxes; computation.

Be it enacted by the Legislature of West Virginia:

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

Section 14. Taxes; Computation.—Every insurance company or association incorporated by or organized under the laws of any other state and licensed to transact business under this article shall be subject to such taxes as are now provided by law for mutual companies organized without this state. The taxable premiums used as a basis for such taxation shall include premiums on all business written or renewed and any fees, dues, or assessments collected during the calendar year, less only premiums actually returned upon the cancellation of policies.

CHAPTER 57

(House Bill No. 263—By Mr. Bass)

AN ACT to amend and reenact section three, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, relating to valuation of life insurance policies.

[Passed March 6, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 3. Life Insurance.

Section 3. Valuation of life policies.
Be it enacted by the Legislature of West Virginia:

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

Section 3. Valuation of Life Policies.—Upon the receipt of such report, the commissioner shall make a valuation of all outstanding policies, additions thereto, unpaid dividends and all other obligations of such company. All valuations made by him or by his authority shall be made upon the net premium basis, according to the standard of valuations adopted by the company for the obligations to be valued: Provided, That in every case the standard of valuation employed shall be stated in his annual report. Any company may adopt different standards for obligations of different dates or classes, but if the total value determined by any such standard for the obligations for which it has been adopted shall be less than that determined by the legal minimum standard hereinafter prescribed, or if the company adopt no standard, said legal minimum standard shall be used. The commissioner may vary the standards of interest and mortality in the case of corporations from foreign countries and in particular cases of invalid lives and other extra hazards, and value policies in groups, use approximate averages for fractions of a year or otherwise, and calculate values by net premiums or otherwise, and accept the valuation of the department of insurance of any other state in place of the valuation herein required if the insurance officer of such state accepts as sufficient and valid for all purposes the certificate of valuation of the insurance commissioner of this state. Policies issued by companies doing business in this state may provide for not more than one year preliminary term insurance: Provided, however, That if the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereof in less than twenty years from the date of the policy, or under an endowment preliminary term policy, exceeds that charged for like insurance under twenty payment life preliminary term policies
of the same company, the reserve thereon at the end of
any year, including the first, shall not be less than the re-
serve on a twenty payment life preliminary term policy
issued in the same year and at the same age, together with
an amount which shall be equivalent to the accumulation
of a net level premium sufficient to provide for a pure en-
dowment at the end of the premium payment period,
equal to the difference between the value at the end of
such period of such a twenty payment life preliminary
term policy and a full reserve at such time of such a lim-
ited payment life or endowment policy. The legal mini-
imum standard for contracts issued before the first day of
January, in the year one thousand nine hundred one, shall
be actuaries' or combined experience table of mortality
with interest at four per cent per annum, and for con-
tracts issued on or after said date shall be the "American
Experience Table" of mortality with interest at three and
one-half per cent per annum.

CHAPTER 58
(House Bill No. 260—By Mr. Michie)

AN ACT to amend and reenact sections twenty-three and twen-
ty-four, article one, chapter fifty-two of the code of West
Virginia, one thousand nine hundred thirty-one, relating
to the record of allowance to jurors; certification to auditor;
failure of clerk to comply with provisions, and payment of
compensation to jurors.

[Passed March 6, 1941; in effect ninety days from passage. Approved by the
Governor.]


Section
23. Record of allowance to jurors; certification to auditor; failure of
clerk to comply with provisions.
24. Payment of compensation.

Be it enacted by the Legislature of West Virginia:

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

Section 23. Record of Allowance to Jurors; Certification to Auditor; Failure of Clerk to Comply With Provisions.—The clerk of any court upon which juries are in attendance shall, before the final adjournment of each term, and under the direction of the court, make an entry upon its minutes, stating separately the amount which each juror is entitled to receive out of the state treasury, or out of the county treasury, for his services or attendance during the term; and such clerk of any court upon which juries are in attendance, if directed by the court, shall at any time during such term, and under the direction of the court, make an entry upon its minutes, stating separately the amount which each juror is entitled to receive out of the state treasury, or out of the county treasury, for his services or attendance during the term. It shall be the duty of such clerk, as soon as practicable after adjournment of the court, to transmit to the auditor certified copies of all orders under this section making allowances payable out of the state treasury. Any such clerk who shall fail to pay over, as required by law, any moneys so received by him, or otherwise to comply with the provisions of this article, shall be deemed guilty of a misdemeanor and fined not less than fifty dollars.

Sec. 24. Payment of Compensation.—It shall be the duty of the clerk, as soon as practicable after the adjournment of the court, or before the adjournment of the court at such time as the court may direct, to deliver to each juror a certified copy of any order under the preceding section making an allowance to him, payable out of the state treasury or out of the county treasury; and the sheriff of such county shall, upon demand, pay to such juror the amount allowed to him, which shall be repaid to the sheriff out of the state treasury or out of the county treasury, upon the production of satisfactory proof that the same has actually been paid by him. If any sheriff fail to pay any such allowance as required by law, he may be proceeded against as for a contempt of court.
CHAPTER 59
(Com. Sub. for Senate Bill No. 35—Originating in the Senate Committee on the Judiciary)

AN ACT to amend chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article designated article four, providing for the establishment of a West Virginia state guard, and providing for organization, administration, maintenance, training and discipline thereof by executive rule and regulation; and providing for pay allowances, use of state property, jurisdiction, court martial, exemptions from arrests and oath to be administered.

[Passed March 6, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 4. West Virginia State Guard.

Section 1. Governor authorized to organize and maintain West Virginia state guard.

Section 2. Rules and regulations.

Section 3. Pay and allowances.

Section 4. Arms and equipment; use of state armories, etc.

Section 5. Service limited to state; exception as to fresh pursuit; person apprehended in other state to be surrendered to authorities in that state.

Section 6. Military forces of other states to continue fresh pursuit into this state.

Section 7. Act not authority for drafting forces into federal service; enlistment not exemption.

Section 8. Civil organizations, etc., not to be enlisted as unit.

Section 9. Disqualifications.

Section 10. Oath of officers.

Section 11. Term of enlistment; oath of enlisted men.

Section 12. Articles of war to apply as to court martial, etc.; freedom from arrest; jury duty.


Section 15. Citation of act.

Be it enacted by the Legislature of West Virginia:

That chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended by the addition of a new article, designated article four, to read as follows:

Section 1. Governor Authorized to Organize and Main-
tain West Virginia State Guard.—Whenever any part of the national guard of this state is in active federal service, the governor is hereby authorized to organize and maintain within this state during such period, under such regulations as the secretary of war of the United States may prescribe for discipline in training, such military forces as the governor may deem necessary to defend this state. Such forces shall be composed of officers commissioned or assigned, and such able-bodied male citizens of the state as shall volunteer for service therein, supplemented, if necessary, by men of the reserve militia enrolled by draft or otherwise as provided by law. Such forces shall be additional to and distinct from the national guard and shall be known as the "West Virginia State Guard". Such forces shall be uniformed.

Sec. 2. Rules and Regulations.—The governor is hereby authorized to prescribe rules and regulations not inconsistent with the provisions of this act governing the enlistment, organization, administration, equipment, maintenance, training and discipline of such forces: Provided, That such rules and regulations, in so far as he deems practicable and desirable, shall conform to existing law governing and pertaining to the national guard and the rules and regulations promulgated thereunder, and shall prohibit the acceptance of gifts, donations, gratuities or anything of value by such forces or by any member of such forces from any individual, firm, association, or corporation by reason of such membership.

Sec. 3. Pay and Allowances.—The pay for officers and enlisted men of the West Virginia state guard for service at camps of instruction, rifle practice, practice marches and maneuvers, or other duties ordered by the governor, shall be such as are provided in the national defense act or amendments thereto. Officers and enlisted men, when employed in the actual service of the state, as defined and provided in this article, beginning on the day they assembled at their armories or other designated places, until the day they have returned thereto and been properly relieved, inclusive, fractional parts of a day counting as a
full day, shall receive the same pay and allowances as
provided for officers and enlisted men in the West Vir-
ginia national guard.

Sec. 4. Arms and Equipment; Use of State Armories,
Etc.—For use of such forces, the governor is hereby au-
thorized to requisition from the secretary of war such
arms and equipment as may be in possession of and can
be spared by the war department; and to make available
to such forces the facilities of state armories and their
equipment and such other state premises and property as
may be available.

Sec. 5. Service Limited to State; Exception as to Fresh
Pursuit; Person Apprehended in Other State to Be Sur-
rendered to Authorities in That State.—Such forces shall
not be required to serve outside the boundaries of this
state. Except that any organization, unit or detachment
of such forces, upon order of the officer in immediate com-
mand thereof, may continue in fresh pursuit of insurrec-
tionists, saboteurs, enemies or enemy forces beyond the
borders of this state into another state until they are ap-
prehended or captured by such organization, unit or de-
tachment or until the military or police forces of the other
state or the forces of the United States have had a reason-
able opportunity to take up the pursuit or apprehend or
capture such persons: Provided, That such other state
shall have given authority by law for such pursuit by such
forces of this state. Any such person who shall be ap-
prehended or captured in such other state by an organiza-
tion, unit or detachment of the forces of this state shall
without unnecessary delay be surrendered to the military
or police forces of the state in which he is taken or to the
United States, but such surrender shall not constitute a
waiver by this state of its right to extradite or prosecute
such person for any crime committed in this state.

Sec. 6. Permission to Military Forces of Other States to
Continue Fresh Pursuit Into This State.—Any military
forces or organization, unit or detachment thereof, of an-
other state, who are in fresh pursuit of insurrectionists,
saboteurs, enemies or enemy forces, may continue such
pursuit into this state until the military or police forces of this state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons and are hereby authorized to arrest or capture such persons within this state while in fresh pursuit. Any such person who shall be captured or arrested by the military forces of such other state while in this state shall, without unnecessary delay, be surrendered to the military or police forces of this state to be dealt with according to law. This section shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful, and nothing contained in this section shall be deemed to repeal any of the provisions of the uniform act on the fresh pursuit of criminals.

Sec. 7. Act Not Authority for Drafting Forces into Federal Service; Enlistment Not Exemption.—Nothing in this act shall be construed as authorizing such forces, or any part thereof, to be called, ordered or in any manner drafted as such, into the military service of the United States, but no person shall by reason of his enlistment or commission in any such forces be exempted from military service under any law of the United States.

Sec. 8. Civil Organizations, Etc., Not to Be Enlisted as Unit.—No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil group shall be enlisted in such forces as an organization or unit.

Sec. 9. Disqualifications.—No person shall be commissioned or enlisted in such forces who is not a citizen of the United States or who has been expelled or dishonorably discharged from any military or naval organization of this state, or of another state, or of the United States.

Sec. 10. Oath of Officers.—The oath to be taken by officers commissioned in such forces shall be substantially in the form prescribed for officers of the national guard,
Sec. 11. Term of Enlistment; Oath of Enlisted Men.—
No person shall be enlisted for more than one year but
such enlistment may be renewed. The oath to be taken
upon enlistment in such forces shall be substantially in
the form prescribed for enlisted men of the national
guard, substituting the words “West Virginia State
Guard” where necessary.

Sec. 12. Articles of War to Apply as to Court Martial,
Etc.; Freedom from Arrest; Jury Duty.—(a) Whenever
such forces or any part thereof shall be ordered out for
active service the articles of war of the United States ap-
licable to members of the national guard of this state
in relation to courts martial, their jurisdiction and the
limits of punishment and the rules and regulations pre-
scribed thereunder shall be in full force and effect with
respect to the West Virginia state guard.
(b) No officer or enlisted man of such forces shall be
arrested on any warrant, except for treason or felony,
while going to, remaining at, or returning from a place
where he is ordered to attend for military duty. Every
officer and enlisted man of such forces shall, during his
service therein, be exempt from service upon any posse
comitatus and from jury duty.

Sec. 13. Provisions of Act Severable.—If any provision
of this act or the application thereof to any person or cir-
cumstances 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.

Sec. 14. Inconsistent Acts Repealed.—All acts and parts
of acts inconsistent with the provisions of this act are
hereby repealed.

Sec. 15. Citation of Act.—This act may be cited as the
“West Virginia State Guard Act”.
AN ACT to amend chapter six of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article, to be designated article eleven, relating to persons holding public offices or positions in the state or in any county, municipality, or other unit of state or local government, who enter the military, naval, marine corps or coast guard service of the United States of America, and the reassumption of such offices or positions by such persons, after the completion of such service.

[Passed March 7, 1941; in effect from passage. Approved by the Governor.]


Section
1. Persons entitled to leave.
2. Period of replacement appointment.
3. Limitations.
5. Provisions of article severable.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Persons Entitled to Leave.—Any person holding any office or position of public trust, responsibility or service, elective or appointive, in the government of this state or in any county, municipality or any other unit or combined unit of government therein, who may enter the military, naval, marine corps or coast guard service of the United States of America, may obtain a leave of absence from such office or position and, upon the completion of and discharge from any of such armed services, shall have the right to reassume for the unexpired or remaining term
Ch. 60] LEAVE OF ABSENCE FOR MILITARY SERVICE

thereof, the office or position held by such person at the
time of entering any of such armed services. The officer,
court, tribunal, board or person having the power to
make an original appointment to such office or position,
or to make an appointment to fill a vacancy therein, shall,
upon request, grant such leave of absence. The reas-
sumption of any office or position as herein provided
shall be without any prejudice whatsoever to the status,
merit rating or standing of the holder thereof by reason
of his absence therefrom while in the aforesaid armed
services of the United States.

Sec. 2. Period of Replacement Appointment.—Whenever the holder of any such public office or position en-
ters any of the services mentioned in section one hereof
and another is named to perform the duties of said per-
son’s office or position, such other person shall not be
named for a period longer than the period served by the
holder of such office in the aforesaid armed services of
the United States.

Sec. 3. Limitations.—This article shall not be construed:
(a) As any attempt to enlarge or to extend the length
of term of any such public office or position or to create
a definite term where no definite term with respect to
such office or position has heretofore existed.
(b) As providing that the salary or wages payable to
any person holding any such public office or position
and performing the duties thereof shall be paid to such
person when not performing said duties because of such
service in the armed forces of the United States.

Sec. 4. Provisions of Article Retroactive.—The provi-
sions of this article shall be retroactive as to all such per-
sons who have entered the armed services of the United
States since July one, one thousand nine hundred forty.

Sec. 5. Provisions of Article Severable.—If any part or
section of this article shall be declared unconstitutional
or invalid by any court, such declaration shall not affect
any other part or section hereof.
AN ACT to amend chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article to be designated as article three, relating to national and state defense; to provide for the establishment of a "State Council of Defense" and of local and district councils of defense, and prescribing the powers and duties thereof.

[Passed March 7, 1941; in effect from passage. Approved by the Governor.]


Section 1. Establishment of State Council of Defense.

2 The governor is hereby authorized and empowered in time of emergency or public need in the nation or the state to create by proclamation a "State Council of Defense", hereinafter designated as the "Council", for the general purpose of assisting in the coordination of the state and local activities related to national and state defense. Whenever he deems it expedient, the governor may, by proclamation, dissolve or suspend such council or re-establish it after any such dissolution or suspension.

Sec. 2. Appointment of Members; Governor Chairman of Council; Employees; Expenses; Offices.—The council
Ch. 61] STATE COUNCIL OF DEFENSE 295

shall consist of seven members to be appointed by and
with the advice and consent of the senate. The members
of the council shall hold office during the will and pleasure
of the governor. The governor shall serve as chairman
of the council. He shall designate one of the members of
the council as vice chairman. Appointment of members
shall be made without reference to political affiliation and
with reference to their special knowledge of industry,
agriculture, consumer protection, labor, education, health,
welfare, or other subjects relating to national or state de-

The council may, with the approval of the governor, em-
ploy such technical, clerical, stenographic, and other per-
sonnel, and fix their compensation, and may make such
expenditures within the appropriation therefor, or other
funds made available to it, as are necessary to carry out
the purposes of this act.

The members of the council shall serve without compen-
sation, but may be reimbursed for their actual and
necessary traveling and other expenses incurred in con-
nection with attendance upon meetings of the council.

The council shall be provided with appropriate office
space, furniture, equipment, supplies, stationery, and
printing in the same manner as other state agencies are
supplied.

Sec. 3. Powers and Duties.—The “Council” shall have
the following powers and duties:

(a) To adopt, amend, and repeal rules, regulations,
and by-laws governing its procedure and activities.

(b) To cooperate with the “Advisory Commission to
the Council of National Defense” through its division
of state and local cooperation, or with any similar federal
agencies hereafter created, and with any departments or
other federal agencies engaged in defense activities.

(c) To cooperate with similar councils of defense in
other states.

(d) To cooperate with local defense councils.

(e) To supervise and direct investigations, and report
to the governor with recommendations for legislation or
other appropriate action as it may deem necessary, with
respect to the following matters insofar as they are or may be related to defense:

(1) Industrial materials and facilities.
(2) Production and manufacturing facilities.
(3) Agriculture, food supply, and land use.
(4) Transportation facilities.
(5) Labor supply and training, labor relations, and human resources, professions, trades, and skills.
(6) Consumers and consumer protection.
(7) Housing and related facilities.
(8) Health, hospitals, and sanitation facilities.
(9) Welfare.
(10) Educational facilities.
(11) Recreational areas and facilities.
(12) Finance.
(13) Civil liberties, including but without limitation, the protection thereof, maintenance of law and order, and measures to guard against sabotage and subversive activities.
(14) Civil defense, including police mobilization, coordinated for fire protection, and disaster relief.
(15) Any other type of activity directly or indirectly related to defense:

(f) To create committees, either within or without its membership, to aid it in the discharge of its powers and duties.
(g) To require and direct the cooperation and assistance of state and local governmental agencies and officials.
(h) To make full investigation as to all questions directly or indirectly relating to the powers or duties vested in it by this act, or by any other law.
(i) To do all acts and things, not inconsistent with law, for the furtherance of defense activities.

Sec. 4. Utilization of Existing Services and Facilities.—In order to avoid duplication of services and facilities the “Council” and the local and district councils of defense established under the authority of this act are:

(a) Directed to utilize the services and facilities of existing officers, offices, departments, commissions,
boards, and bureaus, institutions and other agencies of
the state and of the political subdivisions thereof; and
(b) All such officers and agencies shall cooperate with
and extend their services and facilities to the council and
to the local and district councils of defense as they shall
request.

Sec. 5. Local Councils of Defense.—Each political sub-
division of the state may establish a local council of
defense by the proclamation of the executive officer or
governing body thereof. Local councils of defense, if
and when established, shall cooperate with and assist the
council, and shall perform such services as may be re-
quested by it. Local councils may act jointly with other
such councils. Insofar as applicable, local councils shall
have the same power and duties within their respective
jurisdictions as are vested in the council. Such local
councils shall terminate or cease activity whenever the
council is dissolved or suspended.

Sec. 6. District Councils of Defense.—In cooperation
with local officials the council is authorized to establish
district councils of defense in critical areas of the state
of especial importance in defense activities. Such dis-
trict councils shall act as coordinating agencies under
the supervision and direction of the council, and in
cooperation with local governmental agencies.

Sec. 7. Separability of Provisions.—If any provision of
this act, or the application of such provision to any per-
son or circumstance is held invalid, the remainder of
the act and the application of such provision to other
persons or circumstances shall not be affected thereby.

CHAPTER 62
(House Bill No. 169—By Mr. Alltop)

AN ACT to amend chapter twenty-two of the code of West Vir-
ginia, one thousand nine hundred thirty-one, by adding
thereto a new article six, prohibiting the employment of
miners in the bituminous coal mines, unless certificated after examination by miners' examining board, providing for the appointment of such boards, defining their powers and duties, providing penalties, and repealing acts inconsistent thereto.

[Passed March 1, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 6. Coal Miners' Examining Boards.

Section
1. Certificates of competency and qualification required of miners; apprentice.
2. Miners' examining boards.
3. Examinations by boards; records.
4. Fee for examination.
5. Examinations to be practical; certificates not transferable; how certificates to be issued.
6. After April first, one thousand nine hundred forty-two, miner required to have certificate.
7. Rules and regulations.
8. Penalties; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections fifty-two-a, fifty-two-b, fifty-two-c and fifty-two-d, article two, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be repealed; and that chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new article six, to read as follows:

Section 1. Certificates of Competency and Qualification Required of Miners; Apprentice.—That from and after the first day of April, one thousand nine hundred forty-two, no person shall be employed or engaged as a coal miner in any commercial or captive bituminous coal mine in this state, without first having obtained a certificate of competency and qualification so to do from a miners' examining board appointed under this article: Provided, however, That any miner holding a certificate may have one person working with him, and under his direction, as an apprentice, or any foreman, assistant foreman or fire boss may have not more than five persons working with him.
and under his immediate supervision and direction, as apprentices, for the purposes of learning and being instructed in the duties and business of mining. For the purposes of this act the term “coal miner” or “miner” shall mean all underground workers in bituminous coal mines, except as hereinafter provided. The term “captive coal mine”, for purposes of this act, shall include all mines owned and operated by any person, firm or corporation directly or through a subsidiary which consumes its own production.

Sec. 2. Miners’ Examining Boards.—The chief of the department of mines with the approval of the governor, shall appoint as many miners’ examining boards as may be deemed necessary, not exceeding five in number, each board to be composed of two practical and experienced miners, one of whom shall be a negro, and one coal mine operator, and not more than two members of each board shall belong to the same political party, who shall hold office at the pleasure of the appointing power, and in making such appointments consideration shall be given to the various regions of the state in which bituminous coal mines are located. The boards first appointed shall have the authority to issue to their respective members the certificates of competency required by this act without examination: Provided, however, That an applicant who has been engaged in the occupation of mining coal in this state at least one year prior to the passage of this act, who makes affidavit that he has been so employed before a person authorized to administer oaths in this state and files such affidavit together with written application for a certificate by mail with the examining board, shall not be required to pass such examination, but must pay a fee of one dollar and be given a certificate, but no certificate of service shall be issued after the first day of April, one thousand nine hundred forty-two.

Each miners’ examining board shall organize by the selection of a chairman and a secretary from its membership. All records, reports, books and papers of the board shall be kept by the secretary, who shall also be furnished with a seal of the chief of the department of mines. Each
A member of a miners' examining board shall be entitled to a compensation of ten dollars and hotel and traveling expenses for each day of seven hours necessarily employed in the discharge of his duties, which compensation shall be paid out of the "miners' examining fund" provided for under section four of this act.

The number of miners' examining boards may be reduced in the discretion of the chief of the department of mines, after the first day of March, one thousand nine hundred forty-two, when the miners now engaged in the bituminous coal regions have been examined.

Sec. 3. Examinations by Boards; Records.—The several miners' examining boards shall hold examinations at such times and places prior to the thirty-first day of March, one thousand nine hundred forty-two, as the chief of the department of mines may designate, and thereafter shall meet at least once each month in each mine inspection district at such places as the chief of the department of mines may designate, so that all persons in the state, or who wish to come into the state to engage in coal mining, may be examined as to their competency and qualifications. Public notice of the time and place of examinations shall be given through the press or otherwise, in the discretion of the board, not less than seven days in advance of the date of examination.

Each board shall keep an accurate record of its proceedings and meetings and in said record shall show a correct detailed account of the examination of each applicant, with questions asked and their answers. Such records shall be open to the public inspection.

Sec. 4. Fee for Examination.—Each applicant for examination shall pay to the miners' examining board a fee of one dollar. All fees collected by miners' examining boards shall be promptly transmitted to the chief of the department of mines and by him paid into the state treasury and credited to a special fund to be known as the "miners' examination certificate fund", and shall be expended for the purpose of carrying out the provisions of this act upon requisitions drawn by the chief of the department of mines.
Sec. 5. Examinations to Be Practical; Certificates Not Transferable; How Certificates to Be Issued.—All examinations held by miners' examining boards shall be conducted in the English language and shall be of a practical nature, so as to determine the competency and qualifications of the applicant to engage in the mining of bituminous coal. A board shall examine under oath all applicants as to their previous experience in mines. Each member of a board shall have power to administer oaths, and any wilfully false statement made by an applicant under oath shall be deemed perjury. Certificates granted by a board shall entitle the holder thereof to be employed as and to do the work of miners in the bituminous mines of this state. No certificate shall issue unless the applicant produces evidence of having had not less than one year's practical experience as a miner or as an apprentice with a miner. A certificate shall not be granted unless the applicant appears in person before the board and answers orally, intelligently and correctly at least twelve practical questions propounded to him.

A certificate granted by a board shall not be transferable and a transfer shall be deemed a violation of this act. Certificates shall issue only at meetings of a board and shall be signed by at least two members of a board, and sealed with the seal of the board.

Sec. 6. After April First, One Thousand Nine Hundred Forty-two, Miner Required to Have Certificate.—No person shall, after the first day of April, one thousand nine hundred forty-two, engage as a miner, other than as an apprentice, in any commercial or captive bituminous coal mine in this state, without first having obtained a certificate of competency and qualification as provided for in this act, except as hereinbefore stated, nor shall any person, firm or corporation, or his, or its agent, employ as a miner any person who does not hold such certificate, except as aforesaid.

Any person feeling aggrieved by any ruling of the miners' examining board, regarding the refusal, or granting of a coal miner's certificate, may appeal therefrom.
by certiorari to the circuit court of the county where
the applicant resides.
All persons possessing certificates of qualification is-
sued by the department of mines of this state, entitling
them to act as mine foremen, assistant mine foremen,
or fire boss, shall be eligible to engage at any time as
miners in bituminous mines of this state. Supervisory
and technically trained employees of the operator, whose
work contributes only indirectly to mine operations,
shall not be required to possess a miners' certificate.

Sec. 7. Rules and Regulations.—The chief of the de-
partment of mines, together with the examining boards,
may adopt such rules and regulations as are deemed
necessary for the purpose of carrying out the provisions
of this act.

Sec. 8. Penalties; Inconsistent Acts Repealed.—Any
person, firm or corporation violating any of the provisions
of this act shall, upon conviction, be sentenced to pay a
fine of not less than twenty-five dollars, nor more than
one hundred dollars, and in default in the payment of
such fine and costs, shall be imprisoned in the county jail
for a period not exceeding thirty days.
Sections fifty-two-a, fifty-two-b, fifty-two-c and fifty-
two-d, article two, chapter twenty-two of the code of
West Virginia, one thousand nine hundred thirty-one,
as enacted by chapter eighty-two, acts of the Legisla-
ture, regular session, one thousand nine hundred thirty-
nine, and all other acts, or parts of acts inconsistent or in
conflict herewith, are hereby repealed.

CHAPTER 63
(House Bill No. 370—By Mr. Speaker, Mr. Arnold)

AN ACT to amend and reenact sections seven, nine, ten, eleven
and twelve, article one, chapter twenty-two of the code of
West Virginia, one thousand nine hundred thirty-one, re-
lating to inspections and rescue work by the department of mines.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 1. Department of Mines.

Section
7. Mining districts and divisions; mine inspectors; term of office.
9. Same; inspections; reports.
10. Mine rescue stations; equipment.
11. Mine rescue crews.
12. Directors of mine rescue work.

Be it enacted by the Legislature of West Virginia:

That sections seven, nine, ten, eleven and twelve, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 7. Mining Districts and Divisions; Mine Inspectors; Term of Office.—The chief of the department of mines shall divide the state into not less than twenty-five mining districts and not less than three mining divisions so as to equalize as far as practicable the work of each inspector. The chief of the department of mines shall appoint one inspector for each mining district within the state, and one mine inspector at large for each division. The mine inspectors in office on the date this code takes effect shall, unless sooner removed as provided by law, continue to serve until their terms expire and their successors have been appointed and have qualified. On or after the first day of January, one thousand nine hundred forty-two, and on or after the first day of January of each fourth year thereafter, the chief of the department of mines appointed for the term commencing on said first day of January shall appoint one inspector for each mining district within the state, and one mine inspector at large for each division to serve for a term of four years commencing on said first day of January.

The chief of the department of mines may assign any person meeting the qualifications of a mine inspector to temporary duty as a mine inspector with the same authority as a mine inspector.
Sec. 9. Same; Inspections; Reports.—Each of the mine inspectors shall report in writing, weekly, to the chief of the department of mines, the number and condition of all mines inspected by him during each week, and shall deliver to the operator or operators of each mine inspected a certificate of inspection, and shall post a duplicate certificate at a prominent place of the operating company where it may conveniently be read by any of the mine employees. The duplicate shall remain posted until a subsequent certificate is issued by the mine inspector. A mine inspector appointed for a particular district shall visit each mine in his district at least once in every three months unless prevented by unavoidable circumstances, or oftener if called upon in writing by ten men engaged in any one mine, or by the owner, operator or superintendent of such mine, and make a personal examination of each working place, and also entrances to abandoned parts of the mine where gas is liberated, and outside of the mine where any danger may exist to the workmen in their respective districts, and shall particularly examine into the condition of the mine as to ventilation, drainage and general safety, and shall make a report of such examination, and he shall see that all provisions of the mining statutes, requirements of the department of mines and written instructions of the mine inspectors, are strictly carried out.

Sec. 10. Mine Rescue Stations; Equipment.—The chief of the state department of mines is hereby authorized to purchase, equip and operate for the use of said department such mine rescue stations and equipment as he may deem necessary.

Sec. 11. Mine Rescue Crews.—The chief of the state department of mines is hereby authorized to have trained and employed at the rescue stations, operated by that department within the state, such rescue crews as he may deem necessary. Each member of a rescue crew shall devote four hours each month for training purposes, and shall be available at all times to assist in rescue work at explosions and mine fires. Regular members shall
receive for such services the sum of four dollars per month and captains shall receive five dollars per month, payable on requisition approved by the chief of the department of mines, and such other sums, to be paid by the operating company, as may be agreed upon when engaged in rescue work at explosions or mine fires. The chief of the department of mines may remove any member of a rescue crew at any time.

Sec. 12. Directors of Mine Rescue Work.—The chief of the department of mines is hereby authorized to assign mine rescue teams and such mine rescue and recovery work to inspectors or other employees of the department of mines as he may deem necessary.

CHAPTER 64

( Senate Bill No. 40—By Mr. Paull, by request)

AN ACT to amend and reenact sections two, three and four, article two, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, relating to the collection and deposit of all moneys collected by any state institution under the control of the state, all state officers and all departments of the state government.

[Passed February 19, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 2. Payment and Deposit of Money Due the State.

Section 2. Method of payment by state officials and employees; credit to state fund; exceptions.

3. Deposit of moneys by treasurer; lists to be transmitted from treasurer to auditor and director of the budget.

4. Duty of depositories.

Be it enacted by the Legislature of West Virginia:

That sections two, three and four, article two, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:
Section 2. Method of Payment by State Officials and Employees; Credit to State Fund; Exceptions.—All officials and employees of the state authorized by statute to accept moneys due the state of West Virginia shall keep a daily itemized record of such moneys so received for deposit in the state treasury and shall deposit promptly with the state treasurer all moneys received or collected by them for or on behalf of the state for any purpose whatsoever. When so paid, such moneys shall be credited to the state fund and treated by the auditor and treasurer as part of the general revenue of the state, and shall not be used for any purpose whatsoever unless and until authorized and directed by the Legislature, except the following funds:

(a) All moneys received out of appropriations made by the Congress of the United States;
(b) All funds derived from the sale of farm and dairy products;
(c) All endowment funds, bequests, donations, executive emergency funds, and death and disability funds;
(d) All fees and funds collected at state educational institutions for student activities;
(e) All funds derived from collections from dormitories, boarding houses, cafeterias and road camps;
(f) All moneys received from counties by institutions for the deaf and blind on account of clothing for indigent pupils;
(g) All insurance collected on account of losses by fire and refunds;
(h) All funds derived from bookstores and sales of blank paper and stationery, and collections by the chief inspector of public offices;
(i) All moneys collected and belonging to the capitol building fund, state road fund, state road sinking funds, general school fund, school fund, state fund (moneys belonging to counties, districts and municipalities), state interest and sinking fund for payment of the Virginia debt, state interest and sinking fund, state compensation funds, the fund maintained by the public service commission for the investigation and supervision of applications and licenses under article nine, chapter thirty-
one of this code, and all funds and moneys payable to or received by the conservation commission of West Virginia;

(j) All moneys collected or received under any act of the Legislature providing that funds collected or received thereunder shall be used for specific purposes.

All moneys, excepted as aforesaid, shall be paid into the state treasury in the same manner as collections not so excepted, and shall be carried in separate accounts to be used and expended only for the purposes for which the same are authorized to be collected by law. The gross amount collected in all cases shall be paid into the state treasury, and commissions, costs and expenses of collection authorized by general law to be paid out of the gross collection are hereby authorized to be paid out of the moneys collected and paid into the state treasury in the same manner as other payments are made from the state treasury.

The official or employee making such deposits in the state treasury shall prepare such deposit lists in such manner and upon such report forms as may be prescribed by the chief inspector of public offices. The original of this report shall accompany the deposit to the state treasurer's office. A duplicate copy shall be forwarded by the official or employee making such deposit immediately to the state auditor, and a third copy shall be kept by the official or employee making the report and shall become a part of his permanent record.

Sec. 3. Deposit of Moneys by Treasurer; Lists to Be Transmitted from Treasurer to Auditor and Director of the Budget.—Promptly upon the receipt of the aforementioned deposits, it shall be the duty of the treasurer to check all items on such lists, and, if found correct, transmit same together with a certificate of deposit in duplicate, as soon as practicable, to the depository in which he desires to make the deposit. A copy of each deposit report received by the treasurer from the sources mentioned above, as well as any deposits received by him from any other source, shall be sent to the auditor and the director of the budget daily.
Sec. 4. Duty of Depositories.—Immediately upon the receipt of such deposit, it shall be the duty of the depository to credit the state treasurer with the amount of the deposit, to date and sign the certificates of deposit by some legally constituted official of the depository and transmit promptly both copies to the state treasurer, who shall immediately transmit one signed copy to the state auditor.

CHAPTER 65

(House Bill No. 56—By Mr. Johnston)

AN ACT to amend and reenact section ten, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter sixty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to the general powers of municipal councils, and the extra-territorial operation of such powers.

[Passed February 14, 1941; in effect from passage. Approved by the Governor.]

Article 4. Powers, Duties, and Allied Relations of Municipal Corporation, Councils or Officers.

Section

10. General powers of council; extra-territorial operation of powers.

Be it enacted by the Legislature of West Virginia:

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

Section 10. General Powers of Council; Extra-territorial Operation of Powers.—The council shall have plenary power and authority therein by ordinance or resolution as the case may require (so far as such power or author-

*Amended and reenacted by chapter sixty-six, acts of this session.
ity is not in conflict with the constitution and laws of this
state or the constitution of the United States) to lay off,
vacate, close, open, alter, curb, recurb, pave or repave
and keep in good repair roads, streets, alleys, sidewalks,
crosswalks, drains and gutters, for the use of the public,
and to improve and light the same, and have them kept
free from obstructions on or over them; to prevent by
proper fines and penalties the throwing, depositing or per-
mitting to remain on any street, sidewalk, alley, lane,
square or other public place any glass, scrap iron, nails,
tacks, wire, other litter, or any offensive matter or any-
ingthing likely to injure the feet of persons or animals or the
tires of vehicles; to regulate the use of streets, alleys,
lanes and sidewalks for vehicles propelled by man power,
and for other vehicles the use of which is not regulated
by general laws; to regulate the width of sidewalks
on the streets, and, subject to the provisions of ar-
ticle eight of this chapter, to order the sidewalks, foot-
ways and crosswalks to be curbed, recurbed, paved,
repaved and kept in good order, free and clean, by
the owners or occupants thereof, or of the real prop-
erty next adjacent thereto; to establish and regulate
markets, and prescribe the time of holding the same; to
prevent injury or annoyance to the public or individuals
from anything dangerous, offensive or unwholesome; to
prevent hogs, cattle, horses, sheep or other animals, and
fowls of all kinds, from going at large in such town; to
protect places of divine worship and to preserve peace
and order in and about the premises where held; to
arrest, convict and punish any person for keeping a house
of ill-fame, or for letting to another person any house or
other building for the purpose of being used or kept as a
house of ill-fame, or for knowingly permitting any house
owned by him, or under his control, to be kept or used as
a house of ill-fame, or for loafing, boarding or loitering
in a house of ill-fame, or frequenting same; to arrest,
convict and punish any person for importing, printing,
publishing, selling or distributing any pornographic pub-
lication; to arrest, convict and punish any person for
cruelly, unnecessarily or needlessly beating, torturing,
mutilating, killing or overloading or overdriving, or wil-
fully depriving of necessary sustenance, any horse or
other domestic animal; to arrest, convict, and punish any
person for gambling or keeping gaming tables, commonly
called “A, B, C”, or “E, O,” table or faro bank or keno
table, or table of like kind, under any denomination,
whether the gaming table be played with cards, dice or
otherwise, or any person who shall be a partner or con-
cerned in interest, in keeping or exhibiting such table or
bank, or keeping or maintaining any gaming house or
place, or betting or gambling for money or anything of
value; to license, or for good cause to refuse to license
in a particular case, or at its discretion to prohibit in all
cases, the operation of pool and billiard rooms and main-
taining for hire of pool and billiard tables, notwithstanding
the general law as to state licenses for such business.
When the council, in the exercise of its discretion, shall
have refused to grant a license to operate a pool or billiard
room mandamus shall not lie to compel the council to
grant such license, unless it shall clearly appear that the
refusal of the council to grant such license is discrimina-
tory or arbitrary. In the event that the council decides
to license any such business, the council shall have power,
and it shall be the duty of the council, to make and en-
force reasonable ordinances regulating the licensing and
operating of such businesses; the council shall also have
such power and authority to arrest, convict and punish
any person for carrying about his person any revolver or
other pistol, dirk, bowie-knife, razor, slung shot, billy, me-
tallic or other false knuckles, or any other dangerous or
other deadly weapon of like kind or character, within such
town; to arrest, convict and punish any person for driving
or operating, within such town, a motor vehicle when
intoxicated or under the influence of liquor, drugs or
narcotics; to provide penalties for the offenses and
violations of law mentioned herein in addition to the
penalties provided in section twenty-three of this ar-
ticle, but which shall not exceed the penalties provided
for like offenses and violations in this chapter, and
in chapter sixty-one of this code; to abate or cause
to be abated anything which, in the opinion of a ma-
86 jority of the whole council, shall be a nuisance; to
87 regulate the keeping of gunpowder and other com-
88 bustibles; to acquire, by purchase, condemnation and
89 otherwise, land in or near the town for providing and
90 maintaining proper places for the burial of the dead and
91 to regulate interments therein upon such terms and con-
92 ditions as to price and otherwise as may be determined
93 by the council, and, in order to carry into effect such
94 provisions the council may acquire any cemetery or cem-
95 eteries already established; to provide for the regular
96 building of houses or other structures, and for making
97 of division fences by the owners of adjacent premises and
98 the drainage of lots by the proper drains and ditches;
99 to make regulations guarding against danger or damage
100 by fire; to prevent the illegal sale of intoxicating liquors,
101 drinks, mixtures and preparations therein; to protect the
102 persons and property of the inhabitants of such town, and
103 to preserve peace and good order therein, and, for this
104 purpose, to appoint, when necessary, a police force to as-
105 sist the sergeant in the discharge of his duties; except as
106 otherwise provided, to prescribe the powers and define
107 the duties of the officers appointed by the council, fix
108 their terms of service and compensation, and require and
109 take from them bonds, when deemed necessary, payable
110 to such town, in its corporate name, with such sureties
111 and in such penalty as the council may see fit, conditioned
112 for the faithful discharge of their duties; to require and
113 take from employees and contractors bonds in such pen-
114 alties, with such sureties and with such conditions, as
115 council may see fit; to erect, or authorize or prohibit the
116 erection of gas works, electric light works, water works,
117 and sewage treatment and disposal works within or with- 
118 out the town, or partly within and partly without the
119 town, except that it shall not erect or authorize the erec-
120 tion of any such works partly without the town to serve
121 persons already obtaining service from existing works
122 of the character proposed, and where such works are by
123 the municipality erected, or have heretofore been so
124 erected, partly within and partly without the town, it
shall have the right to lay and collect charges for service rendered to those served within and those served without the town, and to prevent injury to such works or the pollution of the water and its maintenance in a healthful condition for public use within the town; to regulate and provide for the weighing of hay, coal and other articles sold or for sale in the town; to provide a revenue for the town and appropriate the same to its expenses, which power shall include the power to tax dogs; to impose a license tax on persons or companies keeping for hire carriages, hacks, buggies or wagons, or for carrying passengers for pay in any such vehicles, in such town; to adopt rules for the transaction of business, and the government and regulation of its own body.

Wherever the powers herein granted cannot be reasonably and efficiently exercised by confining the exercise thereof within the corporate limits, the powers of the corporation shall extend beyond the corporate limits to the extent necessary to the reasonably efficient exercise of such powers within the corporate limits. But such powers, unless otherwise provided, shall not extend more than one mile beyond the corporate limits, but such extra-territorial powers, unless otherwise provided, shall not extend more than one mile beyond the corporate limits:

Provided, however, That extra-territorial powers are hereby vested in municipal corporations for the purposes of the installation, construction, repair, maintenance and operation of water works, water mains, sewer lines and sewage disposal plants within an area of not to exceed ten miles beyond the corporate limits, except that such powers shall in no event extend into the corporate limits of another municipal corporation.

*CHAPTER 66

(Com. Sub. for House Bill No. 308—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section ten, article four, chapter eight of the code of West Virginia, one thousand nine hun-

*Amending and reenacting chapter sixty-five, acts of this session.
dred thirty-one, as amended and reenacted by chapter sixty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, and as last amended and reenacted by an act of the Legislature, regular session, one thousand nine hundred forty-one, known as house bill number fifty-six, relating to the general powers of municipal councils and the extra-territorial operation of such powers.

[Passed March 8, 1941; in effect from passage. Approved by the Governor.]

Article 4. Powers, Duties, and Allied Relations of Municipal Corporation, Councils or Officers.

Section 10. General powers of council; extra-territorial operation of powers.

Be it enacted by the Legislature of West Virginia:

That section ten, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter sixty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-five, and as last amended and reenacted by an act of the Legislature, regular session, one thousand nine hundred forty-one, known as house bill number fifty-six, be amended and reenacted to read as follows:

Section 10. General Powers of Council; Extra-territorial Operation of Powers.—The council shall have plenary power and authority therein by ordinance or resolution as the case may require (so far as such power or authority is not in conflict with the constitution and laws of this state or the constitution of the United States) to lay off, vacate, close, open, alter, curb, recurb, pave or repave and keep in good repair roads, streets, alleys, sidewalks, crosswalks, drains and gutters, for the use of the public, and to improve and light the same, and have them kept free from obstructions on or over them; to prevent by proper fines and penalties the throwing, depositing or permitting to remain on any street, sidewalk, alley, lane, square or other public place any glass, scrap iron, nails, tacks, wire, other litter, or any offensive matter or anything likely to injure
the feet of persons or animals or the tires of vehicles; to regulate the use of streets, alleys, lanes and sidewalks for vehicles propelled by man power, and for other vehicles the use of which is not regulated by general laws; to regulate the width of sidewalks on the streets, and, subject to the provisions of article eight of this chapter, to order the sidewalks, footways and crosswalks to be curbed, paved, repaved, and kept in good order, free and clean, by the owners or occupants thereof, or of the real property next adjacent thereto; to establish and regulate markets, and prescribe the time of holding the same; to prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome; to prevent hogs, cattle, horses, sheep or other animals, and fowls of all kinds, from going at large in such town; to protect places of divine worship and to preserve peace and order in and about the premises where held; to arrest, convict and punish any persons for keeping a house of ill-fame, or for letting to another person any house or other building for the purpose of being used or kept as a house of ill-fame, or for knowingly permitting any house owned by him or under his control, to be kept or used as a house of ill-fame, or for loafing, boarding or loitering in a house of ill-fame, or frequenting same; to arrest, convict and punish any person for importing, printing, publishing, selling or distributing any pornographic publications; to arrest, convict and punish any person for cruelly, unnecessarily or needlessly beating, torturing, mutilating, killing or overloading or over-driving, or wilfully depriving of necessary sustenance, any horse or other domestic animal; to arrest, convict, and punish any person for gambling or keeping gaming tables, commonly called "A, B, C", or "E, O", table or faro bank or keno table, or table of like kind, under any denomination, whether the gaming table be played with cards, dice or otherwise, or any person who shall be a partner or concerned in interest, in keeping or exhibiting such table or bank, or keeping or maintaining any gaming house or place, or betting or gambling for money or anything of value; to license, or for good cause to refuse to license in a particular case, or at its discre-
tion to prohibit in all cases, the operation of pool and billiard rooms and maintaining for hire of pool and billiard tables notwithstanding the general law as to state licenses for such business. When the council, in the exercise of its discretion, shall have refused to grant a license to operate a pool or billiard room mandamus shall not lie to compel the council to grant such license, unless it shall clearly appear that the refusal of the council to grant such license is discriminatory or arbitrary. In the event that the council decides to license any such business, the council shall have power, and it shall be the duty of the council, to make and enforce reasonable ordinances regulating the licensing and operating of such businesses; the council shall also have such power and authority to arrest, convict and punish any person for carrying about his person any revolver, or other pistol, dirk, bowie-knife, razor, slung shot, billy, metallic or other false knuckles, or any other dangerous or other deadly weapon of like kind or character, within such town; to arrest, convict and punish any person for driving or operating, within such town, a motor vehicle when intoxicated or under the influence of liquor, drugs or narcotics; to provide penalties for the offenses and violations of law mentioned herein in addition to the penalties provided in section twenty-three of this article, but which shall not exceed the penalties provided for like offenses and violations in this chapter, and in chapter sixty-one of this code; to abate or cause to be abated anything which, in the opinion of a majority of the whole council, shall be a nuisance; to regulate the keeping of gunpowder and other combustibles; to establish and maintain a library and/or museum for the public use; to acquire, establish, equip and maintain a recreation park for the public use; to acquire, by purchase, condemnation and otherwise, land in or near the town for providing and maintaining proper places for the burial of the dead and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined by the council, and, in order to carry into effect such provisions the council may acquire any cemetery or cemeteries already established; to acquire, construct, equip and
maintain incinerator plants and equipment; to provide for
the regular building of houses or other structures, and for
making of division fences by the owners of adjacent prem-
is and the drainage of lots by the proper drains and
ditches; to make regulations guarding against danger or
damage by fire; to prevent the illegal sale of intoxicating
liquors, drinks, mixtures and preparations therein; to pro-
tect the persons and property of the inhabitants of such
town, and to preserve peace and good order therein, and,
for this purpose, to appoint, when necessary, a police force
to assist the sergeant in the discharge of his duties; ex-
cept as otherwise provided, to prescribe the powers and de-
fine the duties of the officers appointed by the council, fix
their terms of service and compensation, and require and
take from them bonds, when deemed necessary, payable
to such town, in its corporate name, with such sureties and
in such penalty as the council may see fit, conditioned for
the faithful discharge of their duties; to require and take
from employees and contractors bonds in such penalties,
with, such sureties and with such conditions, as council
may see fit; to erect, or authorize or prohibit the erection
of gas works, electric light works, water works, and sew-
age treatment and disposal works within or without the
town, or partly within and partly without the town, ex-
cept that it shall not erect or authorize the erection of any
such works partly without the town to serve persons al-
ready obtaining service from existing works of the charac-
ter proposed, and where such works are by the municip-
ality erected, or have heretofore been so erected, partly
within and partly without the town, it shall have the right
to lay and collect charges for service rendered to those
served within and those served without the town, and to
prevent injury to such works or the pollution of the wa-
ter and its maintenance in a healthful condition for pub-
lic use within the town; to regulate and provide for the
weighing of hay, coal and other articles sold or for sale in
the town; to provide a revenue for the town and appropri-
ate the same to its expenses, which power shall include
the power to tax dogs; to impose a license tax upon per-
sons or companies keeping for hire carriages, hacks, bug-
gies or wagons, or for carrying passengers for pay in any such vehicles, in such town; to adopt rules for the trans-
action of business, and the government and regulation of its own body.
Wherever the powers herein granted cannot be reason-
able and efficiently exercised by confining the exercise thereof within the corporate limits, the powers of the cor-
poration shall extend beyond the corporate limits to the extent necessary to the reasonably efficient exercise of such powers within the corporate limits. But such pow-
ers, unless otherwise provided, shall not extend more than one mile beyond the corporate limits, except that in the erection and extension of water works, water mains, sewerage works and sewers, the powers may be extended to ten miles beyond the corporate limits. Such powers shall not extend into the corporate limits of another mu-
unicipal corporation.

CHAPTER 67
(Senate Bill No. 24—By Mr. Morris)

AN ACT to amend and reenact sections two, eight, nine and twelve, chapter ninety-two, acts of the Legislature of West Virginia, regular session, one thousand nine hun-
dred thirty-nine, relating to authorizing and enabling any municipality in the state to improve streets, public ways, alleys, sidewalks, or to construct sewers therein through the utilization of any money, work, labor or material furnished by the United States or any other governmental agency; to lay assessments upon abutting property for the proper proportion of cost of such improvements and public works not covered by such governmental assistance; to declare such assessments to be liens upon the abutting property; to prescribe the time for the payment of such assessments, and to authorize the issuance of interest-bearing certificates by the municipality; to provide for the recording of a notice of each such assessment; and to au-
authorize the municipality to make the necessary contracts in relation to the subject matter thereof.

[Passed March 7, 1941; in effect from passage. Approved by the Governor.]

Section

2. Petition of abutting property owners favoring governmental project; what territory may be included; agreement for sale of assessment lien certificates; notice to foreign corporations affected.

8. Assessment payable in installments; interest; release of lien; assessment lien certificates.

9. Publication of assessment; notice to property owners by personal service; hearing on assessment.

12. Duration of act.

Be it enacted by the Legislature of West Virginia:

That sections two, eight, nine and twelve, chapter ninety-two, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-nine, be amended and re-enacted to read as follows:

Section 2. Petition of Abutting Property Owners Favoring Governmental Project; What Territory May be Included; Agreement for Sale of Assessment Lien Certificates; Notice to Foreign Corporations Affected.—Upon the petition in writing of persons owning the greater amount of frontage of property abutting upon both sides of a street or alley,

(a) Between any two streets or between a street and an alley; or

(b) Between a street or alley and the corporate boundary line; or

(c) Between the end of paving or sewer existing at the time of the passage of this act, though such end be not marked by an intersecting street or alley, and a street or alley or the corporate limits; or

(d) Between the end of paving or sewer existing at the time of the passage of this act, though such end be not marked by an intersecting street or alley and the beginning of another piece of such existing paving or sewer, though such beginning be not marked by a street or alley; or

(e) Between a street or alley, or the end of an existing paving or sewer, and the line at which the present day
use of the street to be improved ends, though the recorded plot shows public right of way of such street to extend farther; specified and embraced within the project proposed to be submitted to the governmental agency whose assistance in the premises is sought, the governing body of any such municipality, by a lawful majority thereof, may, upon the approval of such project by such governmental agency, order and cause such street, or alley, or streets or alleys to be paved or repaved between the property lines, with cobblestone, brick, Belgian blocks, concrete, asphaltum or other material, and suitable curbs to be constructed if requisite, and suitable sidewalks to be constructed if requisite, and storm sewers and sanitary sewers, or either of them or any one or more of such improvements without the others, as may be determined by the governing body, to be constructed therein or in such part or parts thereof as the governing body may determine.

The purpose of this section is to permit the inclusion of more than one street or alley, or block or portion of a street or alley, in one project, in order to get for the municipality and the property owners as advantageous an agreement as possible with such governmental agency, but at the same time to include within the streets or alleys, or portions thereof to be improved under the project, only such stated portions of such streets or alleys as to which petition has been signed by the owners of as much as fifty-one per cent of the property abutting on the portion thereof to be improved, as specified under one of the clauses (a), (b), (c), (d), or (e) above in this section: Provided, however, That the governing body shall not order any work to be done on any such improvements planned pursuant to this act, and shall not incur any expense for, or enter into any contract for, materials to be used in the making of such improvements, unless and until bona fide and binding agreement or agreements has or have been made between the municipality and some bank or banks, or other corporation or corporations, or some individual or individuals, for the purchase by such banks, corporations or individuals, of the assessment lien certificates to be issued in respect to such project as
provided for in section eight of this act. It is understood, and it is hereby declared to be the purpose of this act, that municipalities otherwise financially unable to effect or secure desired street improvements may be enabled to do so through the assistance of other governmental agencies, and the provisions of this section are designed to prevent a municipality from incurring debt or obligations for that part of the expense of any such project to be borne by it unless and until it has been assured, as above provided, that the assessment lien certificates related to the particular project proposed, can be sold: Provided further, That where any foreign railroad or other foreign corporation is the owner of property abutting upon any street or alley sought to be improved under the provisions hereof, notice shall be given to such railroad or other foreign corporation as prescribed by section one, article ten, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, before the adoption of any ordinance or resolution relating to, and providing for, such improvement.

Sec. 8. Assessment Payable in Installments; Interest; Release of Lien; Assessment Lien Certificates.—(a) Such assessment relating to any particular project shall be payable in such number of installments as the governing body of the municipality, before the making of said assessments, may have determined: Provided, That such installments shall not be spread over a period of more than five years.

(b) Such assessments, and each installment thereof, shall bear interest at the rate of five per cent per annum, until the date due of the installment; thereafter, at the rate of six per cent: Provided, That in case any property owner shall pay the entire assessment against his property within thirty days from the date of the assessment he shall not be charged interest thereon for the time subsequent to such date.

(c) The owner of any property against which any assessment is made hereunder, who has not paid such assessment in full within thirty days from its date, may pay at any time thereafter the whole of such assessment, or the
whole of any installment thereof, with interest to the time
of payment; and upon payment of the whole of any assess-
ment, with its interest, if interest is chargeable hereunder,
the governing body of the municipality shall cause a re-
lease of the lien to be executed and delivered to the owner
of the particular property covered by such assessment.
(d) Each such assessment installment may be evi-
denced by an assessment lien certificate in such form as
the governing body of the municipality may adopt; the
municipality shall have power to sell any or all of such
certificates, without recourse, for cash, to any bank or
banks, or other corporation or corporations, or to any in-
dividual or individuals, for an amount not less than ninety
per cent of the principal thereof, and shall first apply the
proceeds to the payment of the expense and indebtedness
incurred by reason of such improvements.
(e) Each such assessment lien certificate shall be
signed by the mayor and the clerk or recorder of the
municipality; shall bear date of the day the council passed
the resolution provided for in section six hereof, and shall
state: The amount of the total assessment against the
property named therein and the amount of the particular
installment covered by the certificate, and that the
amount thereof may be paid on or before the date to be
named therein as the due date according to the schedule
of installments adopted by the governing body; that the
amount of the certificate bears interest at the rate of five
per cent per annum to maturity; and at the rate of six per
cent per annum thereafter; the name of the owner of the
lot or tract of real estate against whom and which the
assessment has been made, the location of said real estate,
with the name of the street or streets improved upon
which such real estate abuts, and shall also identify the
project under which were made the street improvements
on account of which said assessment was made, shall give
the date on which the municipal governing body passed
the resolution directing the work to be done and the date
on which the statement for lien was filed in the county
clerk's office pursuant to section six of this act; and shall
further state that if said certificate is sold by the munici-
pality, it is done without guarantee by, or recourse upon,
the municipality, but carrying to the legal owner thereof all rights of the municipality arising hereunder against the owner of the property described and against said property itself.

Sec. 9. Publication of Assessment; Notice to Property Owners by Personal Service; Hearing on Assessment.—Immediately upon the completion and acceptance of any work or improvement constructed pursuant to this act and the passage by the governing body of the resolution referred to in section six hereof, the governing body shall direct the clerk or the recorder of the municipality to cause to be prepared a notice which shall name and describe the location of the street or streets or alley in or upon which said improvements shall have been constructed, give the name of the owner of each lot or fractional part of lot abutting or abounding upon said street or streets or alley; the number of feet of each lot or fractional part of lot abutting upon said streets or alley; the number of feet embraced in street or alley intersections, and the amount assessed against each lot or fractional part of lot. Said notice shall cite all owners of such lots or fractional parts of lots abutting to appear before the governing body at a regular meeting thereof to be held not less than ten days nor more than twenty days from the publication, or personal service, of such notice, to show cause, if any they can, why the assessments aforesaid should not become final. This notice shall be published once in one or more newspapers of general circulation published in said city, and the affidavits of the publishers showing the publication thereof as herein provided shall be recorded in the minutes of the governing body at its next regular meeting, or in lieu of such publication such notice may be given by personal service upon the owners of the lots or fractional parts of lots affected, and proof of such service shall be recorded in the same way as above provided for recording proof of service by publication. The governing body shall, upon the request of any one or more of the owners of lots or fractional parts of lots, appoint a day for the hearing of any grievances
of such owner or owners and may correct or amend
any assessment made against them, or any of them, for
good cause shown. The clerk or recorder shall give
notice to all persons claiming to be aggrieved by any
such assessment of the time and place of such hear-
ing, which hearing shall be begun within ten days after
the regular meeting of the governing body held as
hereinabove provided for the purpose of determining
why said assessments should not become final. This
hearing may be adjourned from time to time. In case
any owner or owners of abutting property fail to com-
plain of any damages or injury by reason of the assess-
ments aforesaid or shall fail to appear for the purpose
of having the same corrected, the assessments as to such
owner or owners as laid by the governing body shall
be final. Said assessments shall be recorded in the
proper record book of the municipality, and notice and
statement as provided in section six thereof shall be
recorded in the county clerk's office.

Sec. 12. Duration of Act.—The provisions of this act
shall be operative and of full force and effect until June
thirtieth, one thousand nine hundred forty-five, only, and
thereafter they shall be null and void without effect:
Provided, however, That this act shall continue in effect
with respect to any project contracted for or provided for
by ordinance prior to June thirtieth, one thousand nine
hundred forty-five.

CHAPTER 68

(House Bill No. 276—By Mr. Hudson and Mr. Casey)

AN ACT to amend article four, chapter eight of the code of
West Virginia, one thousand nine hundred thirty-one, by
adding thereto five new sections to be numbered sections
ten-a, ten-b, ten-c, ten-d and ten-e, authorizing the gov-
erning boards, commissions or councils of incorporated
municipalities to adopt ordinances relating to the repair,
closing and demolition of dwellings or any other buildings unfit for human habitation.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section
10-a. Ordinances regulating repair, closing or demolition of dwelling or buildings unfit for human habitation.
10-b. Enforcement agency.
10-c. Rules of procedure.
10-d. Assessment of costs of repairs.
10-e. Serving and posting orders of enforcement agency; right of appeal; costs.

Be it enacted by the Legislature of West Virginia:

That article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto five new sections to be numbered ten-a, ten-b, ten-c, ten-d and ten-e, to read as follows:

Section 10-a. Ordinances Regulating Repair, Closing or Demolition of Dwellings or Buildings Unfit for Human Habitation.—Authority and power is hereby conferred upon any incorporated city or town in this state to adopt ordinances regulating the repair, closing and/or demolition of any dwellings or other buildings unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or any other conditions prevailing in any building or buildings, whether used for human habitation or not, which would cause such buildings to be unsafe, unsanitary, dangerous or detrimental to the public welfare.

Sec. 10-b. Enforcement Agency.—The governing board, commission or council in formally adopting such ordinances shall designate the enforcement agency, which shall consist of the mayor or other chief executive officer, the city engineer or building inspector and one member at large, to be selected by and to serve at the will and pleasure of the mayor or chief executive officer. The ranking health officer and fire chief shall serve as ex officio members of such enforcement agency.
Sec. 10-c. Rules of Procedure.—Any ordinance adopted under this act shall provide fair and equitable rules of procedure and any other standards deemed necessary to guide the enforcement agency, or its agents, in investigation of dwelling conditions, and conducting hearings: Provided, however, That any entrance upon premises for purpose of making examinations shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

Sec. 10-d. Assessment of Costs of Repairs.—Any ordinance adopted under this act shall provide for the assessment of costs of such repairs, alterations, improvements, or vacating and closing and/or removal or demolition by order of the enforcement agency; and said costs, after the sale of salvaged material is credited to the account, shall be a lien against the real property upon which such cost was incurred.

Sec. 10-e. Serving and Posting Orders of Enforcement Agency; Right of Appeal; Costs.—All complaints or orders issued by the enforcement agency shall be served in accordance with the law of this state, and shall, in addition thereto, be posted in a conspicuous place on premises affected by the complaint or order: Provided, however, That no ordinance shall be adopted without including the right to appeal to the circuit court for a temporary injunction restraining the enforcement agency pending final disposition of the cause, and hearings shall be had by said courts within twenty days, or as soon thereafter as possible, to enter such final order or decree as law and justice may require. Costs shall be imposed in the discretion of the court.

CHAPTER 69

(AN ACT to amend article three, chapter eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter fifty-six, acts of the Legislature, regu-
lar session, one thousand nine hundred thirty-seven, by
adding thereto a new section to be numbered section five-a,
providing that a home rule charter may create one or
more independent municipal boards to have complete and
exclusive jurisdiction of the powers and duties of munici-
palities pertaining to the acquisition, establishment, im-
provement, operation, maintenance and repair of a muni-
cipal sewage system and/or of municipal public utilities;
and may provide for the appointment and financial sup-
port of a board of directors for a municipal public library
and of a board of directors for municipal public parks,
and repealing any act or parts of acts inconsistent therewith.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the
Governor.]

Article 3. Home Rule Charters; Ordinances.

Section 5-a. Creation of independent municipal boards having complete and
exclusive jurisdiction over municipal sewage systems and/or
municipal public utilities; library board; park board.

Be it enacted by the Legislature of West Virginia:

That article three, chapter eight-a of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as enacted by
chapter fifty-six, acts of the Legislature, regular session, one
thousand nine hundred thirty-seven, be amended by adding to
said article a new section to be numbered section five-a, to
read as follows:

Section 5-a. Creation of Independent Municipal Boards

1. Having Complete and Exclusive Jurisdiction Over Munici-
2 pal Sewage Systems and/or Municipal Public Utilities;
3 Library Board; Park Board.—A home rule charter, in pro-
4 viding for a form of government based upon any one of
5 the four plans set forth in sections two to five, inclusive,
6 of this article, may withdraw from the governing body
7 and administrative authority of the city the municipal
8 powers and duties pertaining to the acquisition, estab-
9 lishment, improvement, operation, maintenance and repair
of a municipal sewage system and/or of any one or more
of the municipal public utilities mentioned in section
twenty-six, article four of this chapter, and confer such
powers and duties upon one or more independent boards
created by said charter, whose members shall be elected
by the voters of the city, or appointed, in the manner
provided in said charter. Such board or boards shall
have complete and exclusive jurisdiction of the exercise
and discharge of the municipal powers and duties so
conferred upon it or them, independent of control by the
governing body and administrative authority of the city.

A home rule charter may also provide for the appoint-
ment and financial support of a board of directors for a
municipal public library in accordance with the provi-
sions of article one, chapter ten of the code of West Vir-

The provisions of this act shall be construed as con-
ferring additional authorization and powers upon mun-
cipal corporations enacting ordinances hereunder, and
shall not be construed as affecting any authorization or
power heretofore conferred upon any municipality by
the Legislature of the state of West Virginia by general,
special, local or municipal charters, or parts thereof.
All acts or parts of acts inconsistent herewith are
hereby expressly repealed.

CHAPTER 70

(From Bill No. 155—By Mr. Amos)

AN ACT to amend and reenact section eighteen, article nine,
chapter eight of the code of West Virginia, one thousand
nine hundred thirty-one, relating to the adoption of the new method of street paving.

[Passed March 6, 1941; in effect from passage. Approved by the Governor.]

**Article 9. New Method Assessments to Improve Streets; Bond.**

**Section**


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

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

Section 18. **Proceedings Liberally Construed and New Method Cumulative.**—In order to secure a speedy completion of the work at a reasonable cost, and the speedy collection of the assessments after the time has elapsed for their payments, proceedings with respect to improvements shall be liberally construed by council or court, and merely formal objections in such cases shall be disregarded; and the adoption of the new method of paving streets shall not be deemed to be the adoption of an exclusive method, but shall be deemed and construed as the adoption of an available method additional to any others which may have theretofore been available by charter or general law or which may hereafter become available.

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**CHAPTER 71**

*(House Bill No. 204—By Mr. Speaker, Mr. Arnold)*

AN ACT to amend and reenact section nineteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the dis-
position of the receipts of the state liquor control commis-

sion, in the part for reimbursement of municipalities.

[Passed February 25, 1941; in effect July 1, 1941. Approved by the Governor.]

Article 3. Sales by Commission.

Section 19. Amount of operating and reserve funds; disposition of excess; aid to municipalities.

Be it enacted by the Legislature of West Virginia:

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

Section 19. Amount of Operating and Reserve Funds; Disposition of Excess; Aid to Municipalities.—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 depart-

ment, 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 re-

ceipts 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. From receipts in excess of the requirements of the operating and reserve funds, the sum of fifty thou-

sand dollars shall, upon requisition of the governor, be paid monthly into the state treasury and credited to a special fund to be established for the purpose of state aid to municipalities. The money in such fund shall be apportioned by the treasurer among the incorporated munici-

pals of the state, on the basis of population as shown by the last federal census or by any later census taken by the state of West Virginia, and shall be distributed quarterly by the treasurer upon warrants of the auditor. The amount paid to each municipality, as the state's con-

tribution toward the expense of enforcement by the municipality of state laws for the protection of life and property, shall be for the purpose of reimbursing the municipality for its expenditures in enforcing such laws.
28 All receipts of the commission, not otherwise disposed
29 of by this section, shall, upon requisition of the governor,
30 be paid monthly into the state general revenue fund.

CHAPTER 72
(House Bill No. 4—By Mr. Moore)

AN ACT to amend and reenact section fifteen, article five-b,
chapter twenty-eight of the code of West Virginia, one
thousand nine hundred thirty-one, as enacted by chapter
one hundred four, acts of the Legislature, regular session,
one thousand nine hundred thirty-nine, relating to the
sale of prison-made goods on open market.

[Passed February 24, 1941; in effect from passage. Approved by the Governor.]

Section
15. Sale of prison-made goods on open market; penalty.

Be it enacted by the Legislature of West Virginia:

That section fifteen, article five-b, chapter twenty-eight of
the code of West Virginia, one thousand nine hundred thirty-
one, as enacted by chapter one hundred four, acts of the Legis-
lature, regular session, one thousand nine hundred thirty-nine,
be amended and reenacted to read as follows:

Section 15. Sale of Prison-made Goods on Open Mar-
2 ket; Penalty.—On and after the effective date of this act,
3 it shall be unlawful to sell or offer for sale on the open
4 market of this state any article or products manufactured
5 or produced, wholly or in part, in this or any other state
6 by convicts or prisoners of this state, or any other state,
7 except convicts or prisoners on parole or probation: Pro-
8 vided, however, That the provisions of this section shall
9 not apply to any articles or products manufactured or
10 produced in the West Virginia penitentiary prior to June
11 seven, one thousand nine hundred thirty-nine. Any per-
12 son violating the provisions of this section shall be guilty
of a misdemeanor and, upon conviction, be punished by
a fine of not less than two hundred dollars nor more than
five thousand dollars, or by imprisonment in jail not less
than three months nor more than one year, or by both
such fine and imprisonment, in the discretion of the court.
Each such sale or offer for sale shall constitute a separate
offense under this section.

CHAPTER 73

( House Bill No. 203—By Mr. Speaker, Mr. Arnold)

AN ACT to repeal section one, article seven, and to amend and
reenact articles one, two and three; section six, article
four; sections one and fourteen, article five; article six;
and sections seven, twenty-six, twenty-seven and twenty­
eight, article seven, all of chapter forty-nine of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, and all relating to child welfare.

(Passed February 25, 1941; in effect ninety days from passage. Approved by the
Governor.)

Article
1. Purposes: Definitions.
2. State and County Responsibilities for the Protection and Care of
   Children.
3. Private Institutions and Organizations.
5. Juvenile Courts.
6. Procedure in Neglect Cases.

Be it enacted by the Legislature of West Virginia:

That section one, article seven, chapter forty-nine of the code
of West Virginia, one thousand nine hundred thirty-one, as
amended, be repealed; and that articles one, two and three;
section six, article four; sections one and fourteen, article five;
article six; and sections seven, twenty-six, twenty-seven and
twenty-eight, article seven; all of chapter forty-nine of the code
of West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted to read as follows:
Article 1. Purposes; Definitions.

Section 1. Purpose.

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 departments in accordance with the provisions of this chapter.

The state 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. Child.—“Child” means any minor who is crippled or any minor under the age of eighteen years who, because of lack of a home, inadequate care, neglect, illegitimate birth, mental or physical disability or undesirable or delinquent conduct is in need of services, protection, or care.

Sec. 3. Neglected Child.—“Neglected child” means a child under the age of eighteen years who:

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 eighteen years who:

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 im-
prisonment.
(3) Is incorrigible, ungovernable, or habitually dis-
obedient 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) Frequents a place the existence of which is in vio-
lation of law.
(9) Deports himself so as to wilfully injure or endan-
ger the morals or health of himself or others.

Sec. 5. Definitions.—For the purposes 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 depart-
ment of public assistance.
(4) “County department of public assistance” means
the county director, the county council, and the employees
and appointees of the county council.
(5) “Child welfare agency” means any agency or in-
stitution maintained by a municipality or county, or any
agency or institution maintained by a person, firm, corpor-
ation, association or organization to receive children for
care and maintenance or for placement in a family home,
or any institution that provides care for unmarried
mothers and their children.

Article 2. State and County Responsibilities for the Protection
and Care of Children.
Section
1. Care for children committed to the state department.
2. Duration of custody or guardianship.
4. License for maintaining child welfare agencies.
5. Supervision, records and reports.
6. Approval of articles of incorporation.
7. Revocation of license.
8. Violation.
9. Unsupervised foster homes.
11. Visits; records.
12. Removal of child from undesirable foster home.
13. Parole to state department.
15. Placement of children from other states.
16. County responsibility for child care.

Section 1. Care for Children Committed to the State Department.—It shall be the responsibility of the state department to provide care for neglected children who are committed to its care for custody or guardianship. The state department may provide care for such children in family homes meeting required standards, at board or otherwise, through a licensed child welfare agency, or in a state institution providing care for dependent or neglected children. The department in placing any child in the care of a family or a child welfare agency shall select as far as practicable a family holding the same religious belief as the parents or relatives of the child or a child welfare agency conducted under religious auspices of the same belief as the parents or relatives.

Sec. 2. Duration of Custody or Guardianship.—A child committed to the state department for guardianship, after termination of parental rights, shall remain in the care of the department until he attains the age of twenty-one years, or is married, or is adopted, or guardianship is relinquished through the court.

A child committed to the state department for custody shall remain in the care of the department until he attains the age of twenty-one years, or until he is discharged because he is no longer in need of care.

Sec. 3. Development of Standards of Child Care.—The state department shall be responsible for the development of desirable standards for the care of children. To this end, it shall cooperate with, advise and assist all child welfare agencies, including state institutions, which care for neglected, delinquent, or mentally or physically handicapped children, and shall supervise all such agencies. The department, in cooperation with the state department of health and with child welfare agencies, shall
formulate and make available standards of child care and services for children, to which all child welfare agencies must conform.

Sec. 4. License for Maintaining Child Welfare Agencies.
—No person, firm, corporation, association, organization, municipality or county may establish or maintain a child welfare agency unless licensed to do so by the state department. A county court may, however, subject to the licensing authority of the state department, continue to maintain any existing child shelter heretofore established and operated by it, or may, in the case of any child shelter under construction on or before the effective date of this act, complete the construction, equip and maintain such shelter, and may make the appropriations necessary for any of these purposes. Application for such license shall be made on forms provided by the department and in the manner prescribed. Before issuing a license, the department shall investigate the activities and standards of care of the applicant. If satisfied as to the need for the agency, as to the financial stability, equipment, good character and intent of the applicant, and that the services are conducive to the welfare of children, a license shall be issued.

A provisional license may be issued to any agency whose services are needed but which is temporarily unable to conform to all the provisions of the established standards of care. All licenses shall be in force for one year from the date of issuance unless revoked as authorized by section seven of this article, and shall be reissued annually on application of the agency.

Each license shall specify in general terms the kind of child welfare work the licensee is authorized to undertake, the number of children that can be received and their ages and sex, and if authorized to place and supervise children in family homes, the area that the agency is equipped to serve.

Sec. 5. Supervision, Records and Reports.—In order to improve standards of child care, the state department shall cooperate with the governing boards of child welfare agencies, assist the staffs of such agencies through
advice on progressive methods and procedures of child
care and improvement of the service rendered, and assist
in the development of community plans of child care. The
state department of health, or its duly authorized agent,
may visit any child welfare agency to advise the agency
on matters affecting the health of children and to inspect
the sanitation of the buildings used for their care. Each
child welfare agency shall keep such records regarding
each child under its control and care as the state depart-
ment may prescribe, and shall report to the department,
whenever requested, such facts as may be required with
reference to such children, upon blanks furnished by the
department. All records regarding children and all facts
learned about children and their parents or relatives shall
be regarded as confidential and shall be properly safe-
guarded by the agency and the state department.

Sec. 6. Approval of Articles of Incorporation.—A child
welfare agency shall not be incorporated in this state
unless the articles of incorporation have first been ex-
amined and approved by the state department. Proposed
amendments to such articles of incorporation shall like-
wise be subject to the examination and approval of the
state department.

Sec. 7. Revocation of License.—The state department
may revoke the license of any child welfare agency in
case the licensee shall have wilfully and substantially
violated any provision of this article or has failed to main-
tain the established standards of care and service. No li-
cense of a child welfare agency shall be revoked or its
renewal refused unless the holder of the license shall have
notice in writing of the grounds of the proposed revoca-
tion or refusal. If such revocation or refusal is protested,
a hearing shall be held, upon at least thirty days' written
notice, and opportunity shall be given for presentation of
testimony and cross-examination of witnesses.

Sec. 8. Violation.—Whenever the state department shall
be advised, or shall have reason to believe, that any per-
son is conducting or maintaining a child welfare agency
without a license as required by this act, it shall have an
investigation made, and if the person is conducting a child
welfare agency, it shall either issue a license or take ac-
tion to prevent continued operation of the agency.

Sec. 9. Unsupervised Foster Homes.—Any family home,
not under the supervision of a county department of pub-
lic assistance or of a child welfare agency, in which one
or more children under eighteen years of age, separated
from parents or guardian and not related by blood or mar-
rriage to the person maintaining the home, are received,
cared for and maintained for compensation, or otherwise,
shall be considered an unsupervised foster home. No per-
son shall conduct an unsupervised foster home without a
certificate from the state department.

Sec. 10. Certificate for Unsupervised Foster Home.—It
shall be the duty of the state department in cooperation
with the state department of health to establish reason-
able minimum standards for foster-home care to which all
certified foster homes must conform. No unsupervised
foster home shall be certified until an investigation of the
home and its standards of care has been made by the state
department or by a licensed child-welfare agency serving
as its representative. Any such home that conforms to
the established standards of care and to the prescribed
rules shall receive a certificate from the state department,
which shall be in force for one year from the date of issu-
ance and which may be renewed unless revoked because of
wilful violation of the provisions of this chapter. The
certificate shall show the name of the persons authorized
to conduct the home, its exact location and the number of
children that may be received and cared for at one time.
No certified foster home shall receive for care more chil-
dren than are specified in the certificate.

Sec. 11. Visits; Records.—The state department or its
authorized agent shall visit every certified foster home
as often as is necessary to assure that proper care is given
to the children. Every certified foster home shall main-
tain a record of the children received which shall include
such facts in regard to the children and their care, and
Sec. 12. Removal of Child from Undesirable Foster Home.—If at any time the state department shall find a child in an unsupervised foster home where the child is subject to undesirable influences or lacks proper or wise care and management, it shall notify the county department of the county in which the child is living to take necessary action to remove the child and arrange for his care.

Sec. 13. Parole to State Department.—Children paroled from the state industrial schools and homes and children paroled from institutions for mental defectives shall be paroled to the state department. Thereafter, the state department shall, notwithstanding any other provision of this code, have exclusive supervisory control over every child so paroled, and shall have exclusive authority to revoke the parole or to discharge the child from parole. Upon the revocation of any parole and the return of the parolee to the institution from which he was paroled, all authority over the parolee, originally vested in such institution, shall again become operative.

Sec. 14. Admission to School for Deaf and Blind Children.—The state department shall require the county departments to investigate applications for admission to the state schools for deaf and blind children. If the state department finds that a child should be admitted to a state school it shall certify the case to the principal for admission. The principal shall admit a child to the school only upon the certification of the state department.

Sec. 15. Placement of Children from Other States.—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, and the agency so placing the child shall arrange for supervision of the child through its own staff or through a licensed child welfare agency in this state, and shall maintain responsibility for the child until he is adopted.
or discharged from care with the approval of the state
department.

Sec. 16. County Responsibility for Child Care.—The
county departments of public assistance are authorized
to provide care, support and protective services for chil-
dren who are handicapped by dependency, neglect, illegiti-
mate birth, mental or physical disability, or who for other
reasons are in need of public service. The county
departments of public assistance are hereby authorized
and empowered in their discretion to accept children for
care from their parent or parents, guardian or relatives
and to accept the custody of children committed to their
care by courts exercising juvenile jurisdiction.

The county departments of public assistance shall pro-
vide care in special boarding homes for children needing
detention pending disposition by a court having juven-
ile jurisdiction or temporary care following such court
action.

Article 3. Private Institutions and Organizations.

Section
1. Private child welfare agencies.
2. Approval of incorporation.

Section 1. Private Child Welfare Agencies.—Whenever
a child welfare agency licensed to place children for
adoption shall have been given the permanent care, cus-
tody and guardianship of any child and the rights of the
parents of such child shall have been terminated by order
of a court of competent jurisdiction or by a legally ex-
ecuted relinquishment of parental rights, the child welfare
agency may consent to the adoption of such child pur-
suant to the statutes regulating adoption proceedings.

The parents or the surviving parent of a child or the
mother of an illegitimate child may relinquish the child
to a child welfare agency licensed to place children for
adoption by a written statement signed before two wit-
nesses and acknowledged before a representative of the
child welfare agency. No such relinquishment shall be
valid unless a copy be filed in the office of the state depart-
ment and the relinquishment approved by the depart-
ment. Except in proceedings for adoption, no parent may
otherwise voluntarily assign or transfer to another his
rights and duties with respect to the permanent care, cus-

tody and control of a child under eighteen years of age.

Sec. 2. Approval of Incorporation.—Before issuing a
charter for the incorporation of any organization having
as its purpose the receipt of children for care or for place-
ment in family homes, the secretary of state shall pro-
vide a copy of the petition, together with any other in-
formation in his possession pertaining to the proposed
corporation, to the state department, and no charter for
any such corporation shall be issued unless the state de-
partment shall first certify to the secretary of state that it
has investigated the need for the services proposed and
the merits of the proposed charitable corporation and rec-
ommends the issuance thereof; applications for amend-
ments of any existing charter shall be similarly referred
and shall be granted only upon similar approval.


Section
6. County departments to render services.

Section 6. County Departments to Render Services.—
County departments shall cooperate with the state de-
partment in rendering the services provided by this article.
They shall perform for the state department such investi-
gations, case supervision, and other services as the depart-
ment may request.

Article 5. Juvenile Courts.

Section
1. What courts have juvenile jurisdiction.

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 of record in addition to the circuit court,
has been or is subsequently created in a county, proceed-
ings 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. 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 six of this chapter shall apply.
(2) Order the child placed under the supervision of a probation officer.
(3) If the child be over sixteen years of age at the time of the commission of the offense the court may, if the proceedings originated as a criminal proceeding in a court other than a juvenile court, enter an order transferring the case back to the court of origin, or to any court in the county having criminal jurisdiction; or if the case originated on petition in juvenile court, the court may enter an order showing its refusal to take jurisdiction and permit the child to be proceeded against in accordance with the laws of the state governing the commission of crimes or violation of municipal ordinances.
(4) Commit the child to an industrial home or reformatory for minors.
(5) Commit the child to any public or private institution or agency permitted by law to care for children.
(6) Commit the child to the care and custody of some suitable person who shall be appointed guardian of the person and custodian of the child.
(7) Enter any other order which seems to the court to be to the best interests of the child.

Article 6. Procedure in Neglect Cases.

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 the
person may present a petition setting forth the facts to
the juvenile court in the county in which the child re-
sides, or to the judge of such court in vacation. The pe-
tition shall be verified by the oath of some credible per-
son having knowledge of the facts. Upon the filing of the
petition, the court or judge shall set a time and place for
a hearing.

Sec. 2. Hearing.—Notice of the time and place of hear-
ing shall be served upon the person having custody of the
child and shall be given to the state department. The per-
son 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. 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 a county de-
partment, or into such other custody as the court or judge
may deem proper.

Sec. 4. Commitment to State Department.—If the court
finds that the interests and welfare of the child may best
be served by the state department, it may commit the child
to the custody and guardianship of the state department.
Before the commitment the court shall supply to the
state department all its information concerning the his-
tory, physical condition, and present situation of the child,
its parents, and forebears. This information shall be upon
the form provided by the state department. At its discre-
tion, the state department may accept or refuse to accept
a child for commitment.

Sec. 5. Dispositions Other Than Commitment to the
State Department.—In any case of a neglected child the
court may:
(1) Return the child to his own home under super-
vision of the county department;
(2) Commit the child to the custody of the county de-
partment or a licensed private child welfare agency;
(3) When necessary for the welfare of the child ter-
minate the parental rights and responsibilities of the par-
ent or parents of the child and commit the child to
the permanent care and guardianship of the state depart-
ment or of a licensed private child welfare agency;
(4) Appoint a suitable relative of the child as guardian
of the person of the child.


Section
7. Contributing to delinquency or neglect of a child; penalty.
27. Duty of county superintendent of schools.
28. Proceeding by the county department.

Section 7. Contributing to Delinquency or Neglect of a
Child; Penalty.—A person who by any act or omission
contributes to, encourages or tends to cause the delin-
quency or neglect of any child, shall be guilty of a mis-
demeanor, and, upon 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. 26. Duty of Prosecuting Attorney.—The prosecut-
ing attorney shall render to the county department, with-
out 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, with-
out additional compensation, cooperate with and render
such assistance to the county department as the council
may require.

Sec. 28. Proceeding by the County Department.—A
county department shall have the authority to institute,
in the name of the state, proceedings incident to the per-
formance of its duties under the provisions of this chap-
ter.

CHAPTER 74

(House Bill No. 202—By Mr. Speaker, Mr. Arnold)

AN ACT to repeal sections fourteen and fifteen, article two,
and section thirty-four, article five, and to amend and re-
enact section five, article one; section twelve, article two;
sections six and eight, article three; sections nine, ten and twelve, article four; sections four, five, seventeen, twenty-nine and thirty-one, article five; section five, article ten; and section sixteen, article eleven; all of chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and all relating to public assistance and relief.

[Passed March 1, 1941; in effect ninety days from passage. Approved by the Governor.]

**Article 1. State Department of Public Assistance.**

1. State Department of Public Assistance.
2. State Advisory Board.
3. The Director of Public Assistance.
5. Public Assistance.

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

That sections fourteen and fifteen, article two, and section thirty-four, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section five, article one; section twelve, article two; sections six and eight, article three; sections nine, ten and twelve, article four; sections four, five, seventeen, twenty-nine and thirty-one, article five; section five, article ten; and section sixteen, article eleven; all of chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**Article 1. State Department of Public Assistance.**

**Section 5. Definitions.**

Section 5. *Definitions.*—For the purposes 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.
“County director” means a director appointed by a county council.

“County department of public assistance” means the county director, the county council, and the employees and appointees of the county council.

Article 2. State Advisory Board.
Section 12. Powers and duties.

Section 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. Perform the functions devolving upon the board under the provisions of article ten of this chapter.
3. Keep minutes of the transactions of each session, regular or special, which shall be public records and filed with the state department.

Article 3. The Director of Public Assistance.
Section 6. Powers and duties.

Section 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 with the standards required by federal legislation.

(7) Adopt a merit system of personnel management in conformity with federal legislation and promulgate in connection therewith a classification and compensation plan.

(8) 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.

(9) Make such reports as will comply with the requirements of federal legislation and with the provisions of this chapter.

(10) Cooperate with federal and state governments for the more effective attainment of the purposes of this chapter.

(11) 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.

(12) Make an annual report to the governor of the condition, operation, and functioning of the department.

(13) 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.

(14) Invoke any legal, equitable or special remedies for the enforcement of his orders or the enforcement of the provisions of this chapter.

(15) Initiate programs for, or cooperate with other agencies in, developing services for the prevention of blindness, the conservation of vision, and the vocational and social adjustment of the blind.

Sec. 8. Assistants and Employees.—The director shall appoint the heads of the divisions of the department and shall employ such assistants and employees as may be necessary to the efficient operation of the department, in accordance with the provisions of the merit system of
personnel management provided for in subsection seven, section six of this article.

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.


Section
9. County director of public assistance.
10. Assistants and employees.
12. County director, powers and duties.

Section 9. County Director of Public Assistance.—The county council shall appoint a “County Director of Public Assistance” from the register of persons certified by the state department as qualified to perform the duties of that office. The county council shall fix the compensation of the county director in accordance with the compensation plan established by the state director. 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, from a register of persons certified by the state department as qualified to perform the duties of the position to be filled, such assistants and employees as may be required. 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.

The compensation of appointees and employees of the county council shall be fixed by the county council in accordance with the compensation plan established by the state director. 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. 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 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.
5. Observe standard administrative procedure and methods required by the state director.
6. Cooperate with charitable organizations, agencies and institutions within the county.

Article 5. Public Assistance.

Section 4. Blind persons.
5. Dependent children.
17. Limitation of amount.
29. Agreement to reimburse.
31. Insurance policies.

Section 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 resided in the state for at least one year immediately preceding the application.
3. Has not made an assignment or transfer of property for the purpose of qualifying for assistance.
4. Is not an inmate of a public institution. An inmate may apply for assistance to begin after his discharge from such institution.
(5) 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 eighteen 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. 17. Limitation of Amount.—The amount of public assistance granted from state funds to an aged person, a blind person, or a dependent child, shall not in any case exceed the amount which may be received for matching from the federal government. Thus, the total amount of public assistance from all sources shall not in any case exceed twice the amount received for matching from federal funds.

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 attach upon the signing of the
agreement and shall be for the total amount of public assistance paid to such person.

Sec. 31. Insurance Policies.—As a condition of receiving public assistance, an aged person shall assign to the state department any life insurance policy owned by him and payable to him or to his estate, as security for the amount of public assistance granted to him, subject, however, to the personal property exemption provided for in section thirty-six of this article.


Section 5. County Funds.

Section 5. County Funds.—The amount of the county fund provided each year by a county court shall not be less than fifteen per cent of the total which the county 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: Provided, however, That the said fifteen per cent of such total shall not be required to be provided by the county court if it shall be determined, prior to the laying of the county's levies, that an amount less than such per cent will be sufficient to meet the reasonably anticipated general needs of the county. Such a determination shall require the agreement of at least two of the following persons: The tax commissioner, the state director, and the member of the county court who is ex officio member of the county council at the time such determination is made. Such a determination shall be in writing; shall state the specific amount determined upon as sufficient to meet the reasonably anticipated general relief needs of the county; shall be signed by the three persons designated or by at least two of them; and shall be filed of record in the office of the tax commissioner. Complete duplicates shall be filed in the office of the state director and with the county court, respectively. The county court shall levy for general relief not less than the amount so determined and agreed: Provided further, That if a county court finds that expenditures mandatory under other provisions of law aggregate in excess of eighty-five per cent 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 the first paragraph of this section. 
If the tax commissioner finds that other mandatory ex-
penditures for the county will exceed eighty-five per cent 
of the authorized total levy for current purposes, he may 
authorize the county court to provide a lesser amount 
than that required by said first paragraph, but he shall 
require the maximum amount possible under the circum-
stances.


Section 16. Confidential character of public assistance records; misuse of public assistance lists and records.

Section 16. Confidential Character of Public Assistance Records; Misuse of Public Assistance Lists and Records.—
The regulatory power of the state director shall include 
the power to establish and enforce reasonable rules and 
regulations governing the custody, use, and preservation 
of the records, papers, files, and communications of the 
state department and county councils. Wherever, under 
provisions of law, names and addresses of recipients of 
public assistance are furnished to or held by any other 
agency or department of government, such agency or 
department of government shall be required to adopt 
regulations necessary to prevent the publication of lists 
thereof or their use for purposes not directly connected 
with the administration of old-age assistance, aid to the 
blind, or aid to dependent children.

It shall be unlawful, except for purposes directly con-

nected with the administration of old-age assistance, aid 
to the blind, or aid to dependent children, and in ac-
cordance with the rules and regulations of the state di-
rector, for any person or persons to solicit, disclose, re-
cieve, make use of, or to authorize, knowingly permit, 
participate in, or acquiesce in the use of, any list of or 
names of persons applying for or receiving such assist-
ance, directly or indirectly derived from the records,
25 papers filed, or communications of the state or county or
26 subdivisions or agencies thereof, or acquired in the course
27 of the performance of official duties.

CHAPTER 75
(Senate Bill No. 173—By Mr. Randolph, Mr. President)

AN ACT to amend and reenact section three, article seven,
chapter forty-nine of the code of West Virginia, one thou­
sand nine hundred thirty-one, as enacted by chapter one,
acts of the Legislature, first extraordinary session, one
thousand nine hundred thirty-six, relating to evidence
against a child under the child welfare law.

[Passed March 7, 1941; in effect ninety days from passage. Approved by the
Governor.]


Section
3. Proceedings not to be evidence against child, or be published;
adjudication not deemed conviction and not bar to civil service
eligibility.

Be it enacted by the Legislature of West Virginia:

That section three, article seven, chapter forty-nine of the
code of West Virginia, one thousand nine hundred thirty-one,
as enacted by chapter one, acts of the Legislature, first extraor‐
dinary session, one thousand nine hundred thirty-six, be
amended and reenacted to read as follows:

Section 3. Proceedings Not to Be Evidence Against
Child, or Be Published; Adjudication Not Deemed Con‐
viction and Not Bar to Civil Service Eligibility.—Any evi‐
dence given in any cause or proceeding under this chap‐
ter, or any order, judgment or finding therein, or any
adjudication upon the status of juvenile delinquent here‐
tofore made or rendered, shall not in any civil, criminal or
other cause or proceeding whatever in any court, be lawful
or proper evidence against such child for any purpose
10 whatsoever except in subsequent cases under this chapter
11 involving the same child; nor shall the name of any child,
12 in connection with any proceedings under this chapter, be
13 published in any newspaper without a written order of
14 the court; nor shall any such adjudication upon the status
15 of any child by a juvenile court operate to impose any
16 of the civil disabilities ordinarily imposed by conviction,
17 nor shall any child be deemed a criminal by reason of
18 such adjudication, nor shall such adjudication be deemed
19 a conviction, nor shall any such adjudication operate to
20 disqualify a child in any future civil service, examination,
21 appointment, or application.

CHAPTER 76
(Senate Bill No. 16—By Mr. Mitchell)

AN ACT authorizing the adjutant general to pay Ernest E. Hurt for injuries received in line of duty while regularly enlisted and enrolled in the national guard of West Virginia, and while encamped with the national guard at Camp Knox, Kentucky.

(Passed March 4, 1941; in effect ninety days from passage. Approved by the Governor.)

Section
1. Adjutant general authorized to compensate Ernest E. Hurt for injuries received while member of national guard.

WHEREAS, Ernest E. Hurt, of Raleigh county, West Virginia, was on the fourteenth day of August, one thousand nine hundred thirty-six, and prior thereto, regularly enrolled and enlisted in the national guard of West Virginia, as a private in company H, 150th infantry; and

WHEREAS, On said fourteenth day of August, one thousand nine hundred thirty-six, while so regularly enrolled and enlisted under Captain Albert Holmes, with Colonel Eubank as commanding officer, at Camp Knox, Kentucky, during the
regular summer encampment of said national guard, he was, in line of duty, making an examination of a shell commonly called a "dud", which said shell was in the possession of said national guard to be used in firing practice by said guard as part of its training, and while so examining said dud, and without attempting to put off or explode said shell in any manner, it exploded prematurely without any fault or negligence on the part of said Private Hurt, blowing off his right hand and causing the subsequent amputation of the lower part of the forearm; and

WHEREAS, The said injury was received by the said Ernest E. Hurt, while in line of duty as aforesaid, and the injuries he received by the said unexpected, unanticipated and premature discharge of said shell seriously injured and made him a cripple for life, for which he was in no wise to blame; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Adjutant General Authorized to Compensate Ernest E. Hurt for Injuries Received While Member of National Guard.—The adjutant general is authorized and empowered, in his discretion, to pay to the said Ernest E. Hurt, from the appropriation for the state militia for the biennium, July first, one thousand nine hundred forty-one, to June thirtieth, one thousand nine hundred forty-three, a sum not to exceed three thousand five hundred dollars, as compensation in full for said injuries so sustained by him.

CHAPTER 77
(Senate Bill No. 123—By Mr. Greene, by request)

AN ACT to amend and reenact section three, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter eighty-five, acts of the Legislature, regular session, one thousand
Article 3. Attorney General.

Section 3. Assistants to attorney general.

Be it enacted by the Legislature of West Virginia:

That section three, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter eighty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, 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. One of such assistants shall receive a salary not in excess of five thousand four hundred dollars per annum, and three of them 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 78

(House Bill No. 285—By Mr. Kidd)

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 last amended, relating to the school fund; the board of the school fund; the investment,
management and control of the school fund by the board of the school fund; the granting to the board of the school fund certain powers with respect to acquiring, holding, renting and disposing of real estate security for the investments of the school fund; the granting to the board of the school fund the power and authority to extend the time for the payment of the principal or interest, or both, or any part thereof, of interest-bearing securities in which the school fund may have been invested prior to March fourth, one thousand nine hundred thirty-three; and the further granting to said board of the school fund the power and authority to make adjustments, deductions, settlements and compromises with respect to loans or investments made by it prior to the fourth day of March, one thousand nine hundred thirty-three.

[Passed March 7, 1941; in effect from passage. Approved by 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 last amended, 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 treasurer 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 business. 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 discretion 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 extend 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.

(e) The board shall have full power and authority to make such adjustments, deductions, settlements and compromises as in its judgment may be deemed reasonably equitable and expedient under all circumstances with respect to any loans or investments made by it prior to the fourth day of March, one thousand nine hundred thirty-three. In the exercise of this power and authority, the board shall give preference to such loans and investments as are not represented by the securities of the United States, this state or any political subdivision of this state.

CHAPTER 79

(Senate Bill No. 152—By Mr. Randolph, Mr. President)

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article ten, creating a state planning board and prescribing its powers and duties.

(Passed March 7, 1941; in effect ninety days from passage. Approved by the Governor.)

Article 10. State Planning Board.

Section
1. State planning board; number of members; how appointed.
2. Ex officio members; five who hold no public office.
3. Terms of members.
4. Chairman of board; compensation of members.
5. Offices of board; meetings of board; quorum.
6. Rules of board; records; employees.
7. Duties of board.
8. Public hearings on plans.
9. Board may enter into agreements.
10. Board may expend funds.
Be it enacted by the Legislature of West Virginia:

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

Section 1. *State Planning Board; Number of Members;* 

- There is hereby created a "State Planning Board", hereinafter referred to as the board, to consist of twelve members, five of whom shall be appointed by the governor, by and with the advice and consent of the senate.

Section 2. *Ex Officio Members; Five Who Hold No Public Office.*

- Seven members of the board shall be members, ex officio, namely: The commissioner of agriculture, the director of conservation, the state geologist, the state road commissioner, the state commissioner of health, the state superintendent of schools, and the chairman of the public service commission.

- Five members of the board shall be chosen from citizens of the state who hold no public office of profit within the state, other than membership in the Legislature or upon the faculty of any state institution of higher learning.

Section 3. *Terms of Members.*

- The terms of the remaining five members shall be for four years, and until their successors are appointed and qualified. The first of the five members appointed shall serve for a period of one year; the second, for a period of two years; the third, for a period of three years; the fourth and fifth, for a period of four years. Thereafter, all such appointments shall be made for a term of four years, except that in case of a vacancy the appointment shall be made to fill the unexpired term.

Section 4. *Chairman of Board; Compensation of Members.*

- The governor shall designate an appointed member as chairman of the board. All members shall serve without compensation, but shall be allowed such reasonable ex-
Sec. 5. Offices of Board; Meetings of Board; Quorum.—
The board shall be supplied with necessary office space in
the state capitol or in some other state office building. It
shall meet upon the call of the chairman and upon such
other call and at such other times as it may determine. A
majority of the members shall constitute a quorum for the
transaction of business.

Sec. 6. Rules of Board; Records; Employees.—The board
shall provide rules for the conduct of its proceedings. It
shall keep permanent and complete public records of its
meetings, hearings, orders and decisions. It may employ
an executive secretary or secretary-engineer who shall be
qualified by special training and experience in the field of
state, local or national planning, and may employ such
other technical and clerical assistants as may be required.
It may fix their compensation, subject to the personnel
classification and salary schedules provided by law, and
may within the limits of the funds available, incur any
other expenses necessary to the effective discharge of its
powers and duties.

The board may request the assistance and advice of
other state departments and agencies in making its
studies and in formulating its plans.

Sec. 7. Duties of Board.—The board shall prepare and
from time to time perfect a state master plan for the
physical, social and economic development of the state,
and shall prepare and keep current a proposed long-term
program of major state improvements relating to the
comprehensive development of the natural and artificial
resources of the state. The board also may, and, at the
request of the governor, shall:

(1) Advise with the various federal, state and local
authorities, and particularly with out-of-state and intra-
state planning authorities, as to ways and means of co-
ordinating all plans for the physical development of the
state, including plans for highways, airways and air
terminals, parkways, parks, water supply developments,
flood control, land use, recreation area and forest reserva-
tions, and any other plans, projects or programs that may
be related to the purposes of this act.

(2) Make studies of rural land utilization with a view
to determining areas suitable for field crops, reforesta-
tion, watershed protection, reclamation, recreation, sum-
mer residence and industrial and urban expansion.

(3) Collect and publish information and prepare and
publish maps pertaining to soil conditions, land use and
classification, population distribution, schools, parks, play-
grounds, ports, waterways, parkways, highways, roads,
traffic, transportation, water supply, drainage, flood con-
trol, water power resources, sewage, building and housing
conditions, and other matters relating to the comprehen-
sive physical development of the state, and make such
recommendations to the governor and to the Legislature
as it may deem advisable.

(4) Collect and publish information pertaining to the
development and utilization of the mineral and other
natural resources of the state, and foster research therein.

(5) Make studies, collect and publish information per-
taining to the industrial and commercial development of
the state.

Sec. 8. Public Hearings on Plans.—Before submitting
any plan, or partial plan, to the governor and the Legis-
lature, the board may hold public hearings thereon. The
state master plan, or any part thereof, when approved by
the governor and endorsed by concurrent resolution of
the Legislature, shall become the "Official State Plan", or
a part thereof.

Sec. 9. Board May Enter into Agreements.—The board
may enter into agreements with counties or municipalities
of the state for the promotion of, and for the rendering
of consultative services with respect to, the planning of
the county or municipality. The agreement may provide
Sec. 10. Board May Expend Funds.—The board is authorized to spend any funds made available for the purposes of this act, and to accept and use funds provided for the purposes of this act by the government of the United States in accordance with federal requirements and under such conditions as the laws of this state may provide.

Sec. 11. Report of Board.—The board shall submit a report of progress to the governor and to the Legislature in January of each year, in addition to such other recommendations, studies and plans as it may submit from time to time.

CHAPTER 80

AN ACT to amend and reenact section fourteen, chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, as amended by article one, chapter eighty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, relating to the salary of the state commissioner of labor.

[Passed March 8, 1941; in effect from passage. Approved by the Governor.]
3 commissioner of labor shall be appointed by the governor, by and
4 with the advice and consent of the senate. He shall be a
5 competent person, who is identified with the labor inter-
6 ests of the state. The commissioner of labor in office on
7 the effective date of this act shall, unless sooner removed,
8 continue to serve until his term expires and his successor
9 has been appointed and has qualified. On or before the
10 first day of April, one thousand nine hundred forty-one,
11 and on or before the first day of April of each fourth
12 year thereafter, the governor shall appoint a commissioner
13 of labor to serve for a term of four years, commencing on
14 said first day of March. The salary of the commissioner
15 of labor shall be five thousand dollars per annum.

CHAPTER 81
(Senate Bill No. 157—By Mr. Williams)

AN ACT creating a commission to act jointly with commis-
sions appointed for like purposes by the commonwealths of Pennsylvania and Virginia, the state of Maryland, and the District of Columbia, which, together with three members to be appointed by the president of the United States, shall constitute the "Interstate Commission on the Potomac River Basin", with power to cooperate in the abatement of the existing pollution and in the con-
trol of future pollution of the waters of the drainage basin of the Potomac river, within the states of Maryland and West Virginia, the commonwealths of Pennsylvania and Virginia, and the District of Columbia; to authorize the governor of the state to execute on behalf of this state a compact with representatives of other states for the purpose of forming the above mentioned commission, and creating a "Potomac Valley Conservancy District"; pro-
viding for the appointment of the West Virginia members
of said commission and their terms of office; and providing for an appropriation for these purposes.

[Passed March 8, 1941; in effect from passage. Approved by the Governor.]

Section
1. Creation of interstate commission on the Potomac river basin; members; terms; compact with other political units.
2. Expenses of commission; appropriations; officers and employees; meetings.

Be it enacted by the Legislature of West Virginia:

Section 1. Creation of Interstate Commission on the Potomac River Basin; Members; Terms; Compact with Other Political Units.—There is hereby created a commission consisting of three members, to act jointly with commissions appointed for like purposes by the commonwealths of Pennsylvania and Virginia, the state of Maryland, and the District of Columbia, and an additional three members to be appointed by the president of the United States, and which, together with the other commissions appointed as hereinbefore mentioned, shall constitute and be known as the “Interstate Commission on the Potomac River Basin”. The said commission of the state of West Virginia shall consist of three members. The governor, by and with the advice and consent of the senate, shall appoint two persons as two of such commissioners, each of whom shall be a resident and citizen of this state. The terms of one of the said two commissioners first appointed shall be three years and of the other shall be six years; and their successors shall be appointed by the governor, by and with the advice and consent of the senate, for terms of six years each. Each commissioner shall hold office until his successor shall be appointed and qualified. Vacancies occurring in the office of any such commissioner for any reason or cause shall be filled by appointment by the governor, by and with the advice and consent of the senate, for the unexpired term. The third commissioner from this state shall be the commissioner of health ex officio, and the term of any such ex officio commissioner shall terminate
at the time he ceases to hold said office of commissioner of health, and his successor as a commissioner shall be his successor as said commissioner of health. Said ex officio commissioner may delegate, from time to time, to any deputy or other subordinate in his department or office, the power to be present and participate, including voting, as his representative or substitute at any meeting of or hearing by or other proceeding of the commission. The terms of each of the initial three members shall begin at the date of the appointment of the two appointive commissioners, provided the compact hereinafter referred to shall then have gone into effect, in accordance with article five thereof, otherwise to begin upon the date said compact shall become effective, in accordance with said article five. Any commissioner may be removed from office by the governor.

The governor of the state of West Virginia is hereby authorized and directed to execute a compact on behalf of the state of West Virginia, with the other states and the district hereinabove referred to, who may by their legislative bodies so authorize a compact in form substantially as follows:

A COMPACT

WHEREAS, It is recognized that abatement of existing pollution and the control of future pollution of interstate streams can best be promoted through a joint agency representing the several states located wholly or in part within the area drained by any such interstate stream; and

WHEREAS, The Congress of the United States has given its consent to the states of Maryland and West Virginia, the commonwealths of Pennsylvania and Virginia, and the District of Columbia to enter into a compact providing for the creation of a conservancy district to consist of the drainage basin of the Potomac River and the main and tributary streams therein, for "the purpose of regulating, controlling, preventing, or otherwise rendering unobjectionable and harmless the pollution of the waters of said Potomac drainage area by sewage and industrial and other wastes";

NOW, THEREFORE, The states of Maryland and West Virginia, the commonwealths of Pennsylvania and Virginia, and the District of Columbia, hereinafter designated signatory bodies, do hereby create the
Potomac Valley Conservatory District, hereinafter designated the conservancy district, comprising all of the area drained by the Potomac River and its tributaries; and also, do hereby create the Interstate Commission on the Potomac River basin, hereinafter designated the commission, under the articles of organization as set forth below.

Article I.

The Interstate Commission on the Potomac River basin shall consist of three members from each signatory body and three members appointed by the President of the United States. Said commissioners, other than those appointed by the president, shall be chosen in a manner and for the terms provided by law of the signatory body from which they are appointed, and shall serve without compensation from the commission but shall be paid by the commission their actual expenses incurred and incident to the performance of their duties.

(A) The commission shall meet and organize within thirty days after the effective date of this compact, shall elect from its number a chairman and vice chairman, shall adopt suitable by-laws, shall make, adopt and promulgate such rules and regulations as are necessary for its management and control, and shall adopt a seal.

(B) The commission shall appoint, and at its pleasure, remove or discharge such officers and legal, engineering, clerical, expert and other assistants as may be required to carry the provisions of this compact into effect, and shall determine their qualifications and fix their duties and compensation. Such personnel as may be employed shall be employed without regard to any civil service or other similar requirements for employees of any of the signatory bodies. The commission may maintain one or more offices for the transaction of its business and may meet at any time or place within the area of the conservancy district.

(C) The commission shall keep accurate accounts of all receipts and disbursements and shall make an annual report thereof and shall in such report set forth in detail the operations and transactions conducted by it pursuant to this compact. The commission, however, shall not incur any obligations for administrative or other expenses prior to the making of appropriations adequate to meet the same nor shall it in any way pledge the credit of any of the signatory bodies. Each of the signatory bodies reserves the right to make at any time an examination and audit of the accounts of the commission.

(D) A quorum of the commission shall, for the transaction of business, the exercise of any powers, or the performance of any duties, consist of at least a majority of the members of the commission: Provided, however, That no action of the commission relating to policy shall be binding on any one of the signatory bodies unless at least two of the commissioners from such signatory body shall vote in favor thereof.
Article II.

The commission shall have the power and its duties shall be:

(A) To coordinate, tabulate, and summarize technical and other data now available, or as shall become available in the future from any source, on the pollution of the streams of the conservancy district and on the character and conditions of such streams, and to prepare reports thereon annually and at such other times as may be deemed advisable by the commission.

(B) To supplement existing information and data, and to secure new data by such investigations, analyses, or other means as may be necessary to secure adequate information on the character and condition of the streams of the conservancy district as they now exist or may be affected by the future discharge of sewage and industrial and other wastes into the said stream.

(C) To cooperate with the legislative and administrative agencies of the signatory bodies, or the equivalent thereof, and with other interested commissions and similar organizations for the purpose of promoting uniform laws, rules or regulations for the abatement and control of pollution of streams in the said conservancy district.

(D) To disseminate to the public information on the aims and purposes of the commission and on the harmful and uneconomical results of stream pollution, through the issuance of bulletins, circulars, correspondence, literature and reports.

(E) To cooperate with other organizations engaged in fact-finding and research activities on the treatment of sewage and industrial wastes or other wastes, and, if deemed advisable, to institute and conduct such research and fact-finding activities.

(F) To make, and, if needful from time to time, revise and to recommend to the signatory bodies, reasonable, minimum standards for the treatment of sewage and industrial or other wastes now discharged or to be discharged in the future to the streams of the conservancy district, and also, for cleanliness of the various streams in the conservancy district.

Article III.

The moneys necessary to finance the commission in the administration of its business in the conservancy district shall be provided through appropriations from the signatory bodies and the United States, in the manner prescribed by the laws of the several signatory bodies and of the United States, and in amounts as follows:

The pro rata contribution shall be based on such factors as population; the amount of industrial and domestic pollution; and a flat service charge; as shall be determined from time to time by the commission,
subject, however, to the approval, ratification and appropriation of such contribution by the several signatory bodies. And, further provided, that the total of such sums from all signatory bodies shall not exceed a total of thirty thousand dollars per annum.

Article IV.

Pursuant to the aims and purposes of this compact, the signatory bodies mutually agree:

1. Faithful cooperation in the abatement of existing pollution and the prevention of future pollution in the streams of the conservancy district.

2. The enactment of adequate and, insofar as is practicable, uniform legislation for the abatement and control of such pollution.

3. The appropriation of biennial sums on the proportionate basis as set forth in article three.

Article V.

This compact shall become effective immediately after it shall have been ratified by the majority of the legislatures of the states of Maryland and West Virginia, the commonwealths of Pennsylvania and Virginia, and by the commissioners of the District of Columbia, and approval by the Congress of the United States: Provided, however, That this compact shall not be effective as to any signatory body until ratified thereby.

Article VI.

Any signatory body may, by legislative action, after one year's notice to the commission, withdraw from this compact.

Sec. 2. Expenses of Commission; Appropriation; Officers and Employees; Meetings.—The commissioners shall be reimbursed, out of moneys appropriated for such purposes, all sums which they necessarily shall expend in the discharge of their duties as members of such commission.

There shall be appropriated to the commission out of any moneys in the state treasury unexpended and available therefor, and not otherwise appropriated, such sums as may be necessary for the uses and purposes of the commission in carrying out the provisions of this act and the payment of the proper proportion of the state of West Virginia of the expenses of the “Interstate Commission on the Potomac River Basin”, in accordance with article three of said compact.
The commission shall elect from its membership a chairman and may also select a secretary who need not be a member. The commission may employ such assistants as it may deem necessarily required, and the duties of such assistants shall be prescribed and their compensation fixed by the commission and paid out of the state treasury out of funds appropriated for such purposes upon the requisition of said commission.

The commission shall meet at such times and places as agreed upon by the commissioners or upon call of its chairman.

Sec. 3. Provisions Severable.—If any section, sentence, subdivision or clause of this act shall for any reason be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

CHAPTER 82
(House Bill No. 420—By Mr. Speaker, Mr. Arnold)

AN ACT to amend and reenact section eighteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter four, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to the uses of operating and reserve funds of the West Virginia liquor control commission.

[Passed March 8, 1941; in effect from passage. Approved by the Governor.]

Article 3. Sales by Commission.

Section 18. Uses of operating and reserve funds; transfers to operating fund.

Be it enacted by the Legislature of West Virginia:

That section eighteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter four, acts of the Legislature of West Vir-
ginia, regular session, one thousand nine hundred thirty-five, be and the same is hereby amended and reenacted to read as follows:

Section 18. Uses of Operating and Reserve Funds; Transfers to Operating Fund.—The following funds are created in the state treasury for the purposes of this chapter:

1. The operating fund, which shall be a revolving fund from which all expenses of operation and administration shall be paid except those authorized to be paid from the reserve fund.

2. The reserve fund, which shall be a reserve for contingencies and depreciation. This fund may be used for (a) the purchase of equipment and other property having a useful life of more than one year from date of purchase, and (b) transfer to the operating fund to meet unusual requirements arising in the course of business.

Transfers from the reserve fund to the operating fund shall be made as follows: The commission shall recommend such transfer to the governor, and the governor shall draw the requisition if he approves the transfer. Moneys in the reserve fund not needed for cash reserve shall, with the approval of the governor, be invested by the board of public works in obligations of the United States, of the state of West Virginia, or any of its subdivisions, or in revenue bonds of the state issued prior to December thirty-first, one thousand nine hundred forty-one, by the West Virginia board of control for self-liquidating projects.

CHAPTER 83

(House Bill No. 233—By Mr. Jackson and Mr. Paul)

AN ACT authorizing the state road commission, by and through the state road commissioner, to make settlement with M. L. McNeely, father of Emma June McNeely, aged fourteen,
Ch. 84] CLAIM OF RAY WILDMAN 371

for damages received by falling through a bridge while walking along the public highway of this state.

[Passed March 8, 1941; in effect from passage. Approved by the Governor.]

Section
1. State road commission authorized to pay claim of M. L. McNeely.

WHEREAS, On the night of December twenty-third, one thousand nine hundred thirty-eight, Emma June McNeely, aged fourteen, while enroute to a Christmas play in company with several friends, fell through a hole in the floor of the bridge which was caused by a board being missing; and

WHEREAS, The condition of the bridge had been reported several times to the state road commission prior to the accident; and

WHEREAS, No attempt had ever been made to correct it; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. State Road Commission Authorized to Pay Claim of M. L. McNeely.—The state road commission, by and through the state road commissioner, is hereby authorized and empowered to pay M. L. McNeely, the father of Emma June McNeely, a sum not to exceed two thousand five hundred dollars for permanent damages. The sum herein authorized shall be paid from any moneys now or hereafter appropriated to the state road commission.

CHAPTER 84

(Senate Bill No. 179—By Mr. Young, by request)

AN ACT authorizing the state road commission to pay to Ray Wildman, administrator for the estate of H. L. Wildman, deceased, for injuries sustained by the said H. L.
Wildman in the collapse of a public road or highway bridge at or near Gilmer Station, in Gilmer county, resulting in the death of the said H. L. Wildman.

[Passed March 4, 1941; in effect ninety days from passage. Approved by the Governor.]

Section


WHEREAS, On March twenty-fourth, one thousand nine hundred thirty-nine, and for some years prior to that date, the state road commission and the state road commissioner had jurisdiction and were charged with the maintenance of said public road or highway, in Gilmer county, West Virginia, leading from state highway number five, formerly state highway number thirty-five, over and across the Little Kanawha river to Gilmer Station in said county; and

WHEREAS, Included in said public road, described as aforesaid, and as a part thereof, was a suspension bridge suspended across said Little Kanawha river; and

WHEREAS, Because of its defective condition said bridge collapsed on March twenty-fourth, one thousand nine hundred thirty-nine, while H. L. Wildman was lawfully traveling on said road and bridge, and said H. L. Wildman as a result of the collapse of said bridge sustained injuries resulting in his instant death; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. State Road Commission Authorized to Make Settlement with Ray Wildman, Administrator of Estate of H. L. Wildman, Deceased. — The state road commission is hereby authorized and empowered, in its discretion, to pay to Ray Wildman, administrator of the estate of H. L. Wildman, deceased, a sum not to exceed ten thousand dollars to be distributed by the said administrator as provided in section six, article seven, chapter fifty-five of the code of West Virginia.
CHAPTER 85
(Senate Bill No. 178—By Mr. Young, by request)

AN ACT authorizing the state road commission to pay to Harry Love for damages sustained by him in the collapse of a public road or highway bridge at or near Gilmer Station in Gilmer county, resulting in personal injuries to the said Harry Love and the destruction of a truck owned by him.

[Passed March 4, 1941; in effect ninety days from passage. Approved by the Governor.]

Section 1. State road commission authorized to pay claim of Harry Love.

WHEREAS, On March twenty-fourth, one thousand nine hundred thirty-nine, and for some years prior to that date, the state road commission and the state road commissioner had jurisdiction and were charged with the maintenance of said public road or highway in Gilmer county, West Virginia, leading from state highway number five, formerly state highway number thirty-five, over and across the Little Kanawha river to Gilmer Station in said county; and

WHEREAS, Included in said public road, described as aforesaid, and as a part thereof, was a suspension bridge over and across said Little Kanawha river; and

WHEREAS, Because of its defective condition, on March twenty-fourth, one thousand nine hundred thirty-nine, while Harry Love was lawfully driving on and across said bridge a truck owned by him, the said bridge collapsed, which collapse of said bridge resulted in personal injuries to the said Harry Love and the destruction of his said truck; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. State Road Commission Authorized to Pay Claim of Harry Love.—That the state road commission is hereby authorized and empowered, in its discretion, to
pay to Harry Love a sum not to exceed seven hundred and fifty dollars as and for damages sustained by him in the collapse of a public road or highway bridge near Gilmer Station in Gilmer county.

CHAPTER 86

(AN ACT authorizing and empowering the state road commission of West Virginia to reimburse the board of education of the county of Clay for damages to a school bus.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

Section 1. State road commission authorized to pay Clay county board of education for damages to a school bus.

Be it enacted by the Legislature of West Virginia:

Section 1. State Road Commission Authorized to Pay Clay County Board of Education for Damages to a School Bus.—That the state road commission of West Virginia is hereby authorized and empowered to pay to the board of education of the county of Clay not to exceed two hundred sixty-nine dollars and one cent, to reimburse said board of education for damages caused to a school bus owned and operated by it when struck by a truck owned and operated by said state road commission on the twenty-seventh day of September, one thousand nine hundred thirty-nine.
nine hundred thirty-seven, caused by the falling of a bridge over Pigeon Roost Branch on a state highway in Chapmanville district, Logan county, West Virginia.

[Passed March 4, 1941; in effect ninety days from passage. Approved by the Governor.]

Section
1. State road commission authorized to pay claim of Norwood Dingess.

Be it enacted by the Legislature of West Virginia:

Section 1. State Road Commission Authorized to Pay Claim of Norwood Dingess.—The state road commission is hereby authorized and empowered in its discretion, to pay to Norwood Dingess, of Chapmanville, West Virginia, a sum not to exceed two hundred thirty-five dollars for damage sustained by him to his one and one-half ton motor truck, August thirtieth, one thousand nine hundred thirty-seven, caused by the falling of a defective and insecure bridge across and over Pigeon Roost Branch on a state highway in Chapmanville district, Logan county, West Virginia, over which bridge the said truck was, at the time, being driven.

CHAPTER 88
(House Bill No. 352—By Mr. Mace, by request)

AN ACT authorizing the state road commission of West Virginia to reimburse Portia Hamrick for money she paid to get her car repaired, which car was in a collision with a state road truck.

[Passed March 8, 1941; in effect from passage. Approved by the Governor.]

Section
1. State road commission authorized to reimburse Portia Hamrick for repair of car damaged by road truck.

WHEREAS, In the year one thousand nine hundred thirty-six, while Portia Hamrick's car was being driven through the town
of Webster Springs by her brother, Otha Hamrick, a licensed
driver, a state road truck, driven by Bayard Cutlip, an em­
ployee of the said road commission, ran into and almost de­
molished said car; and

WHEREAS, The driver of the state road truck, in view of hold­
ing his job as driver of the truck, had the driver of the Portia
Hamrick car arrested for reckless driving; and

WHEREAS, In a justice’s court on the thirteenth day of June,
one thousand nine hundred thirty-six, the defendant was found
not guilty, which places the fault on the driver of the state
road truck; and

WHEREAS, At that time the state road commission did not
carry insurance on their equipment; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. State Road Commission Authorized to Reim­
burse Portia Hamrick for Repair of Car Damaged by Road
Truck.—The state road commission of West Virginia is
hereby authorized and empowered to pay to Portia Ham­
rick a sum not to exceed two hundred ninety dollars and
seventy-one cents, to reimburse her for money expended
by her to get her car repaired after it was in a collision
with a truck owned and operated by the state road com­
mission in the year one thousand nine hundred thirty­
six.

CHAPTER 89

(House Bill No. 42—By Mr. Janes)

AN ACT to authorize the state road commission to make settle­ment with Lee Hill, administrator of Lee Hill, Jr., of a
claim against the state road commission of West Virginia.

[Passed March 4, 1941; in effect ninety days from passage. Approved by the
Governor.]

Section
1. State road commission authorized to settle claim of Lee Hill, ad­
ministrator of Lee Hill, Jr.
WHEREAS, That heretofore, to wit, in the lifetime of the said administrator's intestate, on the ninth day of January, one thousand nine hundred thirty-four, and for a long time prior thereto, the said state road commission was legally possessed and had under its control, care, custody and jurisdiction a certain public bridge, not a toll bridge, spanning the Tygart Valley river, situated in Philippi district of Barbour county, West Virginia, and not within a municipality, commonly known as the "Philippi Old Covered Bridge", being a covered bridge of a part of a public highway connecting sections of West Virginia state route number fifty-six, extending east and west across said river, constructed of wood and having two lanes of traffic separated by timbers employed in the construction of said bridge, which said bridge was legally within the jurisdiction of the state road commission and with respect to which bridge the state road commission was charged with the superintendence and administration of the construction, reconstruction, repair and maintenance thereof, and over which bridge the administrator's intestate and all other citizens of the state of West Virginia had the right to travel, pass and repass, without hindrance or obstruction, and which it was then and there the legal duty of the said state road commission to put and keep said bridge in good order and repair, and it was the duty of the said state road commission which had assumed the charge of further construction, reconstruction or maintenance of said public bridge under the laws of the state of West Virginia, passed by the said Legislature thereof, to keep the bridge in good order and repair and to keep the same free and clear of holes and obstruction by or on account of which the public, and especially children of tender years, walking and crossing upon and over said bridge and exercising due care and caution for their own safety, might be injured or killed; but the said state road commission not regarding its said duty in that behalf and while it was so possessed and had control, jurisdiction, care and custody of said bridge on, to wit, the day and year last aforesaid, wrongfully, negligently and carelessly suffered and permitted said public bridge to be and remain in a bad and unsafe condition and out of repair, and that the said state road commission wrongfully, negligently and carelessly, for a long time immediately prior to the date aforesaid, and
CLAIM OF LEE HILL

on the date aforesaid, to wit, the ninth day of January, one thousand nine hundred thirty-four, allowed and permitted a hole to be and remain open and unprotected in the floor of said bridge, and said hole being about two feet long and two and one-half feet wide, and being in the floor on the north side of said bridge near the timbers separating said two lanes of traffic thereon and extending into the north lane of traffic and being about ten feet from the eastern end of said bridge and in that part of said bridge which the public, and especially children of tender years, were wont to use while walking and crossing along and upon said bridge, so as to endanger the public, and especially children of tender years, walking and crossing upon and over said bridge, and making the same unsafe and dangerous for travel by the public; and

WHEREAS, Heretofore on the ninth day of January, one thousand nine hundred thirty-four, between the hours of nine o'clock and nine-thirty P. M., the said Lee Hill, Jr., intestate, being then a child of the tender age of eleven years, walked upon and across this certain bridge using the north lane of traffic thereon and exercising all such due care, skill and diligence for his own safety as a child of his age is required to use and exercise, and without negligence on his part, fell into and through the dangerous hole as aforesaid in the floor of said bridge, which the said state road commission had allowed and permitted to be and remain open and unprotected, into the waters of the said Tygarts Valley river, and in consequence thereof and by reason of the carelessness and negligence of the state road commission in permitting said bridge to be and remain out of repair, in a dangerous condition, as aforesaid, the administrator's intestate was then and there killed by said fall or drowned; and

WHEREAS, The administrator aforesaid sued the county court of Barbour county, in the circuit court thereof, in less than one year from the date of said accident and the cause of action was certified to the supreme court of appeals of the state of West Virginia, and on March twenty-fourth, one thousand nine hundred thirty-six, said court passed upon said cause and rendered its opinion therein, holding that the county court of Barbour county had no jurisdiction over the said bridge and
that the state road commission of West Virginia had full and complete authority thereover; and

WHEREAS, The said administrator aforesaid has no redress except to appeal to this august body; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. State Road Commission Authorized to Settle
Claim of Lee Hill, Administrator of Lee Hill, Jr.—The state road commission is hereby authorized and empowered, in its discretion, to pay to the said Lee Hill, administrator of Lee Hill, Jr., a sum not to exceed three thousand dollars, in full settlement and discharge of said claim, from any moneys available now or hereafter appropriated for such purpose, upon condition that the said Lee Hill, administrator of Lee Hill, Jr., do execute and deliver upon receipt of said sum aforesaid a complete release from any obligations upon the state of West Virginia.

CHAPTER 90
(Senate Bill No. 129—By Mr. Randolph, Mr. President)

AN ACT to amend and reenact sections four and seven, article three, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the state sinking fund commission of West Virginia.

(Passed March 7, 1941; in effect ninety days from passage. Approved by the Governor.)


Section 4. Investment of sinking funds.

Section 7. Where and how bonds and interest payable; substitute paying agent.

Be it enacted by the Legislature of West Virginia:

That sections four and seven, article three, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:
Section 4. Investment of Sinking Funds.—It shall be the duty of said commission to keep all sinking funds, under its control, invested. The sinking fund of each political division shall be first invested in the political division's own bonds, if the same are available for purchase. If no such bonds can be purchased for investment or retirement, then it shall be the duty of the commission to invest the sinking funds in bonds issued by other political divisions of the state. If bonds of the political division cannot be purchased for investment or retirement and there are no bonds of other political divisions of the state available for purchase, then it shall be the duty of the commission to invest the sinking funds in the bonds or treasury certificates of the government of the United States or bonds of this state. But any bonds so purchased shall be bonds which mature before the bonds mature for which the sinking fund was created. Before any bond shall be purchased by the commission, either for investment or retirement (unless the same be purchased at maturity according to the condition of the bond), the purchase must be authorized by a recorded vote of the commission showing the approval of three-fourths of all the members. No bond shall be purchased at a greater rate than par and accrued interest. The interest fund shall be used for the purpose of paying the interest on the outstanding bonds as the same falls due.

Sec. 7. Where and How Bonds and Interest Payable; Substitute Paying Agent.—Payment of bonds and interest coupons hereafter issued shall be made from funds specified in section eight of this article. The place or places of payment of such bonds and coupons shall be in accordance with the provisions of articles one and two of this chapter. In the event of the insolvency, threat of insolvency, death, or discontinuance from business of the paying agent or in the case of discontinuance of the place of payment as designated by the terms of such bonds, it shall be the duty of the sinking fund commission to appoint another paying agent or designate another place of payment. Such action by the commission shall be valid only if sanctioned by the recorded votes of three-fourths
of the commission's membership. Upon appointment of a substitute paying agent, it shall be the duty of the commission to publish notice of such action once a week for two consecutive weeks in a newspaper of general circulation in the county in which the former paying agent had residence. Upon designation of another place of payment, publication of notice shall be made in the county in which was located the former place of payment.

CHAPTER 91
(House Bill No. 166—By Mr. Maddy)

AN ACT authorizing the superintendent of the department of public safety to pay Trooper M. C. Yoak for loss of his furniture during a flood, while detailed to flood duty on the night of August fourteen, one thousand nine hundred forty.

[Passed March 4, 1941; in effect from passage. Approved by the Governor.)

Section 1. Superintendent of department of public safety authorized to pay Trooper M. C. Yoak for furniture lost in New river flood.

WHEREAS, On the night of August fourteen, one thousand nine hundred forty, Trooper M. C. Yoak, a member of the department of public safety, while on flood duty, went from home to home, wading through water to his waist, notifying citizens of Bellepoint and Avis in Summers county, of the approaching flood on New river; and

WHEREAS, As a result of the work of said trooper, most of the citizens in the villages of Bellepoint and Avis saved their furniture from the ravages of the flood; and

WHEREAS, All of the furniture of Trooper Yoak was lost in the flood while he was on flood duty as a part of the services rendered to the citizens of West Virginia by the department of public safety; therefore,
Be it enacted by the Legislature of West Virginia:

Section 1. Superintendent of Department of Public Safety Authorized to Pay Trooper M. C. Yoak for Furniture Lost in New River Flood.—The superintendent of the department of public safety is hereby authorized and empowered, in his discretion, to pay Trooper M. C. Yoak the sum of three hundred dollars, from any fund of the department now available, for the loss of his furniture while detailed to flood duty as a member of the department of public safety.

CHAPTER 92

(Senate Bill No. 17—By Mr. Hussion)

AN ACT to authorize the department of public safety to make settlement with Velma Jane Valentine, of a claim for injuries received, caused by members of the department.

[Passed February 22, 1941; in effect from passage. Approved by the Governor.]

Section
1. Department of public safety authorized to settle claim of Velma Jane Valentine; amount of settlement.
2. Amount to be embraced in current budget.

WHEREAS, Heretofore, at about two P. M. on the eleventh day of August, one thousand nine hundred twenty-four, one Velma Jane Valentine, age six, was seriously injured by being hit by a motorcycle with side-car attached, which was being driven by Troopers Hawks and Lowe, both of whom were members of the department of public safety at that time; and

WHEREAS, Said accident occurred on U. S. Route number nineteen, about two miles north of Rivesville, in front of the Joe Clayton residence; and

WHEREAS, A total of sixteen hundred and ninety-two dollars and ninety cents was incurred for medical aid and services, none of which amount was paid by the department of public safety; and
WHEREAS, Gross negligence and misrepresentations were made by officers and members of the department, and furthermore no records were kept or made by the department, and no effort was made by the officers in charge to take care of hospital, doctors and nurses' fees; and

WHEREAS, Because of said injuries said Velma Jane Valentine suffered greatly and a financial and troublesome burden was placed on her parents, and has left her grossly disfigured for the rest of her natural life; and

WHEREAS, Nothing was ever done to reimburse her or her parents for said suffering, damages and expenses incurred; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Department of Public Safety Authorized to Settle Claim of Velma Jane Valentine; Amount of Settlement.—The superintendent of the department of public safety is authorized to pay to the said Velma Jane Valentine, her heirs or assigns, the sum of twenty-five hundred dollars as damages for the suffering endured and body disfigurement received, and in addition thereto, the sum of one thousand six hundred ninety-two dollars and ninety cents for expenses of hospital, doctors and nurse services, same being in full settlement and discharge of said claim, from any moneys now or hereafter appropriated to the department of public safety, upon condition that the said Velma Jane Valentine do execute, acknowledge and deliver to the department of public safety a full and complete release and discharge of all persons, firms, or corporations, private or public, in any way connected with the facts out of which said claim arose.

Sec. 2. Amount to Be Embraced in Current Budget.—Upon passage of this act, the superintendent of the department of public safety shall include the amounts mentioned in section one of this act in the budget bill submitted to the Legislature at this session.
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 chapter thirty-four, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to pensions for retired or disabled members of the department of public safety, or dependent members of their families, and relating to a pension fund board to control and disburse such fund.

[Passed March 4, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 2. Department of Public Safety.
Section 28. Pension fund board; payments from fund.

Be it enacted by the Legislature of West Virginia:

That section twenty-eight, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter thirty-four, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, 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, upon application by said member to the superintendent of said department, together with certificate of service and with the approval of the board of commissioners, shall be retired and shall thereupon receive annually, in monthly installments, from said pension fund an amount equal to three per cent of the total salary earned by him during his service in the department: Provided, however, That any member of the department who has served in the department for a period of twenty years and who in the opinion of the pension fund board is incapable of performing his duties as a member of the department due to physical or other handicaps or defects, may be retired, and shall thereupon receive annually, in monthly installments, from said pension fund an amount equal to three 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 permanent 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 earnings 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 sixteen 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 dependent 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 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 transac-
CHAPTER 94
(Senate Bill No. 125—By Mr. Paull, by request)

AN ACT to amend and reenact sections two and three, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter thirty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, providing for the appointment of inspector, headquarters and supply sergeants and civilian employees; providing for the creation, appointment and equipment of companies and platoons; and fixing salaries and bonds of members of the department of public safety.

[Passed March 4, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 2. Department of Public Safety.
Section
2. Inspector, headquarters and supply sergeants; civilian employees.
3. Companies or platoons; how constituted; salaries and bonds of members.

Be it enacted by the Legislature of West Virginia:

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

Section 2. Inspector, Headquarters and Supply Sergeants; Civilian Employees.—The superintendent shall appoint an inspector with the grade of captain, and a headquarters sergeant and a supply sergeant at the annual salaries provided in section three of this article. He shall also appoint such civilian employees as may be
necessary, whose salaries shall be fixed by the board of
public works. Such inspector, headquarters sergeant
and supply sergeant shall be enrolled and enlisted as mem-
bers of the department of public safety.

Sec. 3. Companies or Platoons; How Constituted; Sal-
aries and Bonds of Members.—The superintendent shall
create, appoint and equip a department of public safety
which shall consist of four companies or platoons. Each
company or platoon shall be composed of one captain,
one lieutenant, one first sergeant, five sergeants, eight
corporals, and such number of troopers as the superin-
tendent may decide best, but such number of troopers
shall not at any time be less than thirty, or more than
fifty-five, in any one company or platoon.

Members of the department shall receive salaries, as
follows:
The inspector shall receive an annual salary of thirty-
six hundred dollars, and shall receive an increase of sixty
dollars per annum during continuous service at the grade
of inspector until a maximum annual salary of three thou-
sand nine hundred sixty dollars is paid; captains shall
each receive an annual salary of twenty-four hundred
dollars, and shall receive an increase of sixty dollars
per annum during continuous service at the grade of
captain until a maximum annual salary of two thousand
seven hundred sixty dollars is paid; lieutenants shall each
receive an annual salary of twenty-one hundred dollars,
and shall receive an increase of sixty dollars per annum
during continuous service at the grade of lieutenant until
a maximum annual salary of twenty-four hundred dol-
lars is paid; first sergeants, the headquarters sergeant
and supply sergeant shall each receive an annual salary of
eighteen hundred dollars, and shall receive an increase of
sixty dollars per annum during continuous service at
their respective grades until a maximum annual salary
of one thousand nine hundred eighty dollars is paid;
sergeants shall each receive an annual salary of one
thousand six hundred eighty dollars, and shall receive an
increase of sixty dollars per annum during continuous
service at the grade of sergeant until a maximum annual
salary of eighteen hundred dollars is paid; corporals shall each receive an annual salary of fifteen hundred sixty dollars, and shall receive an increase of sixty dollars per annum during continuous service at the grade of corporal until a maximum annual salary of sixteen hundred eighty dollars is paid; and each trooper shall receive a salary of seventy-five dollars per month for the first three months of his service, one hundred dollars per month for the next nine months, and thereafter shall receive an increase of sixty dollars per annum during continuous service at the grade of trooper until a maximum annual salary of one thousand five hundred sixty dollars is paid.

In applying the foregoing salary schedule where salary increases are provided for continuous service, all the members of the department in service at the time this act becomes effective shall be given credit for prior continuous service in their respective grades, and shall be paid such salaries as the same length of continuous service would entitle them to receive under the provisions hereof.

Each member of the department of public safety, except the superintendent and civilian employees, shall, before entering upon the discharge of his duties, execute a bond with security in the sum of three thousand five hundred dollars, payable to the state of West Virginia, conditioned for the faithful performance of his duties as such, and such bond shall be approved as to form by the attorney general, and as to sufficiency by the board of public works, and the same shall be filed with the secretary of state and preserved in his office.

CHAPTER 95

(House Bill No. 120—By Mr. Ross, of Mercer)

AN ACT to amend and reenact section one, article two, chapter fifteen of the code of West Virginia, one thousand nine
hundred thirty-one, as last amended, relating to the office of superintendent of the department of public safety.

[Passed February 21, 1941; in effect from passage. Approved by the Governor.]

Article 2. Department of Public Safety.
Section 1. Superintendent; offices.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Superintendent; Offices.—The department of public safety, heretofore established, shall be continued. The executive and administrative head of the department shall be a superintendent, who shall be appointed by the governor, by and with the advice and consent of the senate, for a term of four years. The superintendent shall be on the date of his appointment at least thirty years of age. He shall receive an annual salary of six thousand dollars to be paid as provided by law. He shall, before entering upon the discharge of the duties of his office, execute a bond in the penalty of ten thousand dollars, with security thereon, payable to the state of West Virginia and conditioned for the faithful performance of his duties. Such bond both as to form and security shall be approved by the board of public works. Before entering upon the duties of his office the superintendent shall subscribe to the oath hereinafter provided. The board of public works shall provide suitable and adequate offices at the capital of the state for the use of the department of public safety.

CHAPTER 96
(Senate Bill No. 176—By Mr. Hussion)

AN ACT to amend and reenact section two, article five, chapter twelve of the code of West Virginia, one thousand nine
Article 5. Public Securities.

Section 2. Treasurer custodian of securities; charges to companies for care, etc., of securities.

Be it enacted by the Legislature of West Virginia:

That section two, article five, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, relating to custody of securities by the state treasurer, be amended and reenacted to read as follows:

Section 2. Treasurer Custodian of Securities; Charges to Companies for Care, etc., of Securities.—The treasurer of this state, unless otherwise expressly provided by law, shall be custodian of all securities belonging to the state of West Virginia or by law required to be deposited with the state or held in legal custody by the state, and all departments of this state, commissioners or agents of the state, who hold any such securities, shall transfer and deliver the same to the state treasurer to be kept and held by him as legal custodian thereof until released in the manner provided by law.

The board of public works may by formal order of record fix fair and reasonable charges for the care, custody, exchange and substitution of securities deposited by insurance companies and companies issuing annuity contracts, and such charges shall be collected from such companies by the state treasurer and by him deposited in the state fund general revenue: Provided, however, That no such charge shall be made against any such company having securities of the par value of less than three hundred thousand dollars deposited hereunder.
CHAPTER 97

(Senate Bill No. 101—By Mr. Randolph, Mr. President)

AN ACT to amend and reenact section three, article one; section six, article two; sections nine and ten, article four; sections two, three, four, five, seven, ten and nineteen, article five; sections one, two, four, ten, eleven and thirteen, article six; section one, article nine; and section thirteen, article ten; to add section eight to article nine; to repeal section eleven, article five; all of chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to unemployment compensation.

[Passed March 8, 1941; in effect April 1, 1941. Approved by the Governor.]

Article 1. Department of Unemployment Compensation.

Section 3. Definitions.

As used in this chapter, unless the context clearly requires otherwise:

1 “Administration fund” means the unemployment com-
pensation administration fund, from which the admin-
istrative expenses under this chapter shall be paid.

"Annual payroll" means the total amount of wages
for employment paid by an employer during one year.

"Average annual payroll" means the average of the
annual payrolls of an employer for the last three years.

"Base period" means the twelve consecutive month
period ending on the December thirty-first next pre-
ceding an individual’s benefit year.

"Benefit unit" means the amount of benefit an eligible
individual will receive for each shift of no work avail-
able in excess of one-half normal shift expectancy.

"Benefit year" with respect to an individual means the
twelve-month period beginning with April first and end-
ing with March thirty-first, which includes the period for
which claim for benefit is made by such individual.

"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 con-
secutive calendar months ending on March thirty-one,
June thirty, September thirty, or December thirty-one,
or the equivalent thereof, as the director may by regula-
tion prescribe.

"Director" means the unemployment compensation di-
rector.

"Employing unit" means an individual, or type of or-
ganization, including any partnership, association, trust,
estate, joint stock company, insurance company, corpora-
tion (domestic or foreign), or the receiver, trustee in
bankruptcy, trustee or successor thereof, or the legal rep-
resentative of a deceased person, which has on January
first, one thousand nine hundred thirty-five, or subsequent
thereof, had in its employ one or more individuals per-
forming 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 con-
secutive within either the current year or the preceding
year, has had in employment eight or more individuals
“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 performed but the individual’s residence is in this state.

(3) Service not covered under paragraph (2) of this subsection and performed entirely without this state, with respect 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 performing 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 subject 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 con-
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 directly in the employ of another state, or its political subdivisions.

(3) Service performed in the employ of the United States or an instrumentality of the United States exempt under the constitution of the United States from the payments imposed by this law, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this law shall be applicable to such instrumentalities, and to service performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services: Provided, That if this state shall not be certified for any year by the Social Security Board under section 1603 (c) of the Federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the director from the fund in the same manner and within the same period as is provided in section nineteen of article five of this law with respect to payments erroneously collected.

(4) Service performed after June thirty, one thousand nine hundred thirty-nine, with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act (fifty-two Stat. one thousand ninety-four), and service with respect to which unemployment benefits are payable under an unemployment
compensation system for maritime employees 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 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 purposes 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 any free public employment office maintained as a part of a state-controlled system of public employment offices in any other state.

“Fund” means the unemployment compensation fund established by this chapter.

“Normal shift expectancy” means the customary number of shifts or their equivalent that constitute full time operation of the business in which the claimant is regularly employed.

“Normal shift” means the customary number of hours constituting a full shift at the operation of the claimant’s regular employer.
"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 in which such individual is separated from employment for an employing unit and 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 pay period in which the total number of normal shifts available are less than one-half the normal shift expectancy in such period. Odd job and/or subsidiary work is deemed partial unemployment in any week in which such service is performed and wages are paid or payable for more than eight hours. In cases involving partial unemployment as a result of odd job and/or subsidiary work the pay period, normal shift, normal shift expectancy and period for filing claim will be such as the director may by regulation prescribe.

(3) 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 for personal service, including commissions and bonuses and the cash value of all remuneration in any medium other than cash; provided that the term "wages" shall not include:

(1) That part of the remuneration which, after remuneration equal to three thousand dollars has been paid to an individual by an employer with respect to employment during any calendar year beginning with the calendar year one thousand nine hundred forty, is paid to such individual by such employer with respect to employment during such calendar year.

(2) The amount of any payment made to, or on behalf of, an individual in its employ (without deduction from the remuneration of the individual in its employ) under
a plan or system established by an employer which makes
provision for individuals in its employ generally or for a
class or classes of such individuals (including any amount
paid by an employer for insurance or annuities, or into a
fund, to provide for any such payment), on account of
(A) retirement, or (B) sickness or accident disability, or
(C) medical and hospitalization expenses in connection
with sickness or hospitalization disability, or (D) death: Pro-
vided, That the individual in its employ (i) has not the
option to receive, instead of provision for such death bene-
fit, any part of such payment or, if such death benefit is
insured, any part of the premiums (or contributions to
premiums) paid by his employer, and (ii) has not the
right, under the provisions of the plan or system or policy
of insurance providing for such death benefit, to assign
such benefit, or to receive such consideration in lieu of
such benefit either upon his withdrawal from the plan or
system providing for such benefit or upon termination of
such plan or system or policy or of insurance of his serv-
ices with such employer.

(3) The payment by an employer (without deduction
from the remuneration of the individual in its employ) of
the tax imposed upon an individual in its employ under
section one thousand four hundred of the Federal Internal
Revenue Code; or

(4) Payments, not required under any contract of hire,
made to an individual with respect to his period of
training or service in the armed forces of the United
States by any employer by which such individual was
formerly employed.

Gratuities customarily received by an individual in the
course of his employment from persons other than his em-
ploying unit shall be treated as wages paid by his em-
ploying unit, if accounted for and reported to such em-
ploying unit.

The reasonable cash value of remuneration in any
medium other than cash shall be estimated and de-
termined in accordance with rules prescribed by the di-
rector.

"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 rate" means the maximum amount of benefit an eligible individual will 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.

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, subject to the provisions of section ten, article four of this chapter, relating to the board of review.
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 contract 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.

Article 4. Board of Review.

Section 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) Organize from salaried examiners such appeal tribunals as are necessary for the expedition of disputed claim procedure.

(3) Establish procedure for the hearing of disputed claims.

(4) Take oaths, examine witnesses, and issue subpoenas.
12 (5) Establish the amount of witness fees.
13 (6) Keep such records and make such reports as are necessary for disputed claims.
14 (7) Exercise such additional powers as may be necessary for the proper conduct of a system of administrative review of disputed claims.

Sec. 10. Appointment and Supervision of Personnel.
—By and with the consent and approval of the director, the board shall appoint such examiners as are necessary to hear appeals from determinations of deputies, and such other personnel as is necessary for the proper conduct of a system of administrative review of disputed claims. Subject to the provisions of the merit system and with the consent and approval of the director, the board shall prescribe the qualifications of, fix the compensation of, and remove the employees of the board. No person who is identified with the interests of either employers or employees shall be appointed examiner.

The administrative expense of the board of review shall be paid from the administration fund. The board, with the assistance of the fiscal officer of the department, shall prepare and submit to the director the budget of the board of review.
The chairman of the board shall fix the time and place for hearing appeals and shall assign such hearings to members of the board, appeal tribunals, or the full board, as the case may require, subject, however, to the provisions of article seven of this chapter.

Article 5. Employer Coverage and Responsibility.
Section
2. Duration.
3. Voluntary coverage.
4. Payments.
5. Rate of contribution.
10. Merit rating; decreased rates.
11. Repealed.

Section 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 calendar year, and only if it files
with the director, during 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 chap-

ter.

Sec. 3. Voluntary Coverage.—(1) An employing unit,
not otherwise subject to the provisions of this chapter,
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 one of any calendar year subsequent to such
two calendar years, only if during January of such year
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 em-
ployment 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 during January of such year such employ-
ing unit has filed with the director a written notice to
that effect.

(3) An employing unit which is or becomes an em-
ployer 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 forty-one, an employer shall be liable for payments in respect to wages paid for employment occurring during each year in which he is subject to this act.

Sec. 5. Rate of Contribution.—On and after January first, one thousand nine hundred forty-one, an employer shall make payments to the unemployment compensation fund equal to two and seven-tenths per cent of wages paid by him with respect to employment during each calendar year beginning with the calendar year one thousand nine hundred forty-one, subject, however, to the provisions of sections nine to thirteen of this article.

Sec. 7. Separate Accounts.—(1) The director shall maintain a separate account for each employer, and shall credit his account with all contributions heretofore and hereafter paid by him. Nothing in this act shall be construed to grant any employer or individual 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 against the accounts of his base period employers. The amount of benefits so chargeable against each base period employer's account shall bear the same ratio to the total benefits paid to an individual as the base period wages paid to such individual by such employer bear to the total amount of base period wages paid to such individual by all his base period employers.

(2) The director may prescribe regulations for the establishment, 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 individual accounts in a joint account, maintain such joint account 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. For the purpose of fixing such contribution rates for each calendar year the books of the department shall be closed on January thirty-one of such year and any contributions thereafter paid with respect to wages paid for employment during preceding calendar years, as well as benefits thereafter paid with respect to compensable weeks ending on or before December thirty-one of the preceding year, shall not be taken into account until the time for fixing contribution rates for the succeeding calendar year.

Sec. 10. *Merit Rating; Decreased Rates.*—After the requirements of section nine have been complied with, an employer's payment shall remain two and seven-tenths per cent, until: (1) There has elapsed three consecutive years throughout which an individual in his employ could have received benefits if unemployed 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. *Repealed.*—This section is hereby repealed.

Sec. 19. *Refunds.*—Within two years after the date on which payment of contribution, or interest thereon, is made, 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: Provided, That nothing in this chapter shall be construed as permitting a cash refund of any contribution required under the law in effect when such contribution became due.

Article 6. Employee Eligibility; 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 during his benefit year for a waiting period of one week prior to the week for which he claims benefits for total unemployment.

(5) He has within his base period earned wages for employment equal to not less than one hundred fifty dollars, of which amount he had earned as much as seventy-five dollars in each of two quarters or fifty dollars in each of three quarters.

Sec. 2. Waiting Period Construed.—If the benefit year
ends during a period of total unemployment for any
individual, such individual shall serve a new wait-
ing period of one week before benefits accruing in the new
benefit year shall be payable.

During the waiting period, the individual must be
eligible in all respects, except for the requirements of
subsection (2) of section one of this article. No week
shall be counted as the waiting period week if benefits
have been paid with respect to such week.

Sec. 4. Disqualification for Benefits.—Upon the deter-
mination of the facts by the director an individual shall
be disqualified for benefits:

(1) For the six weeks immediately following the date
on which he left work voluntarily without good cause.
Such disqualification shall carry a reduction in the
maximum benefit amount equal to six times the indi-
vidual’s weekly benefit rate. If he returns to work prior
to the expiration of the disqualification period, he will
be credited with such part of the unexpired portion as
his employment continues and an equivalent portion of
his maximum benefit reduction will be reinstated.

(2) For the three weeks immediately following the
date on which he was discharged for proved misconduct.
Such disqualification shall carry a reduction in the maxi-

mum benefit amount equal to three times the individual’s
weekly benefit rate. If he returns to work prior to the
expiration of the disqualification period, he will be
credited with such part of the unexpired portion as his
employment continues and an equivalent portion of his
maximum benefit reduction will be reinstated.

(3) For the week in which he failed, without good
cause, to apply for available suitable work, accept suit-
able work when offered, or return to his customary self-
employment when directed to do so by the director and
for three weeks which immediately follow.

(4) For a week in which his total or partial unem-
ployment is due to a stoppage of work which exists be-
cause of a labor dispute at the factory, establishment, or
other premises at which he was last employed, unless the
unemployment compensation

the director is satisfied that he was not (one) participating, financing, or directly 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. No disqualification under this subsection shall be imposed if the employees are required to accept wages, hours or conditions of employment, less favorable than those prevailing for similar work in the locality, or if employees are denied the right of collective bargaining under generally prevailing conditions, or if an employer shuts down his plant or operation or dismisses his employees in order to force wage reduction, changes in hours or working conditions.

(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 two of the social security act or similar payments under any act of congress.
(d) Unemployment compensation benefits under the laws of the United States or any other state.

Sec. 10. Benefit Rate; Total Unemployment.—Each eligible individual who is totally unemployed in any week shall be paid benefits with respect to that week at the weekly rate appearing in column (C) in table A in this paragraph, on line on which in column (A) there is indicated the employee’s wage class, except as otherwise provided under the term “total and partial unemployment” in section three, article one of this chapter. The employee’s wage class shall be determined by the total amount of wages earned by him in covered employment in his base period as shown in column (B) in table A. The right of an employee to receive benefits shall not be prejudiced nor the amount thereof be diminished by reason of failure by an employer to pay either the wages earned by the employee or the contribution due on such wages.
### TABLE A

<table>
<thead>
<tr>
<th>Wage Class (Column A)</th>
<th>Wages in Base Period (Column B)</th>
<th>Weekly Benefit Rate (Column C)</th>
<th>Maximum Benefit in Benefit Year for Total and/or Partial Unemployment (Column D)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$150.00 — 399.99</td>
<td>$6.00</td>
<td>$96.00</td>
<td></td>
</tr>
<tr>
<td>400.00 — 499.99</td>
<td>7.00</td>
<td>112.00</td>
<td></td>
</tr>
<tr>
<td>500.00 — 599.99</td>
<td>8.00</td>
<td>128.00</td>
<td></td>
</tr>
<tr>
<td>600.00 — 699.99</td>
<td>9.00</td>
<td>144.00</td>
<td></td>
</tr>
<tr>
<td>700.00 — 749.99</td>
<td>9.50</td>
<td>152.00</td>
<td></td>
</tr>
<tr>
<td>800.00 — 849.99</td>
<td>10.00</td>
<td>160.00</td>
<td></td>
</tr>
<tr>
<td>850.00 — 899.99</td>
<td>10.50</td>
<td>168.00</td>
<td></td>
</tr>
<tr>
<td>900.00 — 949.99</td>
<td>11.00</td>
<td>176.00</td>
<td></td>
</tr>
<tr>
<td>950.00 — 999.99</td>
<td>11.50</td>
<td>184.00</td>
<td></td>
</tr>
<tr>
<td>1000.00 — 1049.99</td>
<td>12.00</td>
<td>192.00</td>
<td></td>
</tr>
<tr>
<td>1050.00 — 1099.99</td>
<td>12.50</td>
<td>200.00</td>
<td></td>
</tr>
<tr>
<td>1100.00 — 1149.99</td>
<td>13.00</td>
<td>208.00</td>
<td></td>
</tr>
<tr>
<td>1150.00 — 1199.99</td>
<td>13.50</td>
<td>216.00</td>
<td></td>
</tr>
<tr>
<td>1200.00 — 1249.99</td>
<td>14.00</td>
<td>224.00</td>
<td></td>
</tr>
<tr>
<td>1250.00 and over</td>
<td>14.50</td>
<td>232.00</td>
<td></td>
</tr>
</tbody>
</table>

Sec. 11. Rate of Benefit; Partial Unemployment.—An eligible individual who is partially unemployed in any pay period shall, upon claim therefor filed within such time and in such manner as the director may by regulation prescribe, be paid benefits for such partial unemployment in an amount for such pay period in accordance with his wage class and the number of normal shifts or their equivalent, during the pay period, that no work was available as shown in table B in this paragraph hereinafter contained, less any benefits paid or payable and any waiting period credit allowed to such individual for total unemployment in such pay period. Such partial benefits shall be paid without regard to the current employment status of such individual and shall be paid without regard to the provisions of subsections one, three and four of section one of this article.
If the total work available during a pay period is less than one-half of the normal shift expectancy during such pay period, the claimant is entitled to receive as partial benefit for the pay period the amount appearing opposite his wage class in the column headed by the number representing the difference between normal shift expectancy and double the number of full shifts and fractions thereof that work was available for the claimant during such pay period. If the number representing such difference is greater than twelve, the amount of benefit payable will be the amount obtained by multiplying such number by the benefit unit appearing on the line opposite the claimant's wage class.

<table>
<thead>
<tr>
<th>WAGE CLASS</th>
<th>WAGES IN BASE PERIOD</th>
<th>BENEFIT UNIT</th>
<th>AMOUNT OF BENEFITS PAYABLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>COLUMN A</td>
<td>COLUMN B</td>
<td>COLUMN C</td>
<td>C</td>
</tr>
<tr>
<td>1</td>
<td>$100.00</td>
<td>399.99</td>
<td>1.20</td>
</tr>
<tr>
<td>2</td>
<td>$200.00</td>
<td>499.99</td>
<td>1.40</td>
</tr>
<tr>
<td>3</td>
<td>$300.00</td>
<td>599.99</td>
<td>1.60</td>
</tr>
<tr>
<td>4</td>
<td>$400.00</td>
<td>699.99</td>
<td>1.80</td>
</tr>
<tr>
<td>5</td>
<td>$500.00</td>
<td>749.99</td>
<td>2.00</td>
</tr>
<tr>
<td>6</td>
<td>$600.00</td>
<td>799.99</td>
<td>2.20</td>
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<td>899.99</td>
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<td>$900.00</td>
<td>949.99</td>
<td>2.80</td>
</tr>
<tr>
<td>10</td>
<td>$1000.00</td>
<td>999.99</td>
<td>3.00</td>
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<tr>
<td>11</td>
<td>$1100.00</td>
<td>1049.99</td>
<td>3.20</td>
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<tr>
<td>12</td>
<td>$1200.00</td>
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<td>3.40</td>
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</tr>
<tr>
<td>15</td>
<td>$1500.00</td>
<td>1249.99</td>
<td>4.00</td>
</tr>
<tr>
<td>16</td>
<td>$1600 and over</td>
<td>1299.99</td>
<td>4.20</td>
</tr>
</tbody>
</table>
Sec. 13. Computation of Wage Credits; Determination of Maximum Benefits.—The director shall compute wage credits for each individual by crediting him with the wages earned by him for employment by employers during his base period. The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed the amount appearing in column (D) on line indicating individual’s wage class, of table A, in this article hereinabove contained.

Article 9. Unemployment Compensation Administration Fund.

Section

1. Administration fund.
2. Reimbursement of fund.

Section 1. Administration Fund.—There is hereby created in the state treasury a special fund to be known as the unemployment compensation administration fund. All moneys in this fund which are received from the federal government or any agency thereof or which are appropriated by this state for the purposes described in section seven of this article shall be expended solely for the purposes and in the amounts found necessary by the social security board for the proper and efficient administration of this chapter.

Sec. 8. Reimbursement of Fund.—If any moneys received after June thirty, one thousand nine hundred forty-one, from the Social Security Board under title three of the Social Security Act, or any unencumbered balances in the unemployment compensation administration fund as of that date, or any moneys granted after that date to this state pursuant to the provisions of the Wagner-Peyser Act, or any moneys made available by this state or its political subdivisions and matched by such moneys granted to this state pursuant to the provisions of the Wagner-Peyser Act, are found by the Social Security Board, because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by the Social Security Board for the proper administration of this law, it is the policy of this state that such moneys shall be replaced by moneys appropri-
Section 13. Criminal actions.

Section 13. Criminal Actions.—Criminal actions to enforce the provisions of this chapter, or rules and 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, or by an attorney of the department.

The director may cause complaints to be made and proceedings to be instituted and prosecuted against any person violating any provisions of this chapter, and in all such cases no security for costs shall be required of the director.

Justices of the peace shall have concurrent jurisdiction with the circuit or other criminal courts of all misdemeanors arising under this chapter.

CHAPTER 98

(House Bill No. 407—By Mr. Huffman)

AN ACT authorizing the department of unemployment compensation to make a refund to the Raleigh-Wyoming Mining
company for overpayment of contributions to the unemployment compensation fund.

[Passed March 8, 1941; in effect from passage. Approved by the Governor.]

Section
1. Refund of contribution to Raleigh-Wyoming mining company by department of unemployment compensation.

Be it enacted by the Legislature of West Virginia:

Section 1. Refund of Contribution to Raleigh-Wyoming Mining Company by Department of Unemployment Compensation.—The department of unemployment compensation of the state of West Virginia is hereby authorized, empowered and directed to forthwith pay to Raleigh-Wyoming Mining company the sum of one thousand four hundred sixty-seven dollars and fourteen cents in cash from said department’s present funds; said sum representing refund of an overpayment of contributions in that amount made by said Raleigh-Wyoming Mining company to said department of unemployment compensation.

CHAPTER 99

(Senate Bill No. 11—By Mr. Randolph, Mr. President)

AN ACT to amend chapter twenty-one-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-six, and as last amended by chapter one hundred thirty-four, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, by adding thereto a new article designated article one-a, providing for the elimination of contributions to the unemployment compensation fund by employers upon wages in excess of three thousand dollars.
paid to an individual by an employer with respect to em­
ployment during any calendar year beginning with the
calendar year one thousand nine hundred forty.

[Passed January 24, 1941; in effect from passage. Approved by the Governor.]

Article 1-a. Limitation on Contributions.

Section
1. Limitation on contributions.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-one-a of the code of West Virginia, one
thousand nine hundred thirty-one, as enacted by chapter one,
acts of the Legislature, second extraordinary session, one thou­
sand nine hundred thirty-six, and as last amended by chapter
one hundred thirty-four, acts of the Legislature, regular
session, one thousand nine hundred thirty-nine, be amended by
adding thereto a new article, designated article one-a, to read
as follows:

Section 1. Limitation on Contributions.—Notwith­
standing any other provision of the law, the term “wages”,
as used in the unemployment compensation law, shall not
include:

That part of the remuneration which, after remunera­
tion equal to three thousand dollars has been paid to an
individual by an employer with respect to employment
during any calendar year beginning with the calendar
year one thousand nine hundred forty, is paid to such
individual by such employer with respect to employ­
ment during such calendar year.
CHAPTER 100
(Senate Bill No. 12—By Mr. Hussion)

AN ACT authorizing the state compensation commissioner to reopen the claim of Alex Turoczy.

[Passed February 12, 1941; in effect from passage. Approved by the Governor.]

Section
1. Compensation commissioner authorized to reopen case of Alex Turoczy.

WHEREAS, On February fifteenth, one thousand nine hundred thirty-six, Alex Turoczy, while employed as a machine man by the Maryland Coal company of West Virginia, or the receivers of said coal company, in the mine of the said Maryland Coal company of West Virginia, at Wendel, West Virginia, in the county of Taylor, state of West Virginia, received an injury resulting in a compression fracture of the twelfth dorsal vertebrae, along with other injuries; and

WHEREAS, The employer of the said Alex Turoczy was, at the time of the aforesaid injury, a subscriber to the workmen’s compensation fund; and

WHEREAS, The said Alex Turoczy was paid compensation upon a twenty-five per cent permanent partial disability basis until on or about the fifteenth day of January, one thousand nine hundred thirty-nine, at which time said compensation expired; and

WHEREAS, It is the opinion of competent physicians and surgeons that the injury sustained by the said Alex Turoczy has resulted either in permanent total disability, or in permanent partial disability in excess of said twenty-five per cent; and

WHEREAS, On March twenty-fourth, one thousand nine hundred thirty-eight, said compensation commissioner advised the said Alex Turoczy it was indicated by a medical examination that any disability he had, in excess of the twenty-five per cent permanent partial award made to him, was not due to his injury of February fifteenth, one thousand nine hundred thirty-six; and
WHEREAS, On February seventh, one thousand nine hundred thirty-nine, said commissioner refused to reopen the claim upon a request for reopening and hearing, due to the fact that the commissioner found himself without jurisdiction to consider the claim, as more than one year had elapsed since the date of the last payment to said claimant; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to Reopen Case of Alex Turoczy.—The state compensation commissioner is hereby authorized to reopen the claim of Alex Turoczy, notwithstanding the fact that more than one year had elapsed since the date of the last payment to him, before the application for reopening and hearing was filed, and to make such disposition of the case as would have been proper had said application been filed within the period required by law, and to allow such compensation to the said Alex Turoczy as the facts and conditions pertaining to the case may warrant.

CHAPTER 101

(House Bill No. 299—By Mr. McClung, of Fayette)

AN ACT authorizing the state compensation commissioner to reopen the case of A. F. Dean.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

Section 1. Compensation commissioner authorized to reopen case of A. F. Dean.

Whereas, On the fourteenth day of March, one thousand nine hundred thirty-two, while employed by the Elkhorn Piney Coal company and in the discharge of his duties, the said A. F. Dean was caught under a slate fall and mashed to the extent that he is permanently disabled; and

Whereas, The said Elkhorn Piney Coal company was at the
time of the aforesaid injury to A. F. Dean a subscriber to the
workmen’s compensation fund; and

Whereas, A. F. Dean was given fifty-five per cent total disabil­
ity upon examination after the injury; and

Whereas, The state compensation commissioner refused
claimant after the year one thousand nine hundred thirty-six;
and

Whereas, A. F. Dean has made application with the state com­
ensation commissioner, but said application was declined due
to the fact that the commissioner was without jurisdiction to
consider the claim as more than two years had elapsed since the
date of said payment to said A. F. Dean; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to
Reopen Case of A. F. Dean.—The state compensation com­
missioner is hereby authorized to reopen the case of A. F.
Dean, notwithstanding the fact that more than two years
have elapsed after the date of the last payment to him be­
fore application for reopening and hearing was filed; said
state compensation commissioner is further authorized to
make such disposition of the case as would have been
proper had said application been filed within the period
required by law, and to allow such compensation to said
A. F. Dean as the facts and conditions pertaining to the
case may warrant.

CHAPTER 102
(House Bill No. 282—By Mr. Jones)

AN ACT authorizing the state compensation commissioner to
reopen the claim of Bennie Bell.

[Passed March 7, 1941; in effect ninety days from passage. Approved by the
Governor.]

Section
1. Compensation commissioner authorized to reopen case of Bennie
Bell.
WHEREAS, On June third, one thousand nine hundred twenty-six, Bennie Bell, while employed as a coal loader in the coal mine of the E. E. White Coal company at Glen White, Raleigh county, West Virginia, was injured in his spine, pelvis, and other parts of his body, by being crushed between mine cars and the facing of the coal; and

WHEREAS, The employer of said Bennie Bell was, at the time of the aforesaid injury, a subscriber to the workmen’s compensation fund; and

WHEREAS, The said Bennie Bell has been unable from the date, and as a result, of the aforesaid injury, to perform any manual service; and

WHEREAS, It is the opinion of competent physicians and surgeons that the said Bennie Bell is, as a result of said injury, permanently and totally disabled; and

WHEREAS, On the fourteenth day of December, one thousand nine hundred thirty-one, the said Bennie Bell was given a rating by the state compensation commissioner of seventy-five per cent permanent partial disability; and

WHEREAS, The said Bennie Bell thereafter presented to the state compensation commissioner another application for permanent total rating of disability, based upon the reports of numerous competent physicians and surgeons, which application the compensation commissioner finally rejected on the twenty-first day of October, one thousand nine hundred thirty-two; and

WHEREAS, The supreme court of appeals, by its decision of April eighteenth, one thousand nine hundred thirty-three; and reported in volume one hundred thirteen of the West Virginia Reports, at page five hundred seventy-one, affirmed the ruling of the compensation commissioner on the ground that although the evidence showed the said Bennie Bell was permanently and totally disabled as the result of said injury, it was not materially different from the evidence before the commissioner on the fourteenth day of October, one thousand nine hundred thirty-one, when he fixed the rating of disability at seventy-five per cent; therefore,
Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to Reopen Case of Bennie Bell.—The state compensation commissioner is hereby authorized to reopen the claim of the said Bennie Bell for permanent total disability, and to make such disposition of the case as the evidence presented justifies, notwithstanding the previous rulings of the compensation commissioner, the said decision of the supreme court of appeals and the statutes of limitations heretofore enacted.

CHAPTER 103

(Senate Bill No. 193—By Mr. Proctor, by request)

AN ACT authorizing the state compensation commissioner to reopen the case of Boyd Johnson.

[Passed March 5, 1941; in effect from passage. Approved by the Governor.]

Section 1. Compensation commissioner authorized to reopen case of Boyd Johnson.

Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to Reopen Case of Boyd Johnson.—The state compensation commissioner is hereby authorized to reopen the case of Boyd Johnson, notwithstanding the fact that he failed to comply with the provisions of section sixteen, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, in that he did not within one year after the date of the last payment of compensation to him make a proper application for a further adjustment of his claim, and the said state compensation commissioner is further authorized to make such disposition of the case as would have been proper had the said Boyd Johnson complied with the requirements of the said statute by submitting a proper application for the reopening of his claim.
16 within the proper time, and to allow the said Boyd
17 Johnson such further compensation as the evidence and
18 the claimant's physical condition warrant.

CHAPTER 104

(Senate Bill No. 97—By Mr. Robertson, by request)

AN ACT to authorize the state compensation commissioner to
reopen the case of E. R. Robinson.

[Passed March 7, 1941; in effect ninety days from passage. Approved by the
Governor.]

Section
1. Compensation commissioner authorized to reopen case of E. R.
   Robinson.

   WHEREAS, On May twenty-fourth, one thousand nine hundred
   thirty-five, while employed by the Cabin Creek Consolidated
   Coal company on Cabin Creek, Kanawha county, West Virg­
   inia, E. R. Robinson received an injury in the course of his
   employment resulting in the loss of the sight of his left eye;
   and

   WHEREAS, The employer of the said E. R. Robinson was at the
   time of the aforesaid injury a subscriber to the workmen's
   compensation fund; and

   WHEREAS, The said E. R. Robinson was awarded and paid com­
   pensation upon a thirty-three per cent permanent partial dis­
   ability basis for the loss of the sight of his said left eye, which
   compensation expired on December seventeenth, one thousand
   nine hundred thirty-seven; and

   WHEREAS, The injured eyeball of the said E. R. Robinson was
   not removed, and a few months after the injury a type of in­
   fection known as sympathetic ophthalmilitis developed from
   the injured eye which caused the sight of his right eye to begin
   failing, and which resulted in total blindness in March, one
   thousand nine hundred thirty-nine; and

   WHEREAS, The said E. R. Robinson made complaint to the com-
pensation commissioner about the loss of vision in his right eye in the month of January, one thousand nine hundred thirty-eight, following which some correspondence ensued between himself and the commissioner in the course of which Robinson failed to make a formal written application for compensation; and

WHEREAS, In August, one thousand nine hundred thirty-nine, the said E. R. Robinson employed counsel, who filed a written application in his behalf, and on being advised by the commissioner that the same could not be entertained on account of it not having been filed within one year of the date of the last payment of compensation, the said counsel prosecuted the claim on the theory that it was lawfully filed in January, one thousand nine hundred thirty-eight, when the said E. R. Robinson conducted the aforesaid correspondence with the said commissioner relative to the failure of the sight of his right eye but which proposition was finally decided against him on October eighth, one thousand nine hundred forty, by the supreme court of appeals of West Virginia; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to Reopen Case of E. R. Robinson.—The state compensation commissioner is hereby authorized to reopen the case of E. R. Robinson, notwithstanding the fact that more than one year elapsed since the date of the last payment to him before the application for reopening and hearing was filed, and to make such disposition of the case as would have been proper had said application been filed within the period required by law, and to allow such compensation to the said E. R. Robinson as the facts and conditions pertaining to the case may warrant.

CHAPTER 105
(House Bill No. 196—By Mr. Moore)

AN ACT authorizing the state compensation commissioner to
reopen the claim of F. M. Mason of Moundsville, Marshall county, West Virginia.

[Passed March 8, 1941; in effect from passage. Approved by the Governor.]

Section

1. Compensation commissioner authorized to reopen case of F. M. Mason.

WHEREAS, On June twenty-fourth, one thousand nine hundred thirty-one, F. M. Mason, while employed at the plant of the United Zinc Smelting corporation at Moundsville, West Virginia, received an injury to his spine along with other injuries; and

WHEREAS, The employer of the said F. M. Mason was, at the time of the aforesaid injury, a subscriber to the workmen's compensation fund; and

WHEREAS, The said F. M. Mason has been paid for permanent partial disability until on or about December ninth, one thousand nine hundred thirty-seven, at which time said compensation expired; and

WHEREAS, The said F. M. Mason as a result of the injury received on June twenty-fourth, one thousand nine hundred thirty-one, had become permanently and totally disabled on the ninth day of December, one thousand nine hundred thirty-seven, the date of the last payment of the last award made to him, and in the opinion of competent physicians will hereafter remain so; and

WHEREAS, The said F. M. Mason, in the early part of one thousand nine hundred thirty-eight, filed his petition for a reopening of his claim, which was denied by the compensation commissioner on the ground that the period of time in which to apply for an additional award and the reopening of his said case had expired, and that the commissioner was without jurisdiction to further consider his said claim for additional compensation upon the grounds assigned of progression and aggravation of his physical condition resulting in permanent total disability since the date of the last award made to said claimant; therefore,
Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to Reopen Case of F. M. Mason.—The state compensation commissioner is hereby authorized to reopen the claim of F. M. Mason, notwithstanding the fact that more than one year had elapsed since the date of the last payment to him, before the application for reopening and hearing was filed, and to make such disposition of the case as would have been proper had said application been filed within the period required by law, and to allow such compensation to the said F. M. Mason as the facts and conditions pertaining to the case may warrant.

CHAPTER 106

(Senate Bill No. 164—By Mr. Johnston, by request)

AN ACT authorizing the state compensation commissioner to reopen the case of G. T. Ayres.

[Passed March 5, 1941; in effect from passage. Approved by the Governor.]

Section 1. Compensation commissioner authorized to reopen case of G. T. Ayres.

WHEREAS, On the twenty-fifth day of June, one thousand nine hundred thirty-seven, while employed by the Hutchinson Coal company, Logan county, West Virginia, G. T. Ayres received a permanent injury to his back and hips; and

WHEREAS, The said Hutchinson Coal company was, at the time of the aforesaid injury to G. T. Ayres, a subscriber in good standing to the West Virginia workmen's compensation fund; and

WHEREAS, Said G. T. Ayres was paid a small sum for partial permanent disability on account of said injury and the case was closed by the said state compensation commissioner; and

WHEREAS, After said case was closed, said G. T. Ayres has
continued in a permanent disability condition as a result of said injury sustained by him while employed by said Hutchinson Coal company; and

WHEREAS, On the sixth day of June, one thousand nine hundred forty, application for reopening and hearing was filed by G. T. Ayres with the state compensation commissioner, but said application was declined due to the fact that the commissioner was without jurisdiction to consider the claim upon its merits, in as much as the claim was barred by the statute of limitations; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to Reopen Case of G. T. Ayres.—The state compensation commissioner is hereby authorized and directed to reopen the case of G. T. Ayres, notwithstanding the commissioner is without authority to consider the case upon its merits by reason of said case being barred by the statute of limitations; said state compensation commissioner is further authorized to make such disposition of the case as would have been proper had said application and permanent disability application been filed within the period required by law, and to allow such compensation to said G. T. Ayres as the facts, conditions and circumstances pertaining to the case may warrant.

CHAPTER 107
(House Bill No. 72—By Mr. Ballard, of Mercer)

AN ACT authorizing the workmen’s compensation commissioner to reopen the case of Herbert or Hobert Morris.

[Passed March 4, 1941; in effect ninety days from passage. Approved by the Governor.]

Section 1. Compensation commissioner authorized to reopen case of Herbert or Hobert Morris.
WHEREAS, On September eighteenth, one thousand nine hundred twenty-nine, employed by the Killarney Smokeless Coal company, Killarney, Raleigh county, West Virginia, in the lane of the mine track in the mine of the Killarney Smokeless Coal company, Killarney, in the county of Raleigh, this state, Herbert and/or Hobert Morris, received an injury in the left arm between the elbow and shoulder, by the tearing loose of muscle of said arm; and

WHEREAS, The employer of the said Herbert and/or Hobert Morris was, at the time of the aforesaid injury, a subscriber to the workmen's compensation fund; and

WHEREAS, The said Herbert or Hobert Morris was paid compensation upon twenty per cent partial disability basis until May the thirty-first, one thousand nine hundred thirty-one, at which time said compensation expired; and, it is the opinion of competent physicians and surgeons that the injury sustained by Herbert or Hobert Morris has resulted in permanent disability; and

WHEREAS, On January eighth, one thousand nine hundred thirty-one, December fourth, one thousand nine hundred thirty-one, and December ninth, one thousand nine hundred thirty-one, a request was filed by the said Herbert or Hobert Morris with the state compensation commissioner, but was declined due to the fact that the commissioner found himself without jurisdiction to further consider the claim; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to Reopen Case of Herbert or Hobert Morris.—The state compensation commissioner is hereby authorized to reopen the case of Herbert or Hobert Morris, notwithstanding the fact the compensation commissioner closed the case and refused a reopening of same, in view of the fact that at various times application was made to have the case reopened, and to allow such compensation to said Herbert or Hobert Morris as the facts and conditions pertaining to the case may warrant.
AN ACT authorizing the state compensation commissioner to reopen the case of Ivan Carson.

[Passed March 3, 1941; in effect ninety days from passage. Approved by the Governor.]

Section 1. Compensation commissioner authorized to reopen case of Ivan Carson.

WHEREAS, On the twenty-second day of November, one thousand nine hundred thirty-four, while employed by Consolidated Supply company in loading a truck with sand in the city of Clarksburg, county of Harrison, and state of West Virginia, Ivan Carson received an injury to his right eye; and

WHEREAS, Said Consolidated Supply company was, at the time of the aforesaid injury to Ivan Carson, a subscriber to the workmen's compensation fund; and

WHEREAS, Said Ivan Carson was paid only six dollars and eight-seven cents as compensation for partial and temporary disability on account of said injury and the case was closed by the state compensation commissioner on the twenty-first day of December, one thousand nine hundred thirty-four; and

WHEREAS, After said case was closed, said Ivan Carson's right eye was removed as a result of said injury so sustained by him while employed by said Consolidated Supply company; and

WHEREAS, On the sixth day of May, one thousand nine hundred thirty-nine, application for reopening and hearing was filed by the said Ivan Carson with the state compensation commissioner, but said application was declined due to the fact that the commissioner was without jurisdiction to consider the claim, as more than two years had elapsed since the date of said payment to said Ivan Carson; therefore,
Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to Reopen Case of Ivan Carson.—The state compensation commissioner is hereby authorized to reopen the case of Ivan Carson, notwithstanding the fact that more than two years elapsed after the date of the last payment to him before application for reopening and hearing was filed; said state compensation commissioner is further authorized to make such disposition of the case as would have been proper had said application been filed within the period required by law, and to allow such compensation to said Ivan Carson as the facts and conditions pertaining to the case may warrant.

CHAPTER 109

(House Bill No. 298—By Mr. McClung, of Fayette)

AN ACT authorizing the state compensation commissioner to reopen the case of Leo Daciek.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

Section 1. Compensation commissioner authorized to reopen case of Leo Daciek.

Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to Reopen Case of Leo Daciek.—The state compensation commissioner is hereby authorized to reopen the case of Leo Daciek, and the said state compensation commissioner is further authorized to make such disposition of this case as would be proper should the case not have been heard before.
AN ACT authorizing the state compensation commissioner to reopen the case of Mose Adkins.

[Passed March 4, 1941; in effect ninety days from passage. Approved by the Governor.]

Section
1. Compensation commissioner authorized to reopen case of Mose Adkins.

WHEREAS, On the fifteenth day of October, one thousand nine hundred thirty, while employed by the Spruce River Coal and Lumber company at Jeffrey, in Boone county, West Virginia, in the pursuance of his employment, Mose Adkins received an injury resulting in a bone fracture in front of the right ear; and

WHEREAS, Said Spruce River Coal and Lumber company was at the time of the aforesaid injury to Mose Adkins, a subscriber to the workmen's compensation fund; and

WHEREAS, The said Mose Adkins was paid compensation for seven and six-sevenths weeks, at the rate of eight dollars per week, a total of sixty-two dollars and eighty-six cents, to December fifteenth, one thousand nine hundred thirty, inclusive, and the case was closed by the state compensation commissioner on the third day of January, one thousand nine hundred thirty-one; and

WHEREAS, After the case was closed by the commissioner the injury became aggravated; and

WHEREAS, On or about the first day of February, one thousand nine hundred thirty-three, application for reopening and hearing was filed by the said Mose Adkins with the state compensation commissioner, which said application was declined due to the fact the commissioner was without jurisdiction to consider the claim since more than two years had elapsed
since the date of said payment to the said Mose Adkins; therefore,

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

Section 1. *Compensation Commissioner Authorized to Reopen Case of Mose Adkins.*—The state compensation commissioner is hereby authorized to reopen the case of Mose Adkins, notwithstanding the fact that more than two years had elapsed after the date of the last payment to him before application for reopening and hearing was filed; said state compensation commissioner is further authorized to make such disposition of the case as would have been proper had said application been filed within the period required by law, and to allow such compensation to said Mose Adkins as the facts and conditions pertaining to the case may warrant.

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**CHAPTER 111**

(House Bill No. 342—By Mrs. Walker and Mr. McClung, of Fayette)

AN ACT to authorize the workmen’s compensation commissioner to reopen the case of M. W. Dunning.

[Passed March 8, 1941; in effect July 1, 1941. Approved by the Governor.]

Section 1. Compensation commissioner authorized to reopen case of M. W. Dunning.

WHEREAS, on January twenty-seventh, one thousand nine hundred thirty, while employed by Venable and Farkas, highway contractors, in the construction of the highway between the towns of Fayetteville and Beckwith, in the county of Fayette, this state, M. W. Dunning received an injury resulting in a compound fracture of the lower thoracic spine and a fractured kidney; and

WHEREAS, The employer of the said M. W. Dunning was, at
the time of the aforesaid injury, a subscriber to the workmen's compensation fund; and

WHEREAS, The said M. W. Dunning was paid compensation upon fifty per cent permanent partial disability basis until December fourth, one thousand nine hundred thirty-three, at which time said compensation expired; and

WHEREAS, It is the opinion of competent physicians and surgeons that the injury sustained by the said M. W. Dunning has resulted in permanent disability; and

WHEREAS, On July thirty-first, one thousand nine hundred thirty-five, a request for reopening and hearing was filed by the said M. W. Dunning with the state compensation commissioner, but was declined due to the fact that the commissioner found himself without jurisdiction to consider the claim, since more than one year had elapsed since the date of the last payment of said claimant; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to Reopen Case of M. W. Dunning.—The state compensation commissioner is hereby authorized to reopen the case of M. W. Dunning, notwithstanding the fact that more than one year elapsed since the date of the last payment to him before the application for reopening and hearing was filed, and to make such disposition of the case as would have been proper had said application been filed within the period required by law, and to allow such compensation to the said M. W. Dunning as the facts and conditions pertaining to the case may warrant.

CHAPTER 112

(House Bill No. 284—By Mr. Kidd)

AN ACT authorizing the state compensation commissioner to reopen the case of Okie E. Knight.

[Passed March 7, 1941; in effect from passage. Approved by the Governor.]

Section
1. Compensation commissioner authorized to reopen case of Okie E. Knight.
WHEREAS, On October twenty-seventh, one thousand nine hundred thirty-two, while employed by the state road commission, as a laborer, Okie E. Knight of Burnsville, Braxton county, West Virginia, received an injury which resulted in a fracture of his pelvis; and

WHEREAS, The employer of the said Okie E. Knight was at the time of the aforesaid injury a subscriber in good standing to the workmen's compensation fund; and

WHEREAS, The claimant was granted a partial permanent disability award and was last paid thereunder on the thirtieth day of September, one thousand nine hundred thirty-seven, and did not within one year thereafter comply with the provisions of section sixteen, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by making a proper application for the reopening of his said claim, and as a result of his failure to so comply with the statute, the workmen's compensation commissioner is without authority to reopen said claim; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to Reopen Case of Okie E. Knight.—The state compensation commissioner is hereby authorized to reopen the case of Okie E. Knight, notwithstanding the fact that he failed to comply with the provisions of section sixteen, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, in that he did not within one year after the date of the last payment of compensation to him make a proper application for a further adjustment of his claim, and the said state compensation commissioner is further authorized to make such disposition of the case as would have been proper had the said Okie E. Knight complied with the requirements of the said statute by submitting a proper application for the reopening of his claim within the proper time, and to allow the said Okie E. Knight such further compensation as the evidence and the claimant's physical condition warrant.
AN ACT authorizing the state compensation commissioner to reopen the case of P. E. Scott.

[Passed March 8, 1941; in effect from passage. Approved by the Governor.]

Section 1. Compensation commissioner authorized to reopen case of P. E. Scott.

WHEREAS, On October thirty-first, one thousand nine hundred twenty-eight, while employed by the Pocahontas Fuel company in the capacity of a sawyer at said employer's sawmill near the town of McComas in the county of Mercer, this state, P. E. Scott received a head injury, consisting of a fracture of his skull, and was assigned claim number 5510-18 by the workmen's compensation commissioner, after having worked for same employer about thirty-five years immediately before said injury. The said P. E. Scott was a married man with a large family and still is; and

WHEREAS, On May first, one thousand nine hundred twenty-nine, the said P. E. Scott was requested to go to work for same employer and on August third, one thousand nine hundred twenty-nine, while employed by same employer in the capacity of a sawyer at said employer's sawmill near the town of McComas in the county of Mercer, this state, P. E. Scott received another injury, resulting in the loss and amputation of his left arm and part of his right hand, and was assigned claim number 5786-12 by the workmen's compensation commissioner; and

WHEREAS, The employer of the said P. E. Scott was, at the time of aforesaid injuries, a subscriber to the workmen's compensation fund; and

WHEREAS, In the first part of January, one thousand nine hundred thirty-seven, P. E. Scott demanded a hearing before the commissioner for the purpose of obtaining a total and permanent disability and raising his weekly rating from eight dollars
and twelve cents to sixteen dollars, and a final hearing was had before the commissioner on the eleventh day of February, one thousand nine hundred thirty-seven, and as the result of said hearing P. E. Scott was awarded a permanent and total disability and was given a weekly rating of eight dollars and twelve cents; and

WHEREAS, P. E. Scott has made a statement under oath that he never received notice of the commissioner's findings until the expiration of thirty days after said findings, and that the law was at that time that such an appeal cannot be granted after the expiration of thirty days from the findings of the commissioner, and the said P. E. Scott further states under his oath had he received notice of the commissioner's findings he would have appealed same; and

WHEREAS, It is the opinion of competent lawyers that the evidence is such as to be conclusive in a court of record that said P. E. Scott was and is entitled to a weekly rating of sixteen dollars; and

WHEREAS, On September twenty-fourth, one thousand nine hundred forty, a request for reopening and hearing was filed by the said P. E. Scott with the state compensation commissioner, but was declined due to the fact that the commissioner found himself without jurisdiction to consider the claim since more than thirty days had elapsed since the date of his final findings; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to Reopen Case of P. E. Scott.—The state compensation commissioner is hereby authorized to reopen the case of P. E. Scott, notwithstanding the fact that more than thirty days elapsed since the date of the final findings of said commissioner for which no timely appeal was made, and to make such disposition of the case as would have been proper had the application for reopening contained evidence of some other fact or facts which were not theretofore considered by the commissioner in his former findings, and which would entitle such claimant
12 to greater benefits than he has already received, and to
13 allow such compensation to the said P. E. Scott as the
14 facts and conditions pertaining to the case may warrant.

CHAPTER 114
(House Bill No. 266—By Mr. Shinn)

AN ACT to authorize reopening of the claim of Pete Cronig
before the workmen’s compensation commission.

[Passed March 8, 1941; in effect from passage. Approved by the Governor.]

Section 1. Compensation commissioner authorized to reopen case of Pete
Cronig.

Be it enacted by the Legislature of West Virginia:

Section 1. Compensation Commissioner Authorized to
Reopen Case of Pete Cronig.—The state compensation
commissioner is hereby authorized to reopen the case of
Pete Cronig, being case number 6038-79, notwithstanding
the fact that more than one year elapsed since the date
of the last payment to him before the application for re-
opening the hearing was filed, and to make such disposi-
tion of the case as would have been proper had said ap-
lication been filed within the period required by law,
and to allow such compensation to the said Pete Cronig
as the facts and conditions pertaining to the case may
warrant.

CHAPTER 115
(Senate Bill No. 100—By Mr. Wylie)

AN ACT to amend and reenact section three, article four, chap-
ter twenty-three of the code of West Virginia, one thou-
sand nine hundred thirty-one, as last amended by chapter
Article 4. Disability and Death Benefits.

Section 3. Disbursements for medicine, hospital treatment, artificial limbs, etc.; contracts with hospitals for such services illegal; penalties.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Disbursements for Medicine, Hospital Treatment, Artificial Limbs, etc.; Contracts with Hospitals for Such Services Illegal; Penalties.—The commissioner shall disburse and pay from the fund for such personal injuries to such employees as may be entitled thereto hereunder as follows:

(a) Such sums for medicine, medical, surgical, dental, hospital treatment, crutches, artificial limbs and such other and additional approved mechanical appliances as may be reasonably required, not, however, in any case to exceed the sum of eight hundred dollars;

(b) Payment for such medicine, medical, surgical, dental, hospital treatment, crutches, artificial limbs and such other and additional 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
(c) No employer shall enter into any contract with any hospital, its physicians, officers, agents or employees, to render medical, dental or hospital service or to give medical or surgical attention therein to any employee for accidental injury compensable within the purview of this act, and no employer shall permit or require any employee to contribute, directly or indirectly, to any fund for the payment of such medical, surgical, dental or hospital service within such hospital for such accidental compensable injury. Any employer violating this section shall be liable in damages to his or its employee, and shall not avail himself of any of the common law defenses mentioned in section eight, article two of this chapter, and any employer or hospital or agent or employee thereof violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars or to undergo imprisonment not exceeding one year, or both.

CHAPTER 116
(Senate Bill No. 105—By Mr. Bowling)

AN ACT to amend article seven, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section numbered section nine, designating Greenbrier Valley Fair as “The State Fair of West Virginia”.

[Passed March 4, 1941; in effect ninety days from passage. Approved by the Governor.]
Be it enacted by the Legislature of West Virginia:

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

Section 9. Greenbrier Valley Fair Designated "The State Fair of West Virginia"; Ex Officio Members of Board of Directors.—The corporation now known as "Greenbrier Valley Fair" is hereby designated "The State Fair of West Virginia", with the exclusive right to the use of said designation, after such amendments as may be made necessary by such change of name, if any, are made in its charter, constitution and by-laws.

The governor and commissioner of agriculture are hereby made ex officio members of the board of directors of said fair association for the purpose of protecting the interests of the state in the awarding of premiums and in the arrangement of the agriculture and other exhibits.

The provisions of this section shall not alter, change or alienate the rights of any other association entitled to benefits under the provisions of this article, except as to the use of the name above designated.

CHAPTER 117
(House Bill No. 269—By Mr. Thomas)

AN ACT to amend the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing articles nine and ten, chapter eleven, and article three, chapter thirty-seven, and by adding thereto a new chapter, numbered eleven-a, relating to the collection and enforcement of property taxes and to the sale of lands for the school fund.

[Passed March 6, 1941; in effect from passage. Approved by the Governor.]

Be it enacted by the Legislature of West Virginia:

That articles nine and ten, chapter eleven, and article three, chapter thirty-seven of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, be repealed, and that the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new chapter, to be numbered eleven-a, to read as follows:

Chapter 11-A. COLLECTION AND ENFORCEMENT OF PROPERTY TAXES.


Section 1. Definition of terms.
2. Lien for real property taxes.
3. Accrual; time for payment; interest on delinquent taxes.
4. Collection by sheriff.
5. Appointment of collector; bond.
6. When collection to commence.
7. No collection of current taxes until delinquent taxes are paid.
8. Notice of time and place for payment.
9. Payment of taxes by co-owner or other interested party; lien.
10. Payment by owner of part of a tract or lot assessed to another.
11. Payment by fiduciary.
12. Receipt for taxes.
13. Accounts to be kept by sheriff.
14. Payment by sheriff into state treasury.
15. Payment by sheriff to municipal treasurer.
16. Sheriff charged with all levies; final settlement.
17. Sheriff’s commission for collection.

Section 1. Definition of Terms.—The words tax, taxes, taxable and taxation as used in this chapter shall, unless otherwise specified, be applicable to all levies on real or personal property made by any of the taxing units named in section four, article eight, chapter eleven of this code.

The words land or lands or tract or tracts of lands, or lot or lots, or real estate, or real property, or part or parcel of a tract or lot, or estate or estates in land, as used in this chapter, shall be deemed to include an undivided interest in any freehold estate in land.

Sec. 2. Lien for Real Property Taxes.—There shall be a lien on all real property for the taxes assessed thereon, and for the interest and other charges upon such taxes, at the rate and for the period provided by law, which lien shall attach on the first day of January of the year for which the taxes are assessed.
Sec. 3. Accrual; Time for Payment; Interest on Delinquent Taxes.—All current taxes assessed on real and personal property may be paid in two installments. The first installment shall be payable on November first of the year in which the assessment is made, and shall become delinquent on December first; the second installment shall be payable on the first day of the following May and shall become delinquent on June first. Taxes paid on or before the date when they are payable, including both first and second installments, shall be subject to a discount of two and one-half per cent. If the first installment is not paid before December first, interest at the rate of nine per cent per annum shall be added from December first until paid; if the second installment is not paid before June first, interest at the rate of nine per cent per annum shall be added from June first until paid.

Sec. 4. Collection by Sheriff.—The sheriff, as ex officio county treasurer, shall collect all taxes levied in his county. For this purpose he shall have an office at the county seat, which shall be kept open daily during business hours.

Sec. 5. Appointment of Collector; Bond.—The county court may appoint a collector in any county when necessary to collect such taxes. The collector shall have a reasonable time for making collections and accounting therefor. Before acting, he shall execute an official bond, in the penalty of not less than five thousand dollars, to be approved by the county court, and filed with the clerk thereof. All provisions of this chapter in respect to the rights, duties and liabilities of the sheriff shall be applicable to the collector, should one be appointed.

Sec. 6. When Collection to Commence.—The sheriff shall commence collection of current taxes on the fifteenth day of September, or as soon thereafter as he receives copies of the land and personal property books.

Sec. 7. No Collection of Current Taxes Until Delinquent Taxes Are Paid.—The sheriff shall not accept payment of current taxes on any real property without first obtain-
Sec. 8. Notice of Time and Place for Payment.—It shall be the duty of the sheriff to give notice by posting at not less than six public places in each magisterial district, for at least ten days before the time appointed, that between September fifteenth and November first he will attend at one or more of the most public and convenient places in each district, such places to be specified in the notice, for the purpose of receiving taxes due by the people residing or paying taxes in such district. The notice shall also state that those who pay the first installment of their taxes on or before November first will be entitled to a discount of two and one-half per cent. Like notice shall be given that between March fifteenth and May first he will again appear in each district for the collection of taxes, and that those who pay their second installment on or before May first will be entitled to the same discount. Any sheriff failing to post the notice herein required shall forfeit one hundred dollars for each failure.

The county court of any county may order that the above notice shall also be given by advertisement. Upon such order, the sheriff shall, besides posting as required above, insert the proper notice in two newspapers of opposite politics, if such there be in the county, once a week for two successive weeks next preceding the first day of October or the first day of April as the case may be. For every failure so to advertise, the sheriff shall forfeit one hundred dollars.

Sec. 9. Payment of Taxes by Co-owner or Other Interested Party; Lien.—Any owner of real estate whose interest is not subject to separate assessment, or any person having a lien on the land, or on an undivided interest therein, or any other person having an interest in the land, or in an undivided interest therein, which he desires to protect, shall be allowed to pay the whole, but not a part, of the taxes assessed thereon. Any co-owner of real estate whose interest is subject to separate assessment shall be allowed at his election to pay the taxes either on his own interest alone or in addition thereto upon the
12 interest of any or all of his co-owners. If his own or any
13 other interest less than the whole, on which he desires
14 to pay the taxes, was included in a group assessment, he
15 must before payment have the group assessment split
16 and must secure from the assessor and present to the
17 sheriff a certificate setting forth the changes made in
18 the assessment. The sheriff shall make the necessary
19 changes in his records, prepare new tax bills to conform
20 thereto, and then deliver the certificate to the clerk of
21 the county court, who shall note the changes on his
22 records.
23 One who pays taxes on the interest of any other person
24 shall be subrogated to the lien of the state upon such
25 interest. He shall lose his right to the lien, however,
26 unless within thirty days after payment he shall file with
27 the clerk of the county court his claim in writing against
28 the owner of such interest, together with the tax receipt
29 or a duplicate thereof. The clerk shall docket the claim
30 on the judgment lien docket in his office and properly
31 index the same. Such lien may be enforced as other judg-
32 ment liens are enforced.

Sec. 10. Payment by Owner of Part of a Tract or Lot
Assessed to Another.—Any person owning a part of a tract
or lot, the whole of which was assessed in the name of
another, shall be allowed to pay the taxes on such part
upon complying with the provisions of this section. He
must before payment obtain from the clerk of the county
court a certificate of the transfer of title to him, which
certificate shall contain such information concerning the
transfer as is required for each transfer included in the
certified list provided for in section eight, article four,
chapter eleven of this code. On the basis of the informa-
tion in this certificate, he must then have the assess-
ment split and must secure from the assessor and present
to the sheriff a certificate setting forth the changes made
in the assessment. The sheriff shall make the necessary
changes in his records, prepare new tax bills to conform
thereto, and then deliver the certificate to the clerk of
the county court who shall note the changes on his rec-
ords.
Sec. 11. Payment by Fiduciary.—When a tax is paid by a fiduciary on any property under his control, or on the income of such property, the tax shall be refunded out of the property or its income.

Sec. 12. Receipt for Taxes.—The sheriff shall deliver to the person paying any taxes a written or printed receipt therefor, and shall retain for his records the stub or duplicate of such receipt. The receipt and the stub or duplicate shall specify the number of capitations; the total value of personal property; the number of acres of land, and the number of town lots, with the valuation of each tract or lot separately charged. The receipt shall state distinctly the amount of tax paid for state, school, county, municipal and district purposes, and for any other purpose for which a tax has been levied; and the whole amount so paid shall be accurately totaled and set down in the receipt. The officer receiving payment shall sign each receipt in his own handwriting.

The tax commissioner may prescribe uniform tax statements and receipts for use in all the counties of the state.

Sec. 13. Accounts to Be Kept by Sheriff.—The sheriff shall keep separate accounts in a permanent book, in form prescribed by the tax commissioner, of all the taxes received and disbursed by him, for the different purposes for which the taxes were levied. Each of such accounts shall be kept so as to show the total receipts and disbursements up to the close of business on each day; and in a separate column opposite such totals the sheriff shall ascertain and note in figures, at the close of each day's transactions, the balance due from or to him, as the case may be, on account of such funds. The account book shall be subject to inspection at any time by the tax commissioner, members of the county court, the clerk thereof, the prosecuting attorney, or the mayor or treasurer of any municipality.

Sec. 14. Payment by Sheriff into State Treasury.—All taxes collected for the state shall be paid into the state treasury by the sheriff as follows: On or before January fifteenth, all such taxes collected before January first; on
or before July fifteenth, all collected before July first. Every sheriff who fails to make any payment when due shall be charged with interest at the rate of twelve per cent per annum.

Sec. 15. Payment by Sheriff to Municipal Treasurer.—Each month the sheriff shall pay all taxes collected for any municipal corporation into the treasury of such corporation, payment to be made on or before the fifth day of each month of all taxes collected during the preceding month. For the faithful performance of this duty, he shall execute a bond, to be approved by the municipal council, in the penalty to be fixed by the council not to exceed the amount of municipal taxes which it is estimated he will collect within any period of two months. The premium on such bond shall be paid by the municipality. Every sheriff who fails to make any payment when due shall be charged with interest at the rate of twelve per cent per annum.

Sec. 16. Sheriff Charged with All Levies; Final Settlement.—The sheriff shall be charged each year with all taxes levied in his county. On or before August first of the following year, he shall make a final settlement with each taxing unit and account for all taxes assessed for the preceding year. In the settlement, he shall be credited with all such taxes collected and paid over by him to or on account of the taxing unit. He shall also be credited with all such taxes listed as delinquent as provided in the following article. The remainder of the taxes assessed for the preceding year shall be accounted for by him as if they had been collected before the delinquent lists were prepared.

Sec. 17. Sheriff's Commission for Collection.—After the sheriff has collected eighty-five per cent of the combined total of all taxes assessed on real and personal property, he shall, in addition to the salary and compensation now authorized by law, be allowed a commission of one and one-half per cent on the remainder of the taxes actually collected, exclusive of interest and charges thereon, if the collection be made before the delinquent list has been
Article 2. Delinquency and Methods of Enforcing Payment.

Section 1. Duty of sheriff to enforce payment of delinquent taxes.

Sec. 2. Collection by suit.—Taxes are hereby declared to be debts owing by the taxpayer, for which he shall be personally liable. After delinquency, the sheriff may enforce this liability by appropriate action in any court of competent jurisdiction. No such action shall be brought after five years from the time the action accrued.

Sec. 3. Distraint.—The sheriff may, as soon as taxes become delinquent, distrain any goods or chattels in the county belonging to the person or to the estate in land assessed with the taxes. If such goods or chattels are about to be removed from the county, the sheriff may distrain even before delinquency. Whenever rent payable by a tenant is a share of the crop, such share only, whether severed or not, shall be liable to distress for taxes assessed against the landlord.
Sec. 4. Abatement of Distress.—Whenever by mistake taxes are assessed wholly to one person or estate on a tract or lot of land, part of which has become the freehold of another, by a title recorded before January first of the assessment year, the goods and chattels of the party or estate so assessed shall not be liable to distraint for more than a due proportion of such taxes.

Sec. 5. Distraint of Encumbered Property.—No trust deed, mortgage or sale of goods and chattels shall prevent their being distrained for all taxes assessed against the grantor or former owner thereof, while such goods and chattels remain in his possession; nor shall such deed, mortgage or sale prevent their being distrained for taxes assessed on such goods and chattels, no matter in whose possession they may be found.

Sec. 6. Distraint Where Land Lies in More Than One County.—Where taxes are assessed on land lying partly in one county and partly in another, the sheriff of the county in which the taxes are so assessed may distrain goods or chattels on that part of the land lying in the other county.

Sec. 7. Summary Procedure for Collection Out of Money Due from or Property Held by Another.—Whenever there is any person who is now indebted to, or who, as tenant, lessee or otherwise, will for any rent, issue, delay rentals, gas well rentals, or royalties of any kind, in the future become indebted to, or who has in his possession property belonging to, any delinquent taxpayer, the sheriff may make written application to such person demanding payment of the taxes out of such money as is now or may become due, or out of the property. No person so applied to shall make any payment or deliver any of the property to the delinquent taxpayer until the taxes are paid. From the time of the making of such application the taxes shall constitute a lien on any such money now or to become due from the person applied to and on such property held by him. The sheriff shall endorse upon the application the time and the place application was made and shall file it for record with the clerk of the county court.
Upon the failure of any person to comply with the application, the sheriff may serve such person with a notice in writing to appear and answer for his failure before a court of competent jurisdiction. The notice shall designate the court before which he is to appear, and shall state the time for such appearance, which time shall not be less than ten days after service of the notice, the name of the delinquent taxpayer and the amount of the delinquency.

The sheriff shall endorse the time and place of service on the original of such notice, and shall file it with the court designated therein. If the person served does not appear, judgment shall be entered against him in favor of the sheriff for the amount of taxes due, with costs of the proceeding. If he does appear, the court, upon proof that he was a person to whom application might properly be made, shall render judgment against him for the amount of taxes due, with costs of the proceeding, which judgment shall be payable only out of the money which is now or is to become due to the delinquent taxpayer or out of property held for him. Appeals and writs of error shall lie as in other cases.

Payment of the taxes, in whole or in part, by the person applied to, whether made upon application only or made toward satisfaction of a judgment against him, shall entitle him to a credit on any obligation he may owe the delinquent taxpayer, or to a charge against any property held for the taxpayer, and to a first lien on any such property, for the amount paid, unless he was by an express contract bound to pay the taxes.

Sec. 8. Remedies Against Vendee in Possession Without Deed.—Any purchaser in possession of land, whether or not he has obtained a deed therefor, shall be personally liable for the taxes assessed against the land after he obtained possession, unless the vendor has expressly contracted to pay the taxes himself. The sheriff may collect from the purchaser by any of the methods provided for in this article.

Sec. 9. Remedies of Sheriff Paying Over Taxes Not Collected.—If the sheriff has paid into the treasury of the
PROPERTY TAXES

Sec. 10. Sale of Real Estate for Taxes.—In addition to the methods for the collection of taxes provided for in this article, real estate may be sold for the taxes assessed thereon in the manner prescribed in article three of this chapter.

Sec. 11. Delinquent Lists; Oath.—The sheriff, after ascertaining which of the taxes assessed in his county are delinquent, shall, on or before the first day of July next succeeding the year for which the taxes were assessed, prepare the following delinquent lists, arranged by districts and alphabetically by name of the person charged, and showing in respect to each the amount of taxes remaining delinquent at the end of the fiscal year on June thirtieth: (1) A list of property in the land book improperly entered or not ascertainable. (2) A list of other delinquent real estate. (3) A list of all other delinquent taxes.

The sheriff on returning each list shall, at the foot thereof, subscribe an oath, which shall be subscribed before and certified by some person duly authorized to administer oaths, in form or effect as follows:

I, ________________________, sheriff (or deputy sheriff or collector) of the county of_________________________, do swear that the foregoing list is, to the best of my knowledge and belief, complete and accurate, and that I have received none of the taxes listed therein.

Except for the oath, the tax commissioner shall prescribe the form of the delinquent lists.

Sec. 12. Penalty for Inclusion of Taxes Paid in Delinquent Lists.—If a sheriff shall include in one of the delinquent lists any taxes which have been collected by him, he shall forfeit to the person named in the list, if the return was by design, ten times the amount of the taxes...
so collected, or if the return was by mistake, twice the
amount.

Sec. 13. Publication and Posting of Delinquent Lists.—
A copy of each of the delinquent lists shall be posted at
the front door of the courthouse of the county at least
two weeks before the session of the county court at which
they are to be presented for examination. At the same
time a copy of each list shall be printed once in two news-
papers of opposite politics, if such there be in the county,
and the costs of printing shall be paid out of the county
treasury; but in such publication, only the aggregate
amount of the taxes owed by each person need be pub-
lished. To cover the costs of preparing, publishing and
posting the delinquent lists, a charge of one dollar shall
be added to the taxes and interest already due on each
item listed.

Sec. 14. Correction of Delinquent Lists by County
Court; Certification to Auditor; Recordation.—The sheriff
shall, at or before the session of the county court at which
the county levy is to be laid, present the delinquent lists
to the county court for examination. The court having
become satisfied that the lists are correct, or having cor-
rected them if erroneous, shall direct the clerk of the
court to certify a copy of each list to the auditor not later
than September first. The original lists shall be preserved
by the clerk in his office, and the list of delinquent real
estate shall be recorded in a permanent book to be kept
by him for that purpose.

Sec. 15. Examination of Lists by Auditor; Credit to
Sheriff.—It shall be the duty of the auditor to examine
each list, and if he has reason to believe that it is erro-
neous, he shall return it to the county court for correction,
stating his reasons why it should be corrected as to any
person or subject listed therein. The auditor shall credit
the sheriff with all state taxes mentioned in each list.

Sec. 16. Effect of Irregularity as to Delinquent Lists on
Later Tax Enforcement Procedure.—No irregularity, error
or mistake in respect to anything required by this article
to be done concerning the delinquent lists shall invalidate
any tax title based upon later tax enforcement procedure.

Nor shall any person be allowed to enjoin or otherwise question the validity of any subsequent step in the tax enforcement procedure by reason of such irregularity, error or mistake, unless he shows that he was actually prejudiced thereby.

Sec. 17. Presumption of Payment Based on Omission from Delinquent Lists.—Whenever a tax is charged to any person or assessed against any property, and the name of the person charged or the property assessed does not appear in the proper delinquent list, it shall be presumed, in the absence of evidence to the contrary, that the tax so charged or assessed was paid before the time when such list was required to be made.

Sec. 18. Redemption Before Sale; Record; Lien.—The owner of any real estate returned delinquent, or any other person entitled to pay the taxes thereon, may redeem at any time before the sale provided for in the following article by payment of the taxes, interest and charges due. However, redemption of an undivided interest included in a group assessment or of part of a tract or lot the whole of which was assessed in the name of a person other than the owner shall not be permitted until the applicable provisions of section nine or of section ten, article one of this chapter, have been complied with. The sheriff shall give to the person redeeming a duplicate receipt, one of which shall be filed with the clerk of the county court, who shall note the fact of such redemption on his record of delinquent lands. Whenever only part of a tract or lot, or only an undivided interest therein, has been redeemed, the clerk shall make the necessary changes in his record of delinquent lands before noting the fact of redemption on the record. Any person redeeming an interest of another shall be subrogated to the lien of the state on such interest as provided in section nine, article one of this chapter.


Section
1. Declaration of legislative purpose and policy.
2. Second publication and posting of list of delinquent real estate; notice.
Redemption after second publication and before sale.
Sale by sheriff.
Suspension from sale.
Purchase by state.
Title acquired by state.
Redemption from purchase by or forfeiture to the state.
Certificate of redemption issued by auditor; recordation.
Lien of person redeeming interest of another; record.
Revaluation and reclassification at request of auditor or person redeeming.
Compulsory redemption at election of auditor.
Redemption of part of a tract or lot; survey.
Auditor to report redemptions to county officers; disposition of redemption money; credit of state taxes to proper fund.
Purchase by individual at tax sale; receipt.
Co-owner free to purchase at tax sale; purchase by sheriff and clerk of the county court prohibited.
Redemption from purchase by individual; receipt; list of redemptions; lien.
Payment of redemption money to clerk.
Contest of redemption by payment to clerk.
What purchaser must do before he can secure deed.
Report or survey of real estate purchased.
Survey when part of tract is purchased.
Notice to redeem.
Service of notice.
Deed to purchaser; record.
Compelling service of notice or execution of deed.
One deed for separate purchases.
Title acquired by individual purchaser.
Effect of irregularity on title acquired by purchaser.
Right to set aside sale or deed when all taxes paid before sale.
Right to set aside deed improperly obtained.
Right to set aside deed when one entitled to notice not notified.
On whose behalf suits instituted; decree when deed set aside.
Subsequent tax sale of real estate purchased by individual.
Redemption by persons under disability from purchase by individual.
Sheriff's list of sales, suspensions and redemptions; oath.
Sheriff to account for proceeds.
Return of list of sales, suspensions and redemptions.
Penalty for failure to make such return; mandamus.
Amendment of such list.
Publication by sheriff of sales list.
Liability of officer failing to perform duty; penalty.

Section 1. Declaration of Legislative Purpose and Policy.—In view of the paramount necessity of providing regular tax income for the state, county and municipal governments, particularly for school purposes; and in view of the fact that tax delinquency, aside from being a burden on the taxpayers of the state, seriously impairs the rendering of these essential services; and in view of the further fact that delinquent land, with its attendant problems made acute by the events of the past decade,
not only constitutes a public liability, but also represents a failure on the part of delinquent private owners to bear a fair share of the costs of government; now, therefore, the Legislature declares that its purpose in the enactment of this and the following article is threefold: First, to provide for the speedy and expeditious enforcement of the tax claims of the state and its subdivisions; second, to provide for the transfer of delinquent lands to those more responsive to, or better able to bear, the duties of citizenship than were the former owners; and third, in furtherance of the policy favoring the security of land titles, to establish an efficient procedure that will quickly and finally dispose of all claims of the delinquent former owner and secure to the new owner the full benefit of his purchase.

Sec. 2. Second Publication and Posting of List of Delinquent Real Estate; Notice.—On or before November tenth of each year the sheriff shall prepare a second list of delinquent lands, which shall include all real estate in his county remaining delinquent as of November first, together with a notice of sale, in form or effect as follows:

Notice is hereby given that the following described tracts or lots of land or undivided interests therein in the county of ________________, which are delinquent for the nonpayment of taxes for the year (or years) 19___, will be offered for sale by the undersigned sheriff (or collector) at public auction at the front door of the courthouse of the county, between the hours of ten in the morning and four in the afternoon on the ______ day of ______________________, 19____. Each unredeemed tract or lot, or each unredeemed part thereof or undivided interest therein, or so much thereof as may be necessary, will be sold for the amount due thereon, as set forth in the following table:

<table>
<thead>
<tr>
<th>Name of person charged with taxes</th>
<th>Quantity of land</th>
<th>Local description</th>
<th>Total amount of taxes, interest and charges due to date of sale</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Any of the aforesaid tracts or lots, or a part thereof or an undivided interest therein, may be redeemed by the payment to the undersigned sheriff (or collector) before sale, of the total amount of taxes, interest and charges due thereon up to the date of redemption.

Given under my hand this _day of____, 19____.

Sheriff (or collector).

The sheriff shall publish the list and notice, once a week for four successive weeks prior to the sale date fixed in the notice, in two newspapers of opposite politics, if such there be in the county, and the costs of printing shall be paid out of the county treasury. He shall also post a copy of such list and notice at the front door of the courthouse at least four weeks before the sale. If there is no newspaper published in the county, or if no such newspaper will publish the list and notice for the compensation provided by law, then the sheriff shall also post a copy of the notice, but not of the delinquent list, at some public place in each magisterial district at least twenty days before the sale. In such case the notice shall also state that the delinquent list has been posted at the front door of the courthouse.

To cover the costs of preparing, publishing and posting the delinquent list, a charge of two dollars shall be added to the taxes, interest and charges already due on each item listed. The sum of the taxes, interest to the date of sale, and other charges shall be stated in the list as the total amount due.

Sec. 3. Redemption After Second Publication and Before Sale.—Any of the real estate included in such list may be redeemed at any time before sale as provided in section eighteen, article two of this chapter.

Sec. 4. Sale by Sheriff.—Each unredeemed tract or lot, or each unredeemed part thereof or undivided interest therein, or so much of any unredeemed tract or part thereof as may be necessary, shall be sold by the sheriff at public auction, between the hours of ten in the morning and four in the afternoon on the second Monday in
7 December, for the total amount of taxes, interest and charges then due. If the sale is not completed on that day, it shall be continued from day to day between the same hours until all the land has been disposed of.

Sec. 5. Suspension from Sale.—Whenever it shall appear to the sheriff that any real estate included in the list ought not to be sold for the amount stated therein, he shall suspend the sale thereof and report his reasons therefor to the county court. If the court finds that the real estate ought not to be sold, it shall so order; but if the court finds that the real estate ought to be sold for the amount stated, or for a greater or less amount, it shall order the sheriff to include such real estate in his next November list, unless sooner redeemed.

Sec. 6. Purchase by State.—If no person present bids the amount of taxes, interest and charges due on any real estate offered for sale, the sheriff shall purchase it on behalf of the state for the amount so due.

Sec. 7. Title Acquired by State.—Upon such purchase by the state, title to the real estate sold shall without any deed be vested in the state, subject, however, to the right of redemption provided for in the following section.

Sec. 8. Redemption from Purchase by or Forfeiture to the State.—The former owner of any real estate purchased by the state or forfeited to the state for nonentry, or any other person who was entitled to pay the taxes thereon, may redeem at any time until such real estate has been sold as provided in article four of this chapter, and the sale confirmed by the circuit court. In order to redeem, he must pay to the auditor such of the following amounts as may be due: (1) The taxes, interest and charges for which the real estate was sold, with interest at the rate of twelve per cent per annum from the date of sale. (2) All taxes assessed thereon for the year in which the sale occurred, with interest at the rate of twelve per cent per annum from the date on which they became delinquent, except when such taxes are currently due and payable to the sheriff. (3) All taxes except those for
the current year which would have been assessed thereon
since the sale had the sale not occurred, or which, in the
case of land forfeited for nonentry, would have been
assessed thereon had the land been properly entered,
with interest at the rate of twelve per cent per annum
from the date on which they would have become delin-
quent. (4) The fee provided by the following section
for the issuance by the auditor of the certificate of re-
demption.
In computing the amount due under number three on
real estate purchased by the state, the auditor shall use
as the basis for computation the classification and valua-
tion placed thereon by the assessor for each year since
the sale. If such valuation and classification have not been
made, he shall use the last valuation and classification
appearing on the property books. In computing the
amount due under number three on real estate forfeited
for nonentry, the auditor shall use as the basis for com-
putation such classification and valuation as may, at the
request of the auditor or the person redeeming, be cer-
tified to the auditor by the assessor as the classification
and valuation which in his opinion would be proper for
each year of nonentry.
In the case of partial redemption, he must pay only
that proportion of such taxes as are chargeable to the
part or interest redeemed, but must pay all of the other
charges and the fee required for redemption of the whole.
However, redemption of an undivided interest included
in a group assessment or of part of a tract or lot the whole
of which was assessed in the name of a person other than
the owner shall not be permitted until the applicable
provisions of section nine or of section ten, article one
of this chapter, have been complied with, except that
instead of presenting the assessor's certificate to the sheriff
as therein required, the person redeeming shall present
it to the auditor, who, after making the necessary changes
in the land book and in the record of delinquent lands
kept in his office, shall compute the taxes due on the part
or interest redeemed.
Sec. 9. Certificate of Redemption Issued by Auditor; Recordation.—Upon payment of the sum necessary to redeem, the auditor shall execute a certificate of redemption in triplicate, which certificate shall specify the real estate redeemed, or the part thereof or the interest therein, as the case may be, together with any changes in respect thereto which were made in the land book and in the record of delinquent lands, shall specify the year or years for which payment was made, and shall state that it is a receipt for the money paid and a release of the state's title to the real estate redeemed. The original certificate shall be retained in the files in the auditor's office, one copy shall be delivered to the person redeeming and the second copy shall be mailed by the auditor to the clerk of the county court of the county in which the real estate is situated, who, after making any necessary changes in his record of delinquent lands, shall note the fact of redemption on such record, and shall record the certificate in a separate volume provided for the purpose.

The fee for issuing the certificate of redemption shall be one dollar if the total of taxes, interest and charges due is twenty dollars or less; three dollars if such total is more than twenty dollars and less than one hundred dollars; and five dollars if such total is one hundred dollars or more. All such fees collected by the auditor shall be paid by him into the special operating fund provided by the following article for the land department in his office.

All certificates of redemption issued by the auditor in each year shall be numbered consecutively and shall be filed by the clerk of the county court in numerical order. Reference to the year and number of the certificate shall be included in the notation of redemption required of the clerk of the county court. No fee shall be charged by the clerk for any recordation, filing or notation required by this section.

Sec. 10. Lien of Person Redeeming Interest of Another; Record.—Any person redeeming an interest of another shall be subrogated to the lien of the state on such inter-
PROPERTY TAXES

Sec. 11. Revaluation and Reclassification at Request of Auditor or Person Redeeming.—The auditor, or the person redeeming, if dissatisfied with the valuation and classification which by section eight of this article are required to be used as the basis for computation by the auditor of the amount necessary for redemption, may request a revaluation or reclassification of the property for any year or years since the sale. Such request must be made to the assessor of the county in which the property is situated, who shall pass upon the request. If, because of damage to the property or the making of improvements thereon, or because of a general change in property values in the county, or for any other reason, it shall appear that the valuation complained of would have been too high or too low for that year, then the assessor shall place a new valuation thereon. Such revaluation shall be made in accordance with the rule prescribed by section one, article three, chapter eleven of this code, so that the new valuation shall correspond to the values placed by the assessor on other property in the county for that year. If it shall appear that the classification complained of failed to conform to the classification prescribed in section five, article eight, chapter eleven of this code, the assessor shall make the proper reclassification. Any revaluation or reclassification made by the assessor as provided in this section must be submitted to the county court for review and approval. For this purpose the county court shall act as a board of review and equalization at any regular or special session throughout the year. The decision of the county court may be reviewed by the circuit court as provided in section
All new valuations and reclassifications when approved by the county court shall be certified by the assessor to the auditor, and shall be used by him in computing the amount necessary for redemption.

Sec. 12. Compulsory Redemption at Election of Auditor.

The auditor, if he so elects, may compel redemption of any real estate purchased by or forfeited to the state. In order to collect from the former owner an amount sufficient for redemption, he may use any of the methods provided in article two of this chapter, for collection of taxes by the sheriff.

Sec. 13. Redemption of Part of a Tract or Lot; Survey.

Any person having a right to redeem the whole of any tract of land, or of any town or city lot, purchased by or forfeited to the state, who desires to redeem only a part of such tract or lot, must have the part he desires to redeem surveyed and laid off by metes and bounds, and must secure from the surveyor a plat showing the whole tract or lot as well as the part to be redeemed. The part to be redeemed shall be in one body, the length of which shall, whenever practicable, be not more than twice the breadth. He must also secure from the surveyor a description of the part to be redeemed and an affidavit by the surveyor that the plat and description and the quantity of land mentioned therein is, as he verily believes, correct. The person desiring to redeem must then present the plat and description, with the affidavit attached, to the assessor who, on the basis of the information contained therein, shall prepare a certificate setting forth the present value of the entire tract or lot, and the value at which both the part to be redeemed and the remainder of the tract or lot would probably be assessed in the future. Upon presentation to the auditor of the assessor's certificate and the plat, description and affidavit, the auditor shall determine whether in his opinion the state as owner of the whole tract or lot would be prejudiced by such partial redemption. If he is of opinion that the redemption should be allowed, he shall ascertain what proportion of the amount necessary for redemption of the
whole tract is properly chargeable to the part redeemed. Upon redemption, the auditor shall enclose the plat, description and affidavit with the copy of the certificate of redemption which he is required to send to the clerk of the county court. Such plat, description and affidavit shall be recorded by the clerk in the deed book when he records the certificate of redemption.

All surveys mentioned in this and the following article shall be made by the county surveyor, or if he is interested or is unavailable, then by some other competent surveyor.

Sec. 14. Auditor to Report Redemptions to County Officers; Disposition of Redemption Money; Credit of State Taxes to Proper Fund.—The auditor shall report monthly to the sheriff, the assessor and the clerk of the county court of each county all land in such county which was redeemed in his office during the preceding month. The assessor shall enter the fact of such redemption in the land book in his office. The clerk shall file and index the report in a separate volume provided for the purpose.

Between October fifteenth and November first of each year, the auditor shall report to the sheriff of each county for inclusion in his next November delinquent list all tracts of land redeemed from the auditor, which after purchase by the state have been reported to him by the sheriff as suspended from sale, if the taxes for the year or years of suspension were not collected by the auditor. The sheriff shall be charged with such taxes and shall account for them as is required in the case of current taxes. Instead of making this report, the auditor may collect the taxes due for the year or years of suspension. Upon collection thereof he shall issue a second certificate of redemption, and such certificate shall be a release of the state’s lien for such taxes.

The auditor shall each month draw his warrant upon the treasury, payable to the sheriff of each county, for that part of the taxes, interest and charges, received by him upon the redemption of the property included in his report, which was owing to any of the taxing units
PROPERTY TAXES [Ch. 117

30 in such county. The sheriff shall account for and pay
31 over such money as if it had been paid to him for redemp-
32 tion before sale.
33 Upon collection of delinquent taxes due the state, the
34 auditor shall credit them to the proper fund.

Sec. 15. Purchase by Individual at Tax Sale; Receipt.—
2 If any person, being the highest bidder present at the
3 sale provided for in section four of this article, bids and
4 pays at least the amount of taxes, interest and charges
5 for which any real estate is offered for sale, the sheriff
6 shall issue to him a receipt for the purchase money. The
7 heading of the receipt shall be:
8 Memorandum of real estate sold in the county of ........
9 ___________________________on this ______ day of ________________ , 19_____,
10 for the nonpayment of taxes charged thereon for the year
11 (or years) 19_____.
12 Except for the heading, the tax commissioner shall pre-
13 scribe the form of the receipt.

Sec. 16. Co-owner Free to Purchase at Tax Sale; Pur-
2 chase by Sheriff and Clerk of the County Court Pro-
3 hibited.—Any co-owner, except a coparcener, in the ab-
4 sence of satisfactory proof of a fiduciary relationship, shall
5 be entitled to acquire by tax purchase for his own account
6 the interest of any, or all, of his co-owners in any real
7 estate, without being required to hold such interest or
8 interests under any constructive trust. There shall be a
9 prima facie presumption against the existence of any such
10 constructive trust.
11 No sheriff, clerk of the county court, nor deputy of
12 either, shall directly or indirectly become the purchaser,
13 or be interested in the purchase, of any real estate at the
14 tax sale. Any such officer so purchasing shall forfeit one
15 hundred dollars for each offense. The sale of any real
16 estate to one of the officers named in this section shall be
17 voidable, at the instance of any person having the right
18 to redeem, until such real estate reaches the hands of a
19 bona fide purchaser.

Sec. 17. Redemption from Purchase by Individual; Re-
2 ceipt; List of Redemptions; Lien.—After the sale, the
former owner of, or any other person who was entitled
to pay the taxes on, any real estate purchased by an in-
dividual, may redeem at any time before June first of
the second year following the sale. In order to redeem,
he must pay to the purchaser, his heirs or assigns, the
following amounts: (1) The amount of purchase money
paid to the sheriff, with interest at the rate of twelve
per cent per annum from the date of sale. (2) All other
taxes thereon, which have since been paid by the pur-
chaser, his heirs or assigns, with interest at the rate of
twelve per cent per annum from the date of payment.
(3) Such additional expenses as may have been incurred
in procuring the survey or report provided for in sections
twenty-one and twenty-two of this article and in prepar-
ing the list of those to be served with notice and giving
the notice required by sections twenty-three and twenty-
four of this article.
The person redeeming shall be given duplicate receipts
for the payment. If the purchaser, his heirs or assigns,
shall refuse or fail to sign and give such receipts when
lawfully required to do so, he or they shall pay to the per-
son redeeming twice the amount of such payment, which
may be recovered by action on the case in any court of
competent jurisdiction. One of such receipts shall be filed
with the clerk of the county court on or before the day on
which the right to redeem expires. The clerk shall endorse
on both receipts the fact and time of such filing, and shall
note the fact of redemption on his record of delinquent
lands. If the receipt is not filed on or before such date, the
redemption shall be void as to creditors and subsequent
bona fide purchasers from the purchaser, his heirs or as-
signs. If, however, the receipt is filed after the date re-
quired, it shall operate as notice from and after the date
of filing. In June of each year the clerk of the county
court shall prepare and certify to the auditor a list of all
redemptions from sales to individual purchasers, which
have not been included in any former list.
Any person who, by reason of the fact that no provision
is made for partial redemption of real estate purchased
by an individual, is compelled in order to protect him-
self to redeem all of such real estate when it belongs in
whole or in part to some other person, shall have a lien on the interest of such other person for the amount paid to redeem such interest. He shall lose his right to the lien, however, unless within thirty days after payment he shall file with the clerk of the county court his claim in writing against the owner of such interest, together with the receipt provided for in this or the following section. The clerk shall docket the claim on the judgment lien docket in his office and properly index the same. Such lien may be enforced as other judgment liens are enforced.

Sec. 18. Payment of Redemption Money to Clerk.—Whenever the purchaser, his heirs or assigns shall refuse to accept payment of the redemption money, or cannot be found or does not reside in the county, payment may be made to the clerk of the county court at any time before the right to redeem expires. The clerk shall issue duplicate receipts, one to be filed by him in his office, and shall note the fact of redemption on his record of delinquent lands.

Sec. 19. Contest of Redemption by Payment to Clerk.—If the purchaser, his heirs or assigns, dispute the right to redeem of the person making payment to the clerk as provided in the preceding section, he or they may, within one year after payment to the clerk, give to such person, or to his heirs, or personal representative, notice in writing of such dispute, requiring him or them to appear before the circuit court of the county, on a day to be named in the notice, and prove that the person who made the payment had a right to redeem. Such notice shall be served at least ten days before the day on which it is returnable, and if the party served fails to appear, or if he appears and fails to prove the right to redeem, the court shall enter an order cancelling the redemption and, if the period of redemption has then expired and all other conditions of the following section have been complied with, directing the clerk to execute and deliver to the purchaser, or his heirs or assigns, a deed for the property. If the other conditions have not been complied with, the
court may enter an order allowing reasonable additional
time for compliance, authorizing, as a substitute for the
notice required by section twenty-three, preparation and
service of a notice to redeem within ninety days, and di-
recting the clerk to execute the deed upon the expiration
of such period of redemption. Any deed executed pur-
suant to an order of the court provided for in this section
shall have the same force and effect as if executed and
delivered within the time specified in section twenty-five
of this article. The clerk of the county court shall enter
such order on his record of delinquent lands and shall
return the money to the person who made the payment,
or to his personal representative. If, however, the de-
cision is that such person had the right to redeem, the
clerk shall pay the money to the purchaser, or his heirs
or assigns.

If the purchaser, his heirs or assigns, admit the right to
redeem but claim that the sum paid the clerk was in-
sufficient, he or they may upon similar notice have the
sufficiency of the payment determined by the court. If
the person redeeming fails to appear or if the decision
is that the sum paid was insufficient, the court shall, un-
less such additional amount as may be found to be due
is paid within thirty days, enter an order cancelling the
redemption, and shall also enter such further appropriate
orders as are authorized to be entered under the pre-
ceding paragraph. If the sum is found to have been
sufficient, the court shall make such orders as are appro-
priate when the right to redeem is sustained under the
preceding paragraph.

Sec. 20. What Purchaser Must Do Before He Can Se-
cure Deed.—At any time after January first of the second
year following the sale, and on or before March first of
the same year, the purchaser, his heirs or assigns, in or-
der to secure a deed for the real estate purchased, must:
(1) Secure and file with the clerk of the county court the
survey or report provided for in sections twenty-one and
twenty-two of this article; (2) examine the title in order
to prepare a list of those to be served with notice to re-
deem and request the clerk to prepare and serve the no-
PROPERTY TAXES

11 notice as provided in sections twenty-three and twenty-four of this article; and (3) deposit, or offer to deposit, with the clerk a sum sufficient to cover the cost of preparing and serving the notice. For failure to meet these requirements, the purchaser shall lose all the benefits of his purchase.

17 If the person requesting preparation and service of the notice is an assignee of the purchaser, he shall, at the time of the request, file with the clerk a written assignment to him of the purchaser's rights, executed, acknowledged and certified in the manner required to make a valid deed.

Sec. 21. Report or Survey of Real Estate Purchased.—

2 Except as provided in the following section, an individual purchaser at the tax sale, his heirs or assigns, must, at his or their expense, have the county surveyor make either a report or a survey of the real estate purchased. The report shall contain such a description of the property as will identify it, and shall specify the metes and bounds thereof, if ascertainable without a survey, unless there is a recorded plat of such property to which reference can be made. If a survey is preferred, a plat of the property and description thereof by metes and bounds must be obtained from the surveyor. If the sale was of an undivided interest in any property, the report or survey shall be of the entire property. The report or the plat and description must be filed with the clerk of the county court within the time specified in section twenty of this article. The fact and time of such filing shall be endorsed by the clerk on the report or on the plat and description, and shall be noted by him on his record of delinquent lands.

Sec. 22. Survey When Part of Tract Is Purchased.—

2 Whenever only part of a tract is sold for the taxes due on the entire tract, the purchaser of such part, his heirs or assigns, must, at his or their expense, have the part so purchased surveyed by the county surveyor and laid off by metes and bounds. The area so laid off shall be bounded in part by some one or more of the lines of the tract, to be selected by the purchaser, his heirs or assigns. The part chosen shall not include any of the improve-
ments on the tract, if this can be avoided, and shall be
in one body, the length of which shall, whenever prac-
ticable, be not more than twice the breadth. A plat of
the part so laid off and a description thereof, to be pre-
pared by the surveyor, must be filed with the clerk of
the county court within the time specified in section
twenty of this article. The fact and time of such filing
shall be endorsed by the clerk on the plat and description,
and shall be noted by him on his record of delinquent
lands.

Sec. 23. Notice to Redeem.—Whenever the provisions
of section twenty of this article have been complied with,
the clerk of the county court shall thereupon prepare a
notice in form or effect as follows:

To ________________________________

You will take notice that ____________________________, the pur-
chaser (or ____________________________, the assignee, heir or devisee of
______________, the purchaser) of the following real
estate, ____________________________, (here describe the real estate
sold) located in ____________________________, (here name the city,
town or village in which the real estate is situated or, if
not within a city, town or village, give the district and a
general description) which was returned delinquent in
the name of ____________________________, and was sold by the sheriff
of ____________________________ County at the sale for delinquent
taxes made on the ______ day of ________, 19____, has re-
quested that you be notified that a deed for such real es-
tate will be made to him on or after the first day of June,
19____, as provided by law, unless before that day you
redeem such real estate. The amount you will have to
pay to redeem on the last day, May thirty-first, will be
as follows:

Amount paid sheriff at sale, with interest to May 31st ____________________________ $__________

Amount of taxes paid on the property, since the sale, with interest to May 31st ____________________________ $__________

Amount paid for survey and report ____________________________ $__________

Amount paid for preparation of list of those to be served, and for preparation and service of the notice ____________________________ $__________

Total ____________________________ $__________
You may redeem at any time before May thirty-first by paying the above total less any unearned interest.

Given under my hand this .......... day of .........., 19 ......

________________________________________

Clerk of the County Court of

State of West Virginia

The clerk for his service in preparing the notice shall receive a fee of fifty cents for the original and twenty-five cents for each copy required.

Sec. 24. Service of Notice.—As soon as the clerk has prepared the notice provided for in the preceding section, he shall cause it to be served upon the following persons:

(1) The person in whose name the real estate was returned delinquent and sold, or, in case of his death, his heir or devisee and his personal representative, if such there be; (2) any grantee of such person, or his heir or devisee and his personal representative, if such there be, if a conveyance of such real estate is recorded or filed for record in the office of the clerk; (3) any person having a lien upon such real estate disclosed by any paper recorded in the clerk’s office; and (4) any other person having such an interest in the property as would entitle him to redeem, if the existence of such interest appears of record.

The notice shall be personally served upon all such persons residing or found in the state in the manner provided for serving process commencing a suit, on or before the fifteenth day of March following the request for such notice. If any person entitled to notice is a nonresident of the state or if his residence is unknown to the clerk and cannot by due diligence be discovered, the notice shall be served by publication once a week for three successive weeks in some newspaper published in the county in which such real estate is located, or if no newspaper is published in the county, then in some newspaper of general circulation in the county. If service by publication is necessary, publication shall be commenced within one week after March fifteen, and a copy of the notice shall at the same time be sent by registered mail, return
receipt requested, to the last known address of the person served. The return of service of such notice and the affidavit of publication, if any, shall be in the manner provided for process generally and shall be filed and preserved by the clerk in his office, together with any return receipts for notices sent by registered mail.

Sec. 25. Deed to Purchaser; Record.—If the real estate described in the notice is not redeemed within the time specified therein, the clerk of the county court shall thereupon make and deliver to the person entitled thereto a deed for such real estate in form or effect as follows:

This deed made this day of __________, 19__, by and between ____________________________, clerk of the county court of ________________ County, West Virginia, (or by and between ____________________________, a commissioner appointed by the Circuit Court of ________________ County, West Virginia, or by and between ____________________________, a commissioner appointed by the Judge of the Circuit Court of ________________ County, West Virginia, in vacation,) grantor, and ________ ____________, purchaser, (or ____________, heir, devisee or assignee of ________________ ____________, purchaser,) grantee, witnesseth, that Whereas, In pursuance of the statutes in such case made and provided, ________________ ____________, Sheriff of ________________ County, (or ________________ ____________, deputy for ________________ ____________, Sheriff of ________________ County, or ________________ ____________, collector of ________________ County,) did, in the month of ____________, in the year 19 ____________, sell the real estate, hereinafter mentioned and described, for the taxes delinquent thereon for the year (or years) 19 ____________, and ________________ ____________, (here insert name of purchaser) for the sum of $ ____________, that being the amount of purchase money paid to the sheriff, did become the purchaser of such real estate (or of ____________ acres, part of the tract or land, or of an undivided ____________ interest in such real estate) which was returned delinquent in the name of ________________ ____________; and Whereas, The report or the plat and description required by law has been duly filed with the clerk of the county court; and Whereas, The clerk of the county court has caused the
PROPERTY TAXES

Whereas, The real estate so purchased has not been re-deemed in the manner provided by law and the time for redemption set in such notice has expired;

Now, therefore, the grantor, for and in consideration of the premises and in pursuance of the statute, doth grant unto _____________________________ , grantee, his heirs and assigns forever, the real estate so purchased, situate in the county of _____________________________ , bounded and described as follows: ____________________________________________ .

Witness the following signature:

______________________________
Clerk of the County Court of ____________ County

Except when ordered to do so, as provided in sections nineteen and twenty-six of this article, no clerk of the county court shall execute and deliver such a deed more than six months after the purchaser's right to the deed accrued.

For the execution of the deed and for all the recording required by this section, a fee of five dollars shall be charged, to be paid by the grantee upon delivery of the deed. The deed, when duly acknowledged or proven, shall be recorded by the clerk of the county court in the deed book in his office, together with the report or plat and description, the assignment from the purchaser, if one was made, the notice to redeem, the return of service of such notice, the affidavit of publication, if the notice was served by publication, and any return receipts for notices sent by registered mail.

Sec. 26. Compelling Service of Notice or Execution of Deed.—If the clerk of the county court fails or refuses to prepare and serve the notice to redeem as required in sections twenty-three and twenty-four of this article, the person requesting the notice may, at any time within two weeks after such failure or refusal, apply by petition to the circuit court of the county, or to the judge thereof in vacation, for an order compelling the clerk to prepare and serve the notice or appointing a commissioner to do
If the person requesting the notice fails to make such application within the time allowed, he shall lose his right to the notice, but his rights against the clerk under the provisions of section forty-two of this article shall not be affected. Notice given pursuant to an order of the court or judge shall be as valid for all purposes as if given within the time required by section twenty-four of this article.

If the clerk fails or refuses to execute the deed as required in the preceding section, the person requesting the deed may, at any time after such failure or refusal, but not more than six months after his right to the deed accrued, apply by petition to the circuit court of the county, or to the judge thereof in vacation, for an order compelling the clerk to execute the deed or appointing a commissioner to do so. If the person requesting the deed fails to make such application within the time allowed, he shall lose his right to the deed, but his rights against the clerk under the provisions of section forty-two of this article shall not be affected. Any deed executed pursuant to an order of the court or judge shall have the same force and effect as if executed and delivered by the clerk within the time specified in the preceding section.

Ten days' written notice of every such application must be given to the clerk. If, upon the hearing of such application, the court or judge is of the opinion that the applicant is not entitled to the notice or deed requested, the petition shall be dismissed at his costs; but if the court or judge is of the opinion that he is entitled to such notice or deed, then, upon his deposit with the clerk of the circuit court of a sum sufficient to cover the costs of preparing and serving the notice, unless such a deposit has already been made with the clerk of the county court, an order shall be made by the court or judge directing the clerk to prepare and serve the notice or execute the deed, or appointing a commissioner for the purpose, as the court or judge shall determine. The order, if made in vacation, shall be filed with the clerk of the court and entered by him in the chancery order book. If it appear to the court or judge that the failure or refusal of the clerk was without reasonable cause, judgment shall be
given against him for the costs of the proceedings, otherwise the costs shall be paid by the applicant.

Any commissioner appointed under the provisions of this section shall be subject to the same liabilities as are provided for the clerk. For the preparation of the notice to redeem, he shall be entitled to the same fee as is provided for the clerk. For the execution of the deed, he shall also be entitled to a fee of five dollars, to be paid by the grantee upon delivery of the deed.

Sec. 27. One Deed for Separate Purchases.—Whenever one purchaser at the tax sale has purchased two or more pieces of real estate, or undivided interests therein, charged to the same person, or persons, with taxes for the same year, or years, he, his heirs or assigns, may request the clerk of the county court to execute a separate deed for each piece of real estate, or undivided interest therein, or separate deeds for some and one deed for the remainder, or one deed for all, as he or they may prefer. Every deed for two or more pieces of real estate, or undivided interests therein, shall describe each piece of real estate and each undivided interest separately.

Sec. 28. Title Acquired by Individual Purchaser.—Whenever the purchaser of any real estate sold at a tax sale, his heirs or assigns, shall have obtained a deed for such real estate from the clerk of the county court or from a commissioner appointed to make the deed, he or they shall thereby acquire all such right, title and interest, in and to the real estate, as was, at the time of the execution and delivery of the deed, vested in or held by any person who was entitled to redeem, unless such person is one who, being required by law to have his interest separately assessed and taxed, has done so and has paid all the taxes due thereon, or unless the rights of such person are expressly saved by the provisions of sections sixteen, thirty, thirty-one, thirty-two or thirty-five of this article. The tax deed shall be conclusive evidence of the acquisition of such title. The title so acquired shall relate back to January first of the year in which the taxes, for nonpayment of which the real estate was sold, were assessed.
Sec. 29. Effect of Irregularity on Title Acquired by Purchaser.—No irregularity, error or mistake in respect to any step in the procedure leading up to and including delivery of the tax deed shall invalidate the title acquired by the purchaser unless such irregularity, error or mistake is, by the provisions of sections sixteen, thirty, thirty-one, or thirty-two of this article, expressly made ground for instituting a suit to set aside the sale or the deed.

This and the preceding section are enacted in furtherance of the purpose and policy set forth in section one of this article.

Sec. 30. Right to Set Aside Sale or Deed When All Taxes Paid Before Sale.—Any owner of real estate which was sold for nonpayment of taxes, when all taxes thereon had in fact been paid before the sale, his heirs and assigns, or the person who paid the taxes, may, on or before December thirty-first of the third year following the sale, whether the sale was to an individual or to the state, institute a suit in equity to set aside the sale and to enjoin the proper official from taking any further steps in the procedure provided in this and the following article, or, if a deed has been delivered to the purchaser, to set aside the deed. If such suit is instituted by or on behalf of the owner of an undivided interest which was included in a group assessment but which was separately redeemed as provided in section eighteen, article two of this chapter, the sale or the deed shall be set aside only in so far as it affects his interest.

Sec. 31. Right to Set Aside Deed Improperly Obtained.—Whenever the clerk of the county court has delivered a deed to the purchaser after the time specified in section twenty-five of this article, or, within that time, has delivered a deed to a purchaser who was not entitled thereto either because of his failure to meet the requirements of section twenty of this article or because the property conveyed had been redeemed, the owner of such property, his heirs and assigns, or the person who redeemed the property, may, on or before December thirty-first of the third year following the sale, institute a suit in equity to set aside the deed. No deed shall be set aside under
Sec. 32. Right to Set Aside Deed When One Entitled to Notice Not Notified.—If any person entitled to be notified under the provisions of section twenty-four of this article is not served with the notice as therein required, and does not have actual knowledge that such notice has been given to others in time to protect his interests by redeeming the property, he, his heirs and assigns, may, on or before December thirty-first of the third year following the sale, institute a suit in equity to set aside the deed. No deed shall be set aside under the provisions of this section until payment has been made or tendered to the purchaser, or his heirs or assigns, of the amount which would have been required for redemption, together with any taxes which have been paid on the property since delivery of the deed, with interest at the rate of twelve per cent per annum.

Sec. 33. On Whose Behalf Suits Instituted; Decree When Deed Set Aside.—Any suit instituted under the provisions of the three preceding sections by a person other than the former owner, his heirs or assigns, must be brought on his or their behalf. Whenever the deed in such case is set aside, the decree shall be that all the right, title and interest of the former owner, his heirs or assigns, is revested in him or them.

Sec. 34. Subsequent Tax Sale of Real Estate Purchased by Individual.—Whenever any real estate has been sold at a tax sale to an individual purchaser, and the taxes on such real estate for the year of the sale or for any subsequent year have become delinquent, the sheriff shall include the real estate in the delinquent lists of the proper year and shall again sell the whole or a part thereof for taxes as if the former sale had not occurred. The pur-
Sec. 35. Redemption by Persons under Disability from Purchase by Individual.—In addition to and notwithstanding any other provisions of this article, any infant or insane person whose real estate was, during such disability, sold at a tax sale to an individual purchaser, may redeem such real estate by paying to the purchaser, or his heirs or assigns, before the expiration of one year after removal of the disability, but in no event more than twenty years after the deed was obtained, the amount of the purchase money, together with the necessary charges incurred in obtaining the deed, and any taxes paid on the property since the sale, with interest on such items at the rate of six per cent per annum from the date each was paid. If such person was the owner of an undivided interest in the real estate sold, he may redeem such interest by paying that proportion of the purchase money, charges, taxes and interest chargeable to his interest; but after a deed has been delivered to the purchaser, he shall not have the right to redeem more than his own undivided interest. If improvements have been made on such real estate after the deed was obtained and before the offer to redeem as herein provided, the person redeeming shall pay to the purchaser, or his heirs or assigns, the value of the improvements at the time of such offer, after deducting therefrom the value of the use of such real estate without the improvements, from the date of the deed to the date of the offer. Upon payment or tender of payment, the purchaser, his heirs or assigns, shall, at the expense of the person redeeming, convey to him by quitclaim deed the real estate so redeemed.

One entitled to redeem under the provisions of this section may, if he is unable or is not willing to pay for the improvements made by the purchaser, elect to re-
linquish his interest in the property. If he so elects, he shall be entitled to an amount equal to the estimated present value of the land without the improvements less what he would have had to pay to redeem the land had no improvements been made. Upon payment to him of such amount, he shall by quitclaim deed convey the land to the purchaser, his heirs or assigns.

If in any case provided for in this section the parties cannot agree on the amount to be paid, any of them may upon ten days' notice in writing to the other, or others, apply by petition, to the circuit court of the county in which the real estate is situated, or to the judge thereof in vacation, to have the matter referred to a commissioner to ascertain the proper amount to be paid. Upon confirmation by the court or judge of the report of the commissioner, and upon payment or tender of the amount, if any, so ascertained to be due, the person to whom payment or tender was made, shall execute the quitclaim deed as provided above. In the event of his refusal to do so, the court, or judge, may appoint a commissioner to execute the deed.

If there is a refusal to execute the deed in any case in which there was no dispute as to the amount necessary for redemption, the person entitled to the deed may, upon ten days' notice in writing to the other party or parties, apply by petition to the circuit court, or to the judge thereof in vacation, for the appointment of a commissioner to execute the deed.

Sec. 36. Sheriff's List of Sales, Suspensions and Redemptions; Oath.—As soon as the sale provided for in section four of this article has been completed, the sheriff shall prepare a list of all delinquent real estate purchased at the sale, or suspended from sale, or redeemed before sale. The heading of the list shall be in form or effect as follows:

List of real estate in the county of_____________, returned delinquent for nonpayment of taxes thereon for the year (or years) 19____, and sold in the month (or months) of______________, 19____, or suspended from sale, or redeemed before sale.
Ch. 117]  
PROPERTY TAXES  

The sheriff shall, at the foot of such list, subscribe an oath, which shall be subscribed before and certified by some person duly authorized to administer oaths, in form or effect as follows:

I, ________________, sheriff (or deputy sheriff or collector) of the county of ______________, do swear that the above list contains a true account of all the real estate within my county returned delinquent for nonpayment of taxes thereon for the year (or years) 19__, which was sold by me or which was suspended from sale or redeemed before sale, and that I am not now, nor have I at any time been, directly or indirectly interested in the purchase of any such real estate.

Except for the heading and the oath, the tax commissioner shall prescribe the form of the list.

Sec. 37. Sheriff to Account for Proceeds.—The sheriff shall account for the proceeds of all sales and redemptions included in such list in the same way he accounts for other taxes collected by him, except that if the purchase money paid for any property sold is in excess of the amount of taxes, interest and charges due thereon, the surplus shall be paid to the person or persons charged with the taxes. All real estate included in the first delinquent list sent to the auditor, and not accounted for in the list of sales, suspensions and redemptions, shall be deemed to have been redeemed before sale, and the taxes, interest and charges due thereon shall be accounted for by the sheriff as if they had been received by him before the sale.

Sec. 38. Return of List of Sales, Suspensions and Redemptions.—Within one month after completion of the sale, the sheriff shall deliver the original list of sales, suspensions and redemptions, with a copy thereof, to the clerk of the county court. The clerk shall bind the original of such list in a permanent book to be kept for the purpose in his office, and shall note each sale and suspension, and each redemption not previously noted, on his record of delinquent lands. The clerk, within ten days after delivery of the list to him, shall transmit the copy to the auditor, who shall note each sale, suspension
and redemption on the record of delinquent lands kept in his office.

Sec. 39. Penalty for Failure to Make Such Return; Mandamus.—Any sheriff who fails to prepare and return the list of sales, suspensions and redemptions within the time required by the preceding section, shall forfeit not less than fifty nor more than five hundred dollars, for the benefit of the general school fund, to be recovered by the auditor or by any taxpayer of the county on motion in a court of competent jurisdiction. Upon the petition of any person interested, the sheriff may be compelled by mandamus to make out and return such list, and the proceedings thereon shall be at his cost.

Sec. 40. Amendment of Such List.—If the sheriff shall make any error or omission in the list of sales, suspensions and redemptions returned to the clerk of the county court, he or any person interested may, within six months after the sale, apply by petition to the county court for an order permitting or requiring amendment of the list. Any person who might be prejudiced by the proposed amendment must, if found within the county, be given at least ten days' notice of such application. Upon proof of the error or mistake the court shall make an order permitting or requiring the sheriff to file an amended list with the clerk of the court. The sheriff shall thereupon prepare and deliver to the clerk of the court the amended list and a copy thereof, with a copy of the order of the court permitting or requiring it to be filed attached to the list and to the copy. The clerk shall substitute the original of the amended list for the list already in his office, and make the necessary corrections on his record of delinquent lands. The clerk shall transmit the copy of the amended list to the auditor who shall note the corrections on his record of delinquent lands.

Sec. 41. Publication by Sheriff of Sales List.—Within one month after completion of the sale, the sheriff shall prepare and publish for two successive weeks in two newspapers of opposite politics, if such there be in the county, otherwise in some newspaper published in the
List of real estate sold in the county of ____________, in the month (or months) of ____________, 19____, for nonpayment of taxes thereon for the year (or years) __________, and purchased by individuals or by the State of West Virginia:

<table>
<thead>
<tr>
<th>Name of Person Charged with Taxes</th>
<th>Local Description of Lands</th>
<th>Quantity of Land Charged</th>
<th>Quantity of Land Sold</th>
<th>Name of Purchaser</th>
<th>Whole Amount Paid by Purchaser</th>
</tr>
</thead>
</table>

The owner of any real estate listed above, or any other person entitled to pay the taxes thereon, may, however, redeem such real estate as provided by law.

Given under my hand this ______ day of ____________, 19____.

In addition to the publication required above, the sheriff shall post a copy of such list at the front door of the courthouse. If no newspaper will publish the list for the compensation provided by law, or if there is no newspaper published in the county, the sheriff shall also post a copy of the list at some public place in each magisterial district in the county. The costs of printing the sales list shall be paid out of the county treasury. To cover the costs of preparing, publishing and posting such list, a charge of two dollars shall be added to the taxes, interest and charges already due on each item listed.

Sec. 42. Liability of Officer Failing to Perform Duty; Penalty.—If any officer mentioned in this article shall fail or refuse to perform any duty required of him, he and the sureties on his official bond shall be liable in an action on the bond for such damages as may be sustained by any person by reason of such failure. In addition to this liability, he shall forfeit not less than twenty-five nor more than one hundred dollars for each failure or refusal,
9 unless a different penalty is imposed by the provisions of
this article.


Section
1. Declaration of legislative purpose.
2. Forfeiture of lands for nonentry.
3. Lands subject to sale under this article.
4. State commissioner of forfeited and delinquent lands.
5. Deputy commissioners of forfeited and delinquent lands; compensation; bond.
6. Auditor's record of delinquent lands.
7. Operating fund for land department in auditor's office.
8. Officers to report lands subject to sale.
9. Auditor to certify list of lands to be sold.
10. Redemption after certification and before sale.
11. Certificate of redemption issued by deputy commissioner; record.
12. Lien of person redeeming interest of another; record.
13. Revaluation and reclassification.
14. Upon application of deputy commissioner circuit court to order sale and publication of notice.
15. Separate order book to be kept by clerk; costs.
16. Publication and posting of list of lands to be sold; notice.
17. Application for reduction of amount due.
18. Application for suspension from sale.
19. Procedure upon application for reduction or suspension order.
20. Review of refusal by court or judge to enter administrative order.
21. Sale by deputy commissioner; report to circuit court.
22. Purchase by individual; receipt.
23. Purchase by deputy commissioner for public land corporation.
24. Co-owner free to purchase at sale; purchase by deputy commissioner and other officers prohibited.
25. Right of former owner to surplus proceeds.
26. Right of creditor of former owner of escheated land.
27. Redemption after sale to individual and before confirmation; receipt.
28. Redemption after sale to public land corporation and before confirmation.
29. Lien of person redeeming interest of another; record.
30. Payment of redemption money to clerk of circuit court.
31. Contest of redemption by payment to clerk.
32. Conditions precedent to confirmation of sale to individual purchaser.
33. Conditions precedent to confirmation of sale to public land corporation.
34. Report or survey of real estate purchased.
35. Application for order directing service of notice to redeem.
36. Notice to redeem from sale to individual purchaser.
37. Notice to redeem from sale to public land corporation.
38. Service of notice.
39. Proceeding to set aside sale.
40. Confirmation of sale; right to redeem terminated.
41. Deed to purchaser; record.
42. Title to vest in public land corporation without deed; record of order confirming sale.
43. Title acquired.
44. Effect of irregularity on title acquired.
45. Right to set aside sale or deed when land was not subject to sale.
46. Right to set aside deed improperly obtained.
47. Right to set aside sale or deed when one entitled to notice not notified.
48. On whose behalf suits instituted; decree when sale or deed set aside.
49. Redemption by persons under disability.
50. Annual report of deputy commissioner to auditor.
51. Sheriff to keep proceeds in separate account; disposition.
52. Disposition of pending suits; former sales confirmed.
53. Liability of officer failing to perform duty; penalty.
54. Release of taxes and interest.
55. Separability.

Section 1. Declaration of Legislative Purpose.—In furtherance of the policy declared in section one, article three of this chapter, it is the intent and purpose of the Legislature to abolish the existing judicial proceeding for the sale of land for the school fund, and to substitute therefor an administrative ex parte proceeding, thus reverting to the practice originally established and sanctioned in this state. The procedure provided for in this article is designed to convey to the purchaser not an original but merely a derivative title.

Sec. 2. Forfeiture of Lands for Nonentry.—It is the duty of each owner of land to have his land entered for taxation on the land book of the appropriate county, and to have himself charged with the taxes due thereon. Land which for any five successive years shall not have been so entered and charged, shall by operation of law, without any proceedings therefor, be forfeited to the state as provided in section six, article thirteen of the constitution.

Sec. 3. Lands Subject to Sale Under This Article.—All lands purchased by the state for nonpayment of taxes, or forfeited for nonentry, or escheated, or waste and unappropriated, are subject to sale as provided in this article.

Sec. 4. State Commissioner of Forfeited and Delinquent Lands.—The state auditor shall, ex officio, be state commissioner of forfeited and delinquent lands. The term "auditor", whenever used in this chapter in connection with the subject of delinquent, forfeited, escheated, or waste and unappropriated lands, shall be construed to refer to him as state commissioner of forfeited and delinquent lands.
The auditor is empowered, and it shall be his duty, through the land department in his office, to administer and carry into execution the laws with reference to such lands. The auditor, on behalf of the state, shall have power to hold and manage such lands, and to exercise other powers incident to the general ownership of land.

Sec. 5. Deputy Commissioners of Forfeited and Delinquent Lands; Compensation; Bond.—There shall be for each county in the state a deputy commissioner of forfeited and delinquent lands. The auditor shall appoint such deputies as soon as may be after this act takes effect, and shall make new appointments from time to time thereafter whenever vacancies occur, or when in his judgment it is deemed advisable. The auditor may make rules respecting the tenure of deputy commissioners. In the absence of such rules, the deputy for each county shall, so long as he satisfies the requirements of this section in respect to professional qualifications and bonding, continue to act without reappointment until the auditor designates his successor.

Appointments shall be limited to persons duly licensed to practice law in the state, and so far as possible shall be made for each county from among attorneys residing and practicing law therein. If, however, there is in the opinion of the auditor no suitable person in a county available for appointment, he shall designate a member of the bar of another county in the same judicial circuit. Whenever in respect to any land the deputy commissioner, in his own judgment or in the opinion of the auditor, is disqualified because of his personal interest, or because of his representation of clients in matters affecting such land, the auditor may appoint a special deputy to deal with that land. All provisions of this article in respect to the rights, duties, liabilities and qualifications of the deputy commissioner, shall be applicable to the special deputy.

The deputy commissioner shall be subject to the orders and control of the auditor, shall be accountable to him, and shall serve as his local agent within the county. It
shall be his duty to do whatever is required of him by the auditor or by the provisions of this article. As compensation for his services he shall receive the sum of one dollar for every tract certified to the circuit court of the county of his appointment, and such additional compensation and fees as are provided for in this article.

To insure the faithful performance of his duties and the payment of any forfeitures incurred, the deputy commissioner before entering upon his duties shall give a bond, with satisfactory corporate surety, in the penalty of not less than two thousand dollars, nor more than ten thousand dollars, to be fixed by the auditor. The premium for such bond shall be paid by the auditor out of the operating fund for the land department in his office.

Sec. 6. Auditor's Record of Delinquent Lands.—The auditor shall prepare and keep in his office a permanent record of all delinquent, forfeited, escheated, and waste and unappropriated lands. The record shall, as to every tract listed, set forth the information available as to quantity, local description, and, except in the case of waste and unappropriated lands, the name of the former owner and the respective dates of nonentry and forfeiture, or nonpayment and delinquency, or escheat, as the case may be. The record shall be prima facie evidence of all matters required by this section to be set forth therein, including the propriety of the description of lands as delinquent, forfeited, escheated, or waste and unappropriated.

Sec. 7. Operating Fund for Land Department in Auditor's Office.—The auditor shall set up a special operating fund for the land department in his office. He shall pay into such fund all redemption fees, all publication or other charges collected by him, if such charges were paid by or were payable to him, and all payments made to him by sheriffs under the provisions of section fifty-one of this article, except such part thereof as represents state taxes and interest received by the sheriff for redemptions after certification and before sale. The fund shall be used by the auditor to pay any sums owing by him to
deputy commissioners for services rendered under the provisions of this article, and to pay for the operation and maintenance of the land department in his office. The surplus remaining in the fund at the end of any fiscal year shall be paid by the auditor into the general school fund.

Sec. 8. Officers to Report Lands Subject to Sale.—Whenever an assessor, or clerk of the county court, or county surveyor learns of the existence within his county of any forfeited land, he shall promptly report that fact to the deputy commissioner for the county, together with his information relating thereto. The county surveyor shall also report all waste and unappropriated lands within his county, except lands lying under the bed of a navigable stream, and shall in his report specify the quantity, the local description, and any claims of title thereto. The assessor, as escheator, shall likewise report all lands which escheat to the state. The deputy commissioner shall transmit to the auditor all such reports as upon investigation he finds to be correct.

Sec. 9. Auditor to Certify List of Lands to Be Sold.—On and after the first day of January, one thousand nine hundred forty-two, and during the month of January each year thereafter, the auditor shall certify to the circuit court of each county a list of all lands in the county subject to sale under this article which have been under his control as state commissioner of forfeited and delinquent lands for at least one year before certification. He shall note the fact of certification on his record of delinquent lands.

Each of the four classes of land subject to sale shall be listed separately. The list shall be arranged by districts and, except in the case of waste and unappropriated lands, alphabetically by name of the former owner. The list shall state as to each item listed, the information required by section six of this article to be set forth in the auditor’s record of delinquent lands and shall specify as to each tract listed as delinquent or forfeited, the amount of taxes and interest due for each year prior to certification, the publication and other charges due, with interest,
and the total currently due, which total shall, except for
the redemption fee, correspond to the sum required for
redemption from the auditor on the date of certification.
The specification of taxes due shall as to delinquent land
commence with those for nonpayment of which it was
sold, and as to forfeited land with those properly charge-
able to it for the first year of nonentry.

The items listed shall be numbered consecutively, and
all subsequent orders, entries, applications or proceedings
under this article in respect to any item shall refer to
its number and to the year of certification. All tracts,
lots, or parcels sold to the state as a unit shall be treated
by the auditor as a single item for purposes of certifica-
tion. Subject to the provisions of this section, the auditor
shall prescribe a form for the list and shall provide in
such form adequate space to show the subsequent history
and final disposition of each item certified.
The list shall be made in quadruplicate. The auditor
shall keep the original and shall send one copy to the
clerk of the circuit court, one to the clerk of the county
court, and one to the deputy commissioner. The clerk
of the county court shall bind his copy in a permanent
book to be labeled “Report of State Commissioner of For-
feited and Delinquent Lands” and shall note the fact of
the certification of each item on his record of delinquent
lands. The clerk of the circuit court shall preserve his
copy in a suitable and convenient manner until each item
therein certified has been finally disposed of.

Sec. 10. Redemption After Certification and Before
Sale.—In order to redeem after certification and before
sale, any person having a right of redemption under the
provisions of section eight, article three of this chapter,
must apply to the deputy commissioner. The deputy com-
missioner shall thereupon compute the amount required
for redemption by adding to the amount stated in the
auditor’s list as the total due on the date of certification,
interest on such amount at the rate of twelve per cent
per annum from such date to the date of redemption,
and such of the following fees and charges as may be
due: (1) Such fee for the certificate of redemption as is
provided by section nine, article three of this chapter, for
redemption from the auditor. (2) A charge of one dollar
for preparation and certification of the list. (3) A fee of
one dollar for compensation of the deputy commissioner.
(4) A charge of one dollar for costs of the proceedings in
the circuit court, if redemption is after application to the
court as provided in section fourteen of this article. (5) A
charge of one dollar for publication and posting of the
list and the notice of sale, if redemption is after publica-
has begun.

The amount so found to be due shall be entered by the
deputy commissioner on a blank order, to be signed by
him, directing the sheriff to receive and give his receipt
for such amount. The order, thus filled in and signed,
shall be presented to the sheriff when payment is made.
The auditor shall prescribe the form of the order and
shall furnish copies thereof to each deputy commissioner.
Partial redemption, as provided for in sections eight
and thirteen, article three of this chapter, shall not be
allowed at any time after certification.

Sec. 11. Certificate of Redemption Issued by Deputy
Commissioner; Recordation.—Upon presentation to him
of the sheriff’s receipt for the amount found to be due
under the preceding section, the deputy commissioner
shall issue a certificate of redemption in the same form
as the auditor’s certificate required by section nine, ar-
ticle three of this chapter. All certificates issued by the
deputy commissioner in each year shall be numbered con-
secutively. The original certificate shall be sent to the
auditor for filing in his office, one copy shall be delivered
to the person redeeming, and the other copy shall be de-
ivered by the deputy commissioner to the clerk of the
county court who in respect to this certificate shall do
everything required of him by section nine, article three
of this chapter, in respect to the auditor’s certificate.

Sec. 12. Lien of Person Redeeming Interest of Another;
Record.—Any person redeeming an interest of another
shall be subrogated to the lien of the state on such in-
terest. He shall lose his right to the lien, however, unless
within thirty days after payment he shall file with the
clerk of the county court his claim in writing against the
owner of such interest, together with a reference by
number to the certificate of redemption delivered by the
deputy commissioner to the clerk, as provided in the pre-
ceding section. The clerk shall docket the claim on the
judgment lien docket in his office and properly index the
same. Such lien may be enforced as other judgment liens
are enforced.

Sec. 13. Revaluation and Reclassification.—One redeem-
ing from the deputy commissioner may request such a
revaluation or reclassification as is provided for in sec-
tion eleven, article three of this chapter. Any new valua-
tion or reclassification shall, however, be certified by the
county court to the deputy commissioner and shall be
used by him in computing the taxes due.

Sec. 14. Upon Application of Deputy Commissioner
Circuit Court to Order Sale and Publication of Notice.—
At any time after certification by the auditor, the deputy
commissioner may apply to the circuit court, or to the
judge thereof in vacation, for an order fixing a date for
the sale and for the first publication of the list and the
notice of sale. If the deputy commissioner fails to make
such application within thirty days after certification, he
shall forfeit one hundred dollars. When such application
is made, the court or judge, after fixing the dates, shall
order the deputy commissioner: (1) To prepare, as pro-
vided in section sixteen of this article, the list of lands
to be sold; (2) to publish, on the date fixed, the list and
the notice of sale as required by section sixteen of this
article; and (3) to sell, on the date fixed for the sale, each
unredeemed item for the amount stated in the published
list as the amount then due thereon.

In applying for the order, the deputy commissioner
shall give to the court or judge his estimate as to the time
necessary for making the computation of the amount due,
and the court or judge shall consider that estimate in
fixing the date of first publication. The date fixed for the
sale shall be not less than sixty nor more than ninety
days after the date named in the order for the first publi-
cation of the notice.
Sec. 15. Separate Order Book to Be Kept by Clerk; Costs.—All orders, whether administrative or judicial, made by the court or judge in respect to proceedings for the sale of lands under this article shall be entered by the clerk of the court in a separate order book, to be labeled “Order Book for Sales of Lands for School Fund”. Every order shall specify the certification number of each item to which the order is applicable. The clerk of the court shall index the order book by certification number of each tract.

The costs of the proceedings in the circuit court shall be one dollar for each item certified by the auditor in respect to which any order is made by the court or judge. Unless otherwise expressly provided by this article, no additional costs shall be taxed.

Sec. 16. Publication and Posting of List of Lands to Be Sold; Notice.—Before the date set by the court or judge for the first publication of the notice of sale, the deputy commissioner shall prepare, from the list certified by the auditor, a list of all lands thereon which have not been redeemed by such date. The list shall state in respect to each item the amount which, exclusive of the redemption fee, will be due on the date fixed for the sale. The form of such list shall be determined by the auditor.

The deputy commissioner shall also prepare a notice of sale in form or effect as follows:

Notice is hereby given to all interested parties that, pursuant to the order of the Circuit Court of ______________ County, (or of ______________, Judge of the Circuit Court of ______________ County, in vacation,) the following described tracts or lots of land, or undivided interests therein, will be offered for sale by the undersigned deputy commissioner of forfeited and delinquent lands at public auction at the front door of the courthouse of the county, between the hours of ten in the morning and four in the afternoon on the __________ day of ______________, 19__, unless sooner redeemed or by order of the court or judge suspended from sale.

All delinquent lands and all forfeited lands will be
offered for sale for the amount due thereon as stated in
the following list.
All escheated and all waste and unappropriated lands
will be sold to the highest bidder, subject to approval of
the bid by the court or judge.
Commencing on the date fixed by the order of the court
or judge for the first publication, the deputy commis-
sioner shall publish the list and notice, once a week for
two successive weeks, in two newspapers of opposite
politics, if such there be in the county, and the costs of
printing shall be paid out of the operating fund for the
land department in the auditor's office. There shall not
be allowed or paid as such costs a greater sum than
twenty-five cents per item for each insertion in each
newspaper. The deputy commissioner shall also post a
copy of the list and notice at the front door of the court-
house on the date ordered for the first publication. If
there is no newspaper published in the county, or if no
such newspaper will publish the list and notice for the
compensation provided, then he shall also post a copy of
the notice, but not of the list, at some public place in
each magisterial district at least sixty days before the
sale. In such case, the notice shall also state that the list
of lands to be sold has been posted at the front door of
the courthouse.

Sec. 17. Application for Reduction of Amount Due.—
Any person substantially interested, who claims that the
amount rightfully due on any item is less than the
amount for which it is advertised for sale, may apply to
the circuit court, or to the judge thereof in vacation, for
an order reducing such amount. The deputy commis-
sioner may also apply for such an order whenever, be-
because of a revaluation under section thirteen of this ar-
ticle or for any other reason, he is satisfied that the
amount should be reduced.

Sec. 18. Application for Suspension from Sale.—Any
person substantially interested may apply to the circuit
court, or to the judge thereof in vacation, for an order
suspending from sale any land as to which he makes one
of the following claims: (1) That all taxes due thereon
were paid before sale to the state. (2) That the land was redeemed after sale to the state. (3) That the land has not escheated. (4) That the land has not been forfeited for nonentry. (5) That the land was sold to him at a former circuit court sale for the benefit of the school fund and has not thereafter been sold to the state for nonpayment of taxes nor forfeited for nonentry. (6) That he has acquired title to the land by transfer under the provisions of section three, article thirteen of the constitution. The application shall state briefly the facts on which the claim is based. The deputy commissioner may also apply for such an order whenever on any of these grounds he is satisfied that the land should not be sold.

Sec. 19. Procedure upon Application for Reduction or Suspension; Order.—Whenever application under either of the two preceding sections is by the deputy commissioner, he shall state briefly the reasons for his application, and the court or judge, if satisfied therewith, shall enter the order applied for. No costs shall be taxed in connection with applications by the deputy commissioner. Whenever the application is by a person substantially interested, the court or judge shall enter an order temporarily suspending sale of the land involved and fixing the date for a hearing upon the application, which date shall be not less than ten nor more than thirty days after the application was made. At least ten days' notice of the hearing shall be given to the deputy commissioner, who shall attend as representative of the state. The costs in connection with such applications shall be taxed to the applicant.

At the hearing upon an application under section seventeen, the court or judge shall determine the amount properly due and shall order the land sold for such amount on the date originally fixed for the sale, or if that has passed, then on some new date. At the hearing upon an application under section eighteen, the court or judge, if satisfied that the applicant has established his claim, shall enter an order permanently suspending sale of the land and directing the deputy commissioner to execute to the former owner or to the applicant, as the
Whenever a new date is fixed for the sale, the court or judge shall order a republication of the notice of sale required by section sixteen of this article. In any case in which the applicant was unsuccessful, the cost of such republication shall be borne by the applicant and shall be taxed to him as part of the costs; otherwise, it shall be paid out of the operating fund for the land department in the auditor’s office.

All oral testimony presented at the hearing shall be reduced to writing and shall, together with all papers and documents so presented, be made a part of the record of the proceeding before the circuit court or judge.

Sec. 20. Review of Refusal by Court or Judge to Enter Administrative Order.—A private applicant, who is aggrieved by the refusal of the circuit court or judge to enter any administrative order applied for under the provisions of this article, may, at any time within four months after entry of the order refusing such application, present a petition in writing to the supreme court of appeals, or to a judge thereof in vacation, praying for a review of such refusal. The petitioner shall, before presenting the petition to the supreme court or judge, deliver one copy thereof to the circuit judge who signed the order refusing the application, and one copy to the auditor. After the circuit judge receives his copy and until the petition has been withdrawn, or has been disposed of by the supreme court, the land in respect to which the application was made shall be suspended from sale, or if it was sold before the petition was filed, the sale thereof shall not be confirmed.

The supreme court or judge shall fix a time for the hearing upon the petition, but the hearing, unless by agreement of the parties, shall not be held sooner than ten days after presentation of the petition. Notice of the time and place of such hearing shall immediately be given.
to the circuit judge so that he may be represented at
the hearing, and such notice shall also be given to the
auditor. If the circuit judge does not designate counsel to
represent him, it shall be the duty of the attorney general,
upon request of the auditor, to appear for that purpose
at the hearing.

The circuit judge shall, before the hearing on the
petition, file with the clerk of the supreme court a written
statement of his reasons for refusing the order applied
for. He shall at the same time file with the clerk all the
papers, documents and evidence presented at the hearing
which resulted in such refusal. The supreme court shall
hear the case and dispose of the petition solely upon the
record of the proceeding before the circuit court or judge.

Sec. 21. Sale by Deputy Commissioner; Report to Cir-
cuit Court.—On the day fixed by order of the court or
judge, the deputy commissioner shall sell, in the manner
specified in the notice of sale and for the amount stated
to be due in the published list of lands to be sold, each
unredeemed item included in such list, unless the sale
thereof has been suspended. If the sale is not completed
on that day, it shall be continued from day to day until
all the land has been disposed of. For the purpose of re-
ceiving the proceeds of the sale, it shall be the duty of the
sheriff to attend all such sales conducted by the deputy
commissioner in his county.

The deputy commissioner shall prepare a report for the
circuit court which shall show what was done with respect
to all lands ordered to be sold. The report shall state as to
each item whether it was redeemed before sale, was sus-
pended from sale, or was sold, and if sold, the name of the
purchaser. The report shall, within ten days after the
sale, be filed with the clerk of the circuit court who shall
note on his certified list the information given with re-
spect to each tract.

Sec. 22. Purchase by Individual; Receipt.—If any per-
son, being the highest bidder at the sale, bids and pays
at least the amount for which any land is offered for
sale, the sheriff shall issue to him a receipt for the pur-
chase money. The auditor may prescribe the form of the receipt.

Sec. 23. Purchase by Deputy Commissioner for Public Land Corporation.—The deputy commissioner shall purchase for the public land corporation, for the amount stated to be due in the published list, all forfeited and delinquent lands on which no bid of such amount is made. He shall also purchase for the public land corporation, for the amount of the publication and other charges due, all escheated or waste and unappropriated lands on which no bids are made. If the highest bid on any escheated or waste and unappropriated land is not approved by the court or judge, such land shall be sold to the deputy commissioner in open court, for the public land corporation, for the amount of the publication and other charges due. In such case, the sheriff shall be ordered to restore to the bidder the amount of purchase money paid at the sale.

Sec. 24. Co-owner Free to Purchase at Sale; Purchase by Deputy Commissioner and Other Officers Prohibited.—Any co-owner, except a coparcener, in the absence of satisfactory proof of a fiduciary relationship, shall be entitled to purchase at the sale for his own account the interest of any, or all, of his co-owners in any real estate, without being required to hold such interest or interests under any constructive trust. There shall be a prima facie presumption against the existence of any such constructive trust. No deputy commissioner, sheriff, clerk of the county or circuit court, assessor, nor deputy of either shall directly or indirectly become the purchaser, or be interested in the purchase of any real estate at the sale. Any such officer so purchasing shall forfeit one hundred dollars for each offense. The sale of any real estate to one of the officers named in this section shall be voidable, at the instance of any person having the right to redeem, until such real estate reaches the hands of a bona fide purchaser.

Sec. 25. Right of Former Owner to Surplus Proceeds.—If upon the sale of any forfeited or delinquent lands a surplus is realized over and above the total amount due on such land, the sheriff shall pay such surplus to the
general receiver of the circuit court. The former owner
of such land shall be entitled to the surplus upon applica-
tion to the circuit court, if application is made within
two years after the sale. If no application is made within
two years the general receiver shall pay such surplus into
the operating fund for the land department in the
auditor's office.

Sec. 26. Right of Creditor of Former Owner of Es-
cheated Land.—Surplus proceeds arising from the sale of
any escheated land, after all publication and other
charges in respect thereto have been paid, may be applied
to the satisfaction of the claims of creditors of the de-
cedent who had a lien on the land at the time of his death
or who, being general creditors, have properly proved
their claims against his estate and have been unable to
obtain payment out of the personalty. The auditor shall
make rules and regulations respecting the presentation
and disposition of the claims of such creditors. Such rules
and regulations shall require that application by a creditor
be made within a year after the sale, and shall give due
preference to lien creditors over general creditors.

Sec. 27. Redemption After Sale to Individual and Be-
fore Confirmation; Receipt.—After the sale of any for-
feited or delinquent land to an individual, any person
having a right of redemption under the provisions of sec-
tion eight, article three of this chapter, may redeem such
land at any time before confirmation of the sale by pay-
ing to the purchaser, his heirs or assigns, the following
amounts: (1) The amount of purchase money paid, with
interest at the rate of twelve per cent per annum from the
date of sale. (2) All taxes thereon, which have since
been paid by the purchaser, his heirs or assigns, with in-
terest at the rate of twelve per cent per annum from the
date of payment. (3) Such additional expenses as may
have been incurred in procuring the survey or report
required by section thirty-four of this article and in pre-
paring the list of those to be served with notice and giving
the notice required by sections thirty-six and thirty-eight
of this article.

The person redeeming shall be given triplicate receipts
for the payment. If the purchaser, his heirs or assigns, shall
refuse or fail to sign and give such receipts when lawfully
required to do so, he or they shall pay to the person
redeeming twice the amount of such payment, which
may be recovered by action on the case in any court of
competent jurisdiction. One of such receipts shall be filed
with the clerk of the circuit court, who shall note the
fact of redemption on his certified list. One of the re-
ceipts shall, on or before the day set for confirmation of
the sale, be filed with the clerk of the county court, who
shall endorse thereon, and also on the receipt retained by
the person redeeming, the fact and time of such filing, and
shall note the fact of redemption on his record of de-
linquent lands. If the receipt is not filed on or before
such date, the redemption shall be void as to creditors
and subsequent bona fide purchasers from the purchaser,
his heirs or assigns. If, however, the receipt is filed after
the date required, it shall operate as notice from and
after the date of filing.

Sec. 28. Redemption After Sale to Public Land Corpora-
tion and Before Confirmation.—After the sale of any
forfeited or delinquent land to the public land corpora-
tion, any person having a right of redemption under the
provisions of section eight, article three of this chapter,
may redeem such land at any time before confirmation
of the sale by paying to the sheriff upon the order of the
deputy commissioner the following amounts: (1) The
amount for which the property was bid in for the public
land corporation, with interest at the rate of twelve per
cent per annum from the date of sale. (2) Such fee for
the certificate of redemption as is provided by section
nine, article three of this chapter, for redemption from
the auditor. (3) Such compensation for preparing the list
of those to be served with notice as may have been earned
by the deputy commissioner under the provisions of sec-
tion thirty-three of this article. (4) All expenses which
may have been incurred in giving the notice required by
sections thirty-seven and thirty-eight of this article.

Upon presentation to the deputy commissioner of the
sheriff's receipt for the amount due, the deputy commis-
Sec. 29. Lien of Person Redeeming Interest of Another; Record.—Any person who, by reason of the fact that no provision is made for partial redemption from the circuit court sale, is compelled in order to protect himself to redeem all of any real estate which belonged in whole or in part to some other person, shall have a lien on the interest of such other person for the amount paid to redeem such interest. He shall lose his right to the lien, however, unless within thirty days after payment he shall file with the clerk of the county court his claim in writing against the owner of such interest, together with the receipt provided for in section twenty-seven or in section thirty of this article, or with a reference by number to the certificate of redemption provided for in the preceding section. The clerk shall docket the claim on the judgment lien docket in his office and properly index the same. Such lien may be enforced as other judgment liens are enforced.

Sec. 30. Payment of Redemption Money to Clerk of Circuit Court.—Whenever, despite the provisions of the two preceding sections, the deputy commissioner or the purchaser, his heirs or assigns, shall refuse to allow redemption, or cannot be found, payment may be made to the clerk of the circuit court at any time before confirmation of the sale. The clerk shall issue duplicate receipts and shall note the fact of redemption on his certified list. One of the receipts shall be given to the person redeeming and the other shall be sent by the clerk to the clerk of the county court, who, after noting the fact of redemption on his record of delinquent lands, shall file and preserve the receipt in his office.

Sec. 31. Contest of Redemption by Payment to Clerk.—If the deputy commissioner or the purchaser, his heirs
or assigns, dispute the right to redeem of the person making payment to the clerk as provided in the preceding section, he or they may, within one year after payment to the clerk, give to such person, or to his heirs, or personal representative, notice in writing of such dispute, requiring him or them to appear before the circuit court of the county, on a day to be named in the notice, and prove that the person who made the payment had a right to redeem. Such notice shall be served at least ten days before the day on which it is returnable and, if the party served fails to appear, or if he appears and fails to prove the right to redeem, the court shall enter an order cancelling the redemption. If the contest is by an individual purchaser, his heirs or assigns, the court shall, at his or their request, enter an order allowing reasonable additional time for compliance with the conditions of the following section. Compliance within such additional time shall be as valid as if made within the time specified in that section. The court shall also order the clerk of the court to return the redemption money to the person who made the payment, or to his personal representative. If, however, the decision of the court be that such person had the right to redeem, the clerk shall be ordered to pay the money to the purchaser, his heirs or assigns, or to the sheriff, as the case may be, and, in the case of sale to the public land corporation, shall order the deputy commissioner to execute a certificate of redemption as required by section twenty-eight of this article.

If the deputy commissioner or the purchaser, his heirs or assigns, admit the right to redeem but claim that the sum paid the clerk was insufficient, he or they may upon similar notice have the sufficiency of the payment determined by the court. If the person redeeming fails to appear, or if the decision is that the sum paid was insufficient, the court shall, unless such additional amount as may be found to be due is paid within thirty days, enter an order cancelling the redemption, and shall also enter such further appropriate orders as are authorized to be entered under the preceding paragraph. If the sum is found to have been sufficient, the court shall make
such orders as are appropriate when the right to redeem is sustained under the preceding paragraph.

Proceedings under this section, like those under the corresponding section, numbered nineteen, in article three of this chapter, shall be brought before the court in its judicial capacity rather than in its capacity as the administrative agency for the sale of state lands, and shall, in respect to procedure at the hearing and upon appeal, and in other particulars, including taxation of costs, be governed by the rules applicable to other similar judicial proceedings.

Sec. 32. Conditions Precedent to Confirmation of Sale to Individual Purchaser.—In order to have the sale of any forfeited or delinquent land confirmed, an individual purchaser, his heirs or assigns, within sixty days after the sale, must: (1) Secure and file with the clerk of the circuit court the report or plat and description provided for in section thirty-four of this article; (2) examine the title in order to prepare a list of those to be served with notice to redeem and apply to the court or judge, for an order directing the clerk to prepare and serve the notice as provided in sections thirty-six and thirty-eight of this article; and (3) deposit, or offer to deposit, with the clerk a sum sufficient to cover the cost of preparing and serving the notice. A purchaser of escheated or waste and unappropriated land must meet only the first of these requirements and, as soon as he has done so, may apply for an order confirming the sale. For failure to do anything required by this section within the time allowed, the purchaser shall lose all the benefits of his purchase, and the land shall be included by the auditor in his next certification of lands to the circuit court.

If the person requesting preparation and service of the notice is an assignee of the purchaser, he shall, at the time of the request, file with the clerk a written assignment to him of the purchaser’s rights, executed, acknowledged and certified in the manner required to make a valid deed.

Sec. 33. Conditions Precedent to Confirmation of Sale to Public Land Corporation.—Immediately after the sale
the deputy commissioner shall, as to each sale of forfeited
or delinquent land to the public land corporation, pro-
ceed with the examination of title and with preparation
of the list of persons to be served with notice to redeem.
Before the sale may be confirmed, he must complete the
list and apply to the circuit court or judge for an order
directing the clerk to prepare and serve the notice as
provided in sections thirty-seven and thirty-eight of this
article. For such services in respect to each sale, the
deputy commissioner shall be entitled to a fee of five
dollars, plus such additional compensation as the auditor
may recommend and the court or judge approve, to be
paid out of the operating fund for the land department
in the auditor's office.
In the case of a sale to the public land corporation
of any escheated or waste and unappropriated land, the
deputy commissioner, without being required to do any-
thing else, may apply immediately after the sale for con-
firmation thereof.

Sec. 34. Report or Survey of Real Estate Purchased.—
An individual purchaser, his heirs or assigns, must at his
or their expense have the county surveyor make such a
report or survey of the real estate purchased as is re-
quired by section twenty-one, article three of this chapter.
The report or plat and description must be filed with the
clerk of the circuit court within sixty days after the sale.
The fact and time of such filing shall be endorsed by the
clerk on the report or on the plat and description and
shall be noted by him on his certified list.

Sec. 35. Application for Order Directing Service of No-
tice to Redeem.—After complying with the other condi-
tions of section thirty-two of this article, the individual
purchaser of any forfeited or delinquent land, his heirs or
assigns, or if such land was sold to the public land corpor-
ation, the deputy commissioner, upon compliance with
the other conditions of section thirty-three of this article,
must apply to the circuit court, or to the judge thereof
in vacation, for an order directing the clerk of the court
to prepare and serve the notice to redeem on those named
in the prepared list of persons entitled to such notice.
Upon a showing of such compliance, the court or judge shall order the clerk to prepare the proper notice as required by section thirty-six or section thirty-seven of this article, and to serve the notice as provided in section thirty-eight of this article.

Upon the refusal of the court or judge to enter such an order on the application of an individual purchaser, the purchaser may demand such a hearing as is provided for in section nineteen of this article. All appropriate provisions of that section shall be applicable to the hearing herein provided for, and the proceedings at such hearing shall be made a part of the record. If after the hearing the court or judge again refuses to enter the order applied for, such refusal may be reviewed as provided in section twenty of this article. The petition for review may be filed at any time within four months after entry of the order of refusal at the hearing demanded under the provisions of this paragraph.

Sec. 36. Notice to Redeem from Sale to Individual Purchaser.—Whenever ordered to do so as provided in the preceding section, the clerk of the circuit court shall prepare a notice in form or effect as follows:

To _______________________

You will take notice that upon the application of _________, the purchaser (or ________________, the assignee, heir or devisee of _________, the purchaser) of the following real estate, ____ ______________, (here describe and give the certification number of the real estate sold) located in ________________________, (here name the city, town or village in which the real estate is situated or, if not within a city, town, or village, give the district and a general description) which was sold (or was forfeited) to the state in the name of____ ________ ________, and which by order of the circuit court (or of the judge of the circuit court) was sold by the deputy commissioner of forfeited and delinquent lands of ______________________County on the ______ day of ________________________, 19_____, the Circuit Court of __________County (or _________________, Judge of the Circuit Court of __________County, in vaca-
Ch. 117]

PROPERTY TAXES

23 tion,) has ordered that you be notified that the sale will
24 be confirmed on or after the ___ day of ________________,
25 19___, as provided by law, unless before confirmation of
26 the sale such real estate be redeemed or the sale thereof
27 set aside. Upon confirmation of the sale your right to
28 redeem will be forever terminated. The amount necessary
29 for redemption on the date of this notice is as follows:
30 Amount paid at sale, with interest to date at
31 the rate of twelve per cent per annum $_____
32 Amount of taxes paid on the property since the
33 sale, with interest to date at the rate of twelve
34 per cent per annum $______________
35 Amount paid for survey and report $_____
36 Amount paid for preparation of list of those to be served
37 and for preparation and service of the notice $_____
38 Total $______________
39 You may redeem at any time before confirmation of
40 the sale by paying the above total plus interest on the
41 first two amounts to the date of redemption.
42 Given under my hand this ___ day of ________________,
43 19___.
44
45 Clerk of the Circuit Court
46 _________________________________ County
47 State of West Virginia.
48 The date named in the notice as the date on or after
49 which the sale will be confirmed shall be three months
50 after the day on which service of the notice was ordered.
51 The clerk for his services in preparing the notice shall
52 receive a fee of fifty cents for the original and twenty-
53 five cents for each copy required.

Sec. 37. Notice to Redeem from Sale to Public Land
Corporation.—Whenever ordered to do so, as provided
in section thirty-five of this article, the clerk of the cir-
cuit court shall prepare a notice in form or effect as fol-

Sec. 37. Notice to Redeem from Sale to Public Land
Corporation.—Whenever ordered to do so, as provided
in section thirty-five of this article, the clerk of the cir-
cuit court shall prepare a notice in form or effect as fol-

To ________________________________

You will take notice that upon the application of
__________________________, a deputy commissioner of for-
feited and delinquent lands in the county of __________,
who bid in for the Public Land Corporation the following real estate, __________________, (here describe and give certification number of the real estate sold) located in __________, (here name the city, town or village in which the real estate is situated or, if not within a city, town or village, give the district and a general description) which was sold (or was forfeited) to the state in the name of __________, and which by order of the circuit court (or of the judge of the circuit court) was sold by the deputy commissioner, on the __________ day of __________, 19 ___, the Circuit Court of __________ County, (or __________, Judge of the Circuit Court of __________ County, in vacation,) has ordered that you be notified that the sale will be confirmed on or after the __________ day of __________, 19 ___, as provided by law, unless before confirmation of the sale such real estate be redeemed or the sale thereof set aside. Upon confirmation of the sale your right to redeem will be forever terminated. The amount necessary for redemption on the date of this notice is as follows:

Amount bid at sale, with interest at the rate of twelve per cent per annum ____________________

Amount due for preparation of list of those to be served and for preparation and service of the notice ____________________

Fee for certificate of redemption ____________________

Total ____________________

You may redeem at any time before confirmation of the sale by paying to the sheriff, upon the order of the deputy commissioner, the above total plus interest on the first amount to the date of redemption.

______________________________
Clerk of the Circuit Court

______________________________ County

State of West Virginia.

The date named in the notice as the date on or after which the sale will be confirmed shall be three months after the day on which service of the notice was ordered. The clerk for his services in preparing the notice shall receive a fee of fifty cents for the original and twenty-
five cents for each copy required, to be paid out of the
operating fund for the land department in the auditor's
office.

Sec. 38. Service of Notice.—As soon as the clerk has
prepared the notice provided for in either of the two pre-
ceding sections, he shall cause it to be served upon the
following persons: (1) The person in whose name the
real estate was forfeited or was returned delinquent and
sold, or, in case of his death, his heir or devisee and his
personal representative, if such there be; (2) any grantee
of such person, or his heir or devisee and his personal
representative, if such there be, if a conveyance of such
real estate is recorded or filed for record in the office of
the clerk of the county court; (3) any person having a
lien upon such real estate disclosed by any paper recorded
in the county clerk's office, and (4) any other person hav-
ing such an interest in the property as would entitle him
to redeem, if the existence of such interest appears of
record.

The notice shall be personally served upon all such
persons residing or found in the state in the manner
provided for serving process commencing a suit, on or
before the fifteenth day following the order for service
of such notice. If any person entitled to notice is a non-
resident of the state or if his residence is unknown to the
clerk and cannot by due diligence be discovered, the no-
tice shall be served by publication once a week for three
successive weeks in some newspaper published in the
county in which such real estate is located, or if no news-
paper is published in the county, then in some newspaper
of general circulation in the county. If service by publica-
tion is necessary, publication shall be commenced within
three weeks after the order for service of the notice was
made, and a copy of the notice shall at the same time be
sent by registered mail, return receipt requested, to the
last known address of the person served. The return of
service of such notice and the affidavit of publication,
if any, shall be in the manner provided for process gen-
erally, and shall be filed and preserved by the clerk in his
office, together with any return receipts for notices sent
The cost of serving notices to redeem from the public land corporation shall be paid out of the operating fund for the land department in the auditor's office.

Sec. 39. Proceeding to Set Aside Sale.—Any person entitled under the provisions of section eighteen of this article to apply for an order suspending the sale of any land, but who did not learn of the proposed sale in time to protect himself by making such application, may, at any time after the sale and before confirmation thereof, institute a proceeding under this section to set aside the sale. Notice in writing of the institution of such proceeding shall be given to the purchaser, his heirs, or assigns, or, in the case of a sale to the public land corporation, to the deputy commissioner. The notice shall state the facts which are the basis of the claimed right to have the sale set aside, shall require the person served to appear before the circuit court, on a day to be named in the notice, and protect whatever rights were acquired at the sale, and shall be served at least ten days before the day on which it is returnable.

If the decision be in favor of the claimant, the court shall enter an order setting aside the sale, directing the deputy commissioner to execute a deed releasing to the former owner or to the claimant, as the case may be, all the state's title to the land or interest claimed, and, if the sale was to an individual, directing the sheriff to return the purchase money to the purchaser, his heirs or assigns. If the decision be against the claimant, the court shall, at the request of the purchaser, his heirs or assigns, enter an order allowing reasonable additional time for compliance with the conditions of section thirty-two of this article. Compliance within such additional time shall be as valid as if made within the time specified in that section. Until a decision has been made, the sale may not be confirmed.

Proceedings under this section, like those under section thirty-one of this article, shall be brought before the court in its judicial capacity rather than in its capacity as the administrative agency for the sale of state lands,
and shall, in respect to procedure at the hearing and upon appeal, and in all other particulars, including taxation of costs, be governed by the rules applicable to other similar judicial proceedings.

Sec. 40. Confirmation of Sale; Right to Redeem Terminated.—If the real estate described in the notice to redeem is not redeemed before the date for confirmation named therein, nor the sale set aside, the deputy commissioner or the purchaser, his heirs or assigns, may apply to the circuit court, or to the judge thereof in vacation, for an order confirming the sale. In the case of escheated or waste and unappropriated lands, such application may be made as provided in section thirty-two or section thirty-three of this article. The court or judge, upon a showing that all requirements have been met, shall enter an order confirming the sale and, in the case of sale to an individual purchaser, directing the deputy commissioner to execute and deliver to him or to his heirs or assigns, a deed as provided in the following section.

Upon a refusal of the court or judge to enter such an order on the application of an individual purchaser, the purchaser may demand such a hearing as is provided for in section nineteen of this article. All appropriate provisions of that section shall be applicable to the hearing herein provided for, and the proceedings at such hearing shall be made a part of the record. If after the hearing the court or judge again refuses to enter the order applied for, such refusal may be reviewed as provided in section twenty of this article. The petition for review may be filed at any time within four months after entry of the order of refusal at the hearing demanded under the provisions of this paragraph.

Upon confirmation of the sale all right of redemption in respect to the land shall be terminated, except such as is for persons under disability expressly saved by the provisions of section forty-nine of this article. For failure to apply for confirmation of the sale of any forfeited or delinquent lands within sixty days after the date for confirmation specified in the notice to redeem, or, in the case of escheated or waste and unappropriated lands,
within sixty days after the first day on which such application might properly have been made, an individual purchaser shall lose all the benefits of his purchase, and the land shall be included by the auditor in his next certification of lands to the circuit court.

Sec. 41. Deed to Purchaser; Record.—Whenever ordered to do so as provided in the preceding section, the deputy commissioner shall make and deliver to the person entitled thereto a deed in form or effect as follows:

This deed made this ....... day of ..................... , 19 ...., by and between ....................... , deputy commissioner of forfeited and delinquent lands for .................. County, West Virginia, grantor, and ............................, purchaser, (or....................., heir, devisee or assignee of ................., purchaser,) grantee, witnesseth that

Whereas, In pursuance of the statutes in such case made and provided, the above named deputy commissioner did, by order of the Circuit Court of .................. County, (or by order of ....................., Judge of the Circuit Court of .................. County, in vacation,) in the month of .........., in the year 19 ...., sell the real estate, hereinafter mentioned and described, for the benefit of the school fund, and ............... (here insert name of purchaser) for the sum of $ ............., that being the amount of purchase money paid, did become the purchaser of such real estate (or of an undivided interest in such real estate) which was sold to the state for nonpayment of taxes in the name of ............; (or which was forfeited to the state for nonentry in the name of ..................; or which escheated to the state in the name of ..................; or which was waste and unappropriated land belonging to the state); and

Whereas, The report or the plat and description required by law has been duly filed with the clerk of the circuit court; and

Whereas, The clerk of the circuit court has caused the notice to redeem to be served on all persons required by law to be served therewith; and

Whereas, The real estate so purchased has not been re-
deemed in the manner prescribed by law and the time for
redemption set in such notice has expired; and

Whereas, The Circuit Court of .................................. County
(or .................................., Judge of the Circuit Court of
County, in vacation,) has confirmed the
sale and has ordered that this deed be executed;

Now, therefore, the grantor, for and in consideration of
the premises and in pursuance of the statute, doth grant
unto .................................., grantee, his heirs and assigns for-
ever, the real estate so purchased, situate in the county
of .................................., bounded and described as follows:

Witness the following signature:

Deputy Commissioner of Forfeited and
Delinquent Lands for .................................. County

After execution and acknowledgment of the deed, the
deputy commissioner shall obtain from the files of the
clerk of the circuit court the following papers relating to
the property conveyed: The report or plat and description,
the assignment from the purchaser if one was made, the
notice to redeem, the return of service of such notice, the
affidavit of publication if the notice was served by pub-
lication, and any return receipts for notices sent by regis-
tered mail. The deputy commissioner shall then ascertain
from the clerk of the county court the total amount of
the transfer fee and the fees for recording the deed and
the other papers, and shall notify the grantee to pay such
amount to the clerk of the county court. Upon such pay-
ment and upon payment by the grantee to the deputy
commissioner of a fee of five dollars as his compensation
for executing the deed, the deputy commissioner shall
have the deed and the other papers recorded by the clerk
of the county court and shall then deliver them all to the
grantee. The purchaser shall have the right to examine
the deed before it is recorded.

Sec. 42. Title to Vest in Public Land Corporation with-
out Deed; Record of Order Confirming Sale.—Upon con-
firmation of a sale to the public land corporation, title
to the real estate sold shall without any deed be vested
in the public land corporation. A copy of the order confirming the sale shall be sent by the clerk of the circuit court to the clerk of the county court who, after noting the fact of confirmation on his record of delinquent lands, shall record the order in the deed book in his office. No fee shall be charged for such recording.

Sec. 43. Title Acquired.—Whenever under the provisions of this article a purchaser, his heirs or assigns, shall have obtained a deed for any real estate from the deputy commissioner, he or they shall thereby acquire all such right, title, and interest, in and to the real estate, as was, at the time of the execution and delivery of the deed, vested in or held by any person who was entitled to redeem, unless such person is one who, being required by law to have his interest separately assessed and taxed, has done so and has paid all the taxes due thereon, or unless the rights of such person are expressly saved by the provisions of sections twenty-four, forty-five, forty-six, forty-seven, or forty-nine of this article. The deed shall be conclusive evidence of the acquisition of such title. The title so acquired shall relate back to the date of the sale. The title acquired by the public land corporation upon confirmation of a sale to it shall be the same as that acquired by an individual purchaser under the provisions of this section.

Sec. 44. Effect of Irregularity on Title Acquired.—No irregularity, error or mistake in respect to any step in the procedure leading up to and including confirmation of the sale or delivery of the deed shall invalidate the title acquired unless such irregularity, error or mistake is, by the provisions of sections twenty-four, forty-five, forty-six, or forty-seven of this article, expressly made ground for instituting a suit to set aside the sale or the deed. This and the preceding section are enacted in furtherance of the purpose and policy set forth in section one, article three of this chapter.

Sec. 45. Right to Set Aside Sale or Deed when Land Was Not Subject to Sale.—Any person entitled under the provisions of section eighteen of this article to apply for
an order suspending the sale of any land, and not named
in section thirty-eight of this article as one entitled to
notice to redeem, who did not have actual knowledge of
the proposed sale in time to protect himself under the
provisions of section eighteen or of section thirty-nine of
this article, may, on or before the expiration of one year
after confirmation of the sale, whether the sale was to an
individual or to the public land corporation, institute a
suit in equity to set aside the sale or the deed. If such
suit is instituted by or on behalf of the owner of an un-
divided interest which was included in a group assess-
ment but which was separately redeemed before certifica-
tion, the sale or the deed shall be set aside only in so far
as it affects his interest.

Sec. 46. Right to Set Aside Deed Improperly Obtained.
Whenever the deputy commissioner has delivered a
deed to a purchaser who was not entitled thereto, either
because of his failure to meet the requirements of section
thirty-two of this article or because the property con-
veyed had been redeemed, the former owner of such prop-
erty, his heirs or assigns, or the person who redeemed
the property may, on or before the expiration of one year
after confirmation of the sale, institute a suit in equity to
set aside the deed. No deed shall be set aside under the
provisions of this section, except in the case of redemp-
tion, until payment has been made or tendered to the pur-
chaser, or his heirs or assigns, of the amount which would
have been required for redemption, together with any
taxes which have been paid on the property since de-
ivery of the deed, with interest at the rate of twelve
per cent per annum.

Sec. 47. Right to Set Aside Sale or Deed when One En-
titled to Notice Not Notified.—If any person entitled to
be notified under the provisions of section thirty-eight of
this article is not served with the notice as therein pro-
vided and does not have actual knowledge that such no-
tice has been given to others in time to protect his inter-
est by redeeming the property or by instituting pro-
ceedings under section thirty-nine of this article to set
asidethe sale, he, his heirs or assigns, may, on or before
the expiration of one year after confirmation of the sale,
institute a suit in equity to set aside the sale or the deed.
No sale or deed shall be set aside under the provisions
of this section until payment has been made or tendered
to the public land corporation or to the purchaser, his
heirs or assigns, of the amount which would have been
required for redemption, together with any taxes which
have been paid or are chargeable on the property since
the sale, with interest at the rate of twelve per cent per
annum.

Sec. 48. On Whose Behalf Suits Instituted; Decree When
Sale or Deed Set Aside.—Any suit instituted under the
provisions of either of the three preceding sections by a
person other than the owner, or the former owner, his
heirs or assigns, must be brought on his or their behalf.
Whenever the sale or deed in such case is set aside the
decree shall be either that all the right, title, and in-
terest held or claimed by the state prior to the sale to the
extent that title is proved to be in the person named as
owner, is vested in such person, or that all the right,
title and interest of the former owner, his heirs or as-
signs, is revested in him or them.

Sec. 49. Redemption by Persons Under Disability.—In
addition to and notwithstanding any other provisions of
this article, any infant or insane person, the former owner
of any forfeited or delinquent land which during such
disability was sold as provided in this article, may re-
deem such land from the public land corporation, or its
assigns, or from an individual purchaser, his heirs or
assigns, at any time before the expiration of one year af-
ter removal of the disability, but in no event more than
twenty years after the sale was confirmed, by paying
such an amount as is required for redemption under
the provisions of section thirty-five, article three of this
chapter.
In the case of land sold to the public land corporation,
he shall also pay such taxes as would have been charge-
able on such land had it been privately owned since the
sale. Except as here modified, all other provisions of sec-
tion thirty-five, article three of this chapter, shall apply to redemptions under this section.

As an alternative to the right of redemption provided by this section, such infant or insane person may elect to redeem forfeited land as provided in section six, article thirteen of the constitution.

Sec. 50. Annual Report of Deputy Commissioner to Auditor.—In December of each year the deputy commissioner shall prepare a report showing the present status of, and all steps which have been taken in the proceeding in respect to, each item certified to the circuit court in his county, final disposition of which is not shown in any preceding annual report. Such report shall be prepared in triplicate. On or before the last day of December the original shall be sent to the auditor and one copy to the clerk of the county court, each of whom shall make any necessary notations on his record of delinquent lands. The second copy shall be sent to the assessor who shall make the necessary changes in his land books. For failure to make the report required by this section, the deputy commissioner shall forfeit one hundred dollars.

Sec. 51. Sheriff to Keep Proceeds in Separate Account; Disposition.—The sheriff shall keep in a separate account the proceeds of all redemptions and sales paid to him under the provisions of this article. Out of such proceeds he shall pay over quarterly to the auditor all state taxes with interest, all redemption fees, and all charges which were paid by or which are payable to the auditor. The sheriff shall, at the end of each quarter, account for the balance of the proceeds by crediting to the fund kept by him for each local taxing unit such part of the balance as represents taxes, interest and charges payable to such unit.

Sec. 52. Disposition of Pending Suits; Former Sales Confirmed.—All suits now pending in any circuit court for the sale of lands for the benefit of the school fund shall be and are hereby discontinued and dismissed. Any circuit court in which such a suit is pending shall make all necessary orders for such discontinuance and dismissal.
All sales and conveyances made in any former circuit court suits for the sale of lands for the benefit of the school fund are hereby confirmed. Whatever right, title or interest the state had in any land so sold, shall be deemed to have vested in the purchaser or grantee thereof. Notwithstanding any irregularity, error or mistake in such suit or in the tax enforcement proceedings prior thereto, such title shall not hereafter be subject to attack. This paragraph is enacted in furtherance of the purpose and policy set forth in section one, article three of this chapter.

Sec. 53. Liability of Officer Failing to Perform Duty; Penalty.—If the deputy commissioner or any other officer mentioned in this article shall fail or refuse to perform any duty required of him, he and the sureties on his official bond shall be liable in an action on the bond for such damages as may be sustained by any person by reason of such failure. In addition to this liability, he shall forfeit not less than twenty-five nor more than one hundred dollars for each such failure or refusal, unless a different penalty is imposed by the provisions of this article.

Sec. 54. Release of Taxes and Interest.—In view of the great uncertainty and confusion existing in the auditor's records of delinquent lands for the years prior to one thousand nine hundred twenty-nine, due to the insufficient and inadequate reports by former school land commissioners, the Legislature finds that it will be impossible to provide a speedy method for disposing of delinquent and forfeited lands and for conveying to the purchasers of such lands a secure title, unless some action is taken to prevent the certification and sale of lands which were formerly redeemed from or were sold by such commissioners, but which appear on the auditor's records, as unsold and unredeemed. Wherefore, it is the purpose and intent of the Legislature to release all taxes, interest and charges that may be due on any real estate in this state for the assessment year one thousand nine hundred twenty-eight and for all years prior thereto, and all such taxes, interests and charges are hereby declared to be fully paid. If all the taxes due on any land for the assessment year one thousand nine hundred twenty-nine and for all years sub-
sequent thereto have been paid, all title to any such land
theretofore acquired by the state shall be and is hereby
released.

The auditor, in computing the amount necessary for re-
demption as provided in section eight, article three of this
chapter, and in preparing the list of lands for certification
to the circuit court as provided in section nine of this
article, shall use the assessment year one thousand nine
hundred twenty-nine as the initial year for which taxes
shall be charged. He shall specify the year in which the
state acquired title, but if such year was prior to one
thousand nine hundred twenty-nine, shall charge no taxes
for any year prior thereto, nor shall he charge any interest,
fees, penalties or costs for the assessment year one thou-
sand nine hundred twenty-nine to and including one thou-
sand nine hundred thirty-two, but all interest, fees, pen-
alties and costs provided by law shall be charged for all
years subsequent to the year one thousand nine hundred
thirty-two.

Sec. 55. Separability.—If any part of this chapter shall
be declared unconstitutional, such declaration shall not
affect any other part thereof.

CHAPTER 118
(House Bill No. 112—By Mr. Rice)

AN ACT to amend and reenact section eighteen, article twelve,
chapter eleven of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, providing for and
requiring a state license to engage in the practice of cer-
tain business activity or employment.

[Passed February 28, 1941; in effect from passage. Approved by the Governor.]

Article 12. License Taxes.
Section
18. Exempted entertainments.
Be it enacted by the Legislature of West Virginia:

That section eighteen, 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 18. Exempted Entertainments.—The provisions of sections sixteen, seventeen and nineteen shall not apply to, and no license fee shall be assessed against or collected from, any educational, literary, dramatic, musical or benevolent society, or volunteer fire companies, not conducted for private profit, where such performance or exhibitions are confined to one county, unless professional or paid talent, other than director, is employed in such performances or exhibitions.

CHAPTER 119

(Senate Bill No. 89—By Mr. Randolph, Mr. President)

AN ACT to amend and reenact section nine, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to exemptions of commodities under the consumers sales tax.

[Passed March 1, 1941; in effect July 1, 1941. Approved by the Governor.]

Article 15. Consumers Sales Tax.

Section 9. Sales not included.

Be it enacted by the Legislature of West Virginia:

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

Section 9. Sales Not Included.—The provisions of this article shall not apply to:

1. Sales of gasoline, taxable under article fourteen,
CONSUMERS SALES TAX EXEMPTIONS

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, and with respect to this exemption, the procurement of surplus food through the use of blue surplus food order stamps, issued by the federal surplus commodities corporation or any federal agency, shall be deemed to be a sale to the United States or to a federal agency;

(5) Sales on motor vehicles which are titled by the state road commission;

(6) Sales of bread, butter, eggs, flour, and milk, as food products, on and after the first day of July, one thousand nine hundred forty-one.

“Bread” shall mean all bakery products made from wheat flour, whole wheat flour and rye flour with a sugar content of less than ten per cent. “Butter” shall mean only natural butter produced from either sweet or sour cream, and margarines made or produced from vegetable oils, nut oils, and animal fats. “Eggs” shall mean only eggs in their original or natural shells. “Flour” shall include and mean what is commonly known as wheat flour, rye flour, buckwheat flour, and corn meal. “Milk” shall mean raw milk as produced from cows, or such milk when processed or canned for human consumption, but shall not include cheeses, flavored mixtures and similar products.

The exceptions and exemptions herein contained shall not apply when articles are served as a part of a meal by hotels, restaurants, or others serving food.
AN ACT to amend and reenact section four, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to state inheritance taxes.

[Passed February 27, 1941; 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, 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) In computing the tax upon property transferred to a widow of a deceased person, an exemption of fifteen thousand dollars shall be allowed.

(d) In computing the tax upon property transferred to any person within the classes described in subsection (a) of section two, other than a wife, an exemption of five thousand dollars shall be allowed.

The descendants of any child referred to in subsection (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,
21 in trust or for use solely for educational, literary, scientific, religious or charitable purposes: Provided, however, 22 That the property so transferred for the purposes herein 23 mentioned and the rentals, profits and proceeds thereof, 24 are used exclusively in this state.

CHAPTER 121

(Senate Bill No. 145—By Mr. Randolph, Mr. President)

AN ACT to amend and reenact section forty-four, article 13-b, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the time of payment of personal income taxes.

(Passed March 6, 1941; in effect from passage. Approved by the Governor.)

Section 44. When tax to be paid; installment payments; interest and penalties.

Be it enacted by the Legislature of West Virginia:

That section forty-four, article thirteen-b, 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 44. When Tax to Be Paid; Installment Payments; Interest and Penalties.—(a) The full amount of 2 the tax shall be due and payable to the commissioner at 3 the time the return is filed: Provided, however, That such 4 time shall in no event be later than the time fixed by 5 section forty-one of this article for filing the return. 6 (b) If the total tax due amounts to more than ten dol- 7Iars, the taxpayer may elect to pay the tax in three equal 8 installments, in which case the first installment shall be 9 paid on the date prescribed for the payment of the tax, 10 the second installment shall be paid on the fifteenth day 11 of the third month, and the third installment on the fif- 12 teenth day of the sixth month after such date. If any in- 13 stallment is not paid on or before the date fixed for its
payment, the whole amount of tax unpaid shall be paid
upon notice and demand from the commissioner.

After the taxpayer files a corrected or amended return
for any taxable year, on which a tax liability is disclosed
in excess of the amount shown due on return previously
filed for the same period, the excess of the tax liability
over and above that previously shown due and up to the
amount disclosed on the corrected or amended return,
shall be paid at the time of the filing of the corrected
or amended return. Payments of deficiencies, interest
and penalties shall be made as provided by section forty-

Under such regulations as the commissioner may pre-
scribe, the tax may be paid with uncertified check, but if
such check is not paid by the bank on which it is drawn,
the taxpayer by whom the check is tendered shall remain
liable for the payment of the tax and for all legal pen-
alties, the same as if such check had not been tendered.

CHAPTER 122

(Senate Bill No. 88—By Mr. Randolph, Mr. President)

AN ACT to amend and reenact section three, article thirteen-b,
chapter eleven of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the rates
for computation of the tax on net income of residents of
this state.

[Passed March 8, 1941: in effect ninety days from passage. Approved by the
Governor.]


Section
3. Tax on net income of residents.

Be it enacted by the Legislature of West Virginia:

That section three, article thirteen-b, 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 3. **Tax on Net Income of Residents.**—Every resident of this state annually shall pay a tax upon his entire net income, after deducting exemptions provided in section thirty-three of this article. The rates for computation of such tax on income earned in the calendar year one thousand nine hundred forty-one and in each year thereafter shall be:

- 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 the fourth one thousand dollars of net income or any part thereof, four per cent;
- On the fifth one thousand dollars of net income or any part thereof, five per cent;
- On the sixth one thousand dollars of net income or any part thereof, five and one-half per cent;
- On the seventh one thousand dollars of net income or any part thereof, six per cent;
- On all income in excess of seven thousand dollars, six per cent.

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**CHAPTER 123**

*(House Bill No. 68—By Mr. Boggs)*

AN ACT authorizing the tax commissioner to make a refund of moneys improperly paid by Osborne Brothers’ Mill of Bickmore, Clay county, West Virginia, as gasoline tax.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the Governor.]

**Section**

1. Tax commissioner authorized to refund gasoline taxes improperly paid by Osborne Brothers’ Mill.

**WHEREAS,** Osborne Brothers’ Mill of Bickmore, Clay county, West Virginia, has improperly paid gasoline tax in the amount
of five hundred ten dollars and thirty cents on gasoline used in the operation of stationary engines, due to the fact that they were unaware that under the law they were due a refund of said taxes and failed to make application for such a refund within the statutory limit provided; and

WHEREAS, The said Osborne Brothers' Mill has submitted to the tax commissioner proper applications for a refund of said tax; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Tax Commissioner Authorized to Refund Gasoline Taxes Improperly Paid by Osborne Brothers' Mill.—The state tax commissioner is hereby authorized to issue his draft on the treasurer in the amount of five hundred ten dollars and thirty cents, payable to Osborne Brothers' Mill of Bickmore, Clay county, West Virginia, for taxes improperly paid on gasoline, said refund to be charged against the gasoline tax fund.

CHAPTER 124

(House Bill No. 211—By Mr. Ballard, of Mercer)

AN ACT to amend and reenact section three, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred twenty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to tax on gasoline.

[Passed February 22, 1941; in effect ninety days from passage. Approved by the Governor.]


Section 3. Amount, duration, measure and lien of tax; notice of discontinuance, etc., of business.

Be it enacted by the Legislature of West Virginia:

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

Section 3. Amount, Duration, Measure and Lien of Tax; Notice of Discontinuance, etc., of Business.—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 produced, purchased, sold or used in this state, which tax shall, until July first, one thousand nine hundred forty-three, be equivalent to five cents per gallon thereof, and shall be paid as hereinafter provided. On and after July first, one thousand nine hundred forty-three, the tax herein provided shall be equivalent to four cents per gallon.

A distributor, importer, or retail dealer shall use as the measure of the tax the gallonage produced, purchased, sold or used in this state (as provided in section four of this article). Gallonage shall be included in the measure of the tax by refiners and producers when such gallonage has been placed into any tank from which withdrawals are made for sales or transfer to any other person.

The excise tax imposed by this article shall be paid by the person first producing, or receiving 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 by law.

The excise tax imposed by this article shall accrue from the date of production, purchase, sale or use of the gasoline. 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. Whenever a distributor,
37 importer or retail dealer ceases to engage in business within this state by reason of the discontinuance, sale or transfer of the business of such distributor, importer or retail dealer, it shall be his duty to notify the tax commissioner in writing at the time the discontinuance, sale or transfer takes effect. Such notice shall give the date of discontinuance, and in the event of a sale or transfer of the business, the date thereof and the name and address of the purchaser or transferee thereof; all taxes accruing under this article, but not yet due and payable under the provisions of this article shall, notwithstanding such provisions, become due and payable concurrently with such discontinuance, sale or transfer, and it shall be the duty of such distributor, importer or retail dealer to make a report and pay all such taxes, and to surrender to the tax commissioner the license certificate theretofore issued, under the provisions of this article.

54 Unless the notice shall have been given to the tax commissioner as above provided, such purchaser or transferee shall be liable to the state of West Virginia for the amount of all taxes and penalties, under this article accrued against such distributor, importer or retail dealer so selling or transferring his business, on the date of such sale or transfer, but only to the extent of the value of the property and business thereby acquired from such distributor, importer or retail dealer.

CHAPTER 125

(House Bill No. 13—By Mr. James R. Ewing)

AN ACT to amend and reenact section seven, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter one hundred thirty-three, acts of the Legislature, regular session, one thousand nine hundred thirty-nine,
relating to the use of debt levies for current expenses, and
prescribing certain limitations with respect thereto.

(Passed February 21, 1941; in effect from passage. Approved by the Governor.)

Article 8. Levies.

Section 7. Increase of current expense levies when debt levies not required.

Be it enacted by the Legislature of West Virginia:

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

Section 7. Increase of Current Expense Levies When Debt Levies Not Required.—If the allocation made to a taxing unit for the purposes of debt incurred prior to the adoption of the tax limitation amendment is not required, in whole or in part, for the purposes of such debt, the governing body may, with the prior written approval of the tax commissioner, increase the rates allocated for general current expenses by the amount not required for debt purposes.

CHAPTER 126

(Senate Bill No. 2—By Mr. Paull, by request)

AN ACT to repeal chapter one hundred fifty, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-nine, relating to the use of trade-marks, insignia, or other identifying marks or insignia on jewelry,
silverware, glassware or chinaware, and providing penalties.

[Passed February 12, 1941; in effect ninety days from passage. Approved by the Governor.]

Section 1. Repeal of act requiring trade-mark on jewelry, etc.

Be it enacted by the Legislature of West Virginia:

Section 1. Repeal of Act Requiring Trade-Mark on Jewelry, etc.—Chapter one hundred fifty, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-nine, relating to the use of trade-marks or insignia or other identifying marks or insignia on jewelry, silverware, glassware or chinaware, and providing penalties, is hereby repealed.

CHAPTER 127

(Senate Bill No. 146—By Mr. Randolph, Mr. President)

AN ACT to amend and reenact section fourteen, article fifteen, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to the commitment of veterans to the veterans administration or other agency of the United States government.

[Passed March 4, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 15. Veterans' Guardianship and Commitment.

Section 14. Commitment to veterans administration or other agency of United States government.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article fifteen, 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. Commitment to Veterans Administration or Other Agency of United States Government.—Whenever it appears that a veteran of any war, military occupation or expedition is eligible for care or treatment by the veterans administration or other agency of the United States government, and commitment thereto is necessary for the proper treatment and care of such veteran, the county court, or other tribunal in lieu thereof, of the county in which such person resides, or of the county in which such person is found, if he is not a resident of this state, upon receipt of a certificate from the veterans administration or such other agency showing that facilities are available and that such person is eligible for care or treatment therein, may commit such person to the veterans administration or other agency of the United States government for care or treatment. Thereafter, such person, upon admission to any such facility, shall be subject to the rules and regulations of the veterans administration or other agency of the United States government. The chief officer of any such facility or institution to which such person is committed under the provisions of this section shall be vested with the same powers now exercised by officials of state hospitals for mental diseases within this state with respect to the retention, transfer, parole or discharge of persons so committed. Notice of such pending commitment proceedings shall be furnished the person whose commitment is sought, and his right to appear and defend shall not be denied. The judgment or order of commitment by a court of competent jurisdiction of another state committing a person to the veterans administration or other agency of the United States government for care or treatment, shall have the same force and effect as to such person while in this state as in the state in which is situated the court entering such judgment or making such order.

Upon receipt of a certificate of the veterans administration or other agency of the United States government
that facilities are available for the care or treatment of
any person heretofore or hereafter committed to any
hospital for the insane or other institution in this state
for the care of persons similarly afflicted; and that such
person is eligible for care or treatment by the veterans
administration or other agency of the United States, the
superintendent of any such hospital or institution in this
state is hereby authorized to cause the transfer of any
such person to the veterans administration or other
agency of the United States government for care or
treatment. Upon effecting any such transfer, the com-
mitting court shall be notified thereof by the transferring
agency: Provided, however, That no person shall be
transferred if he be confined pursuant to conviction of
any crime or misdemeanor, or if he shall have been
acquitted of any such charge solely on the ground of
insanity, unless prior to such transfer the court originally
committing such person shall enter an order for such
transfer after appropriate motion and hearing.
Any person transferred as provided in this section shall
be deemed to be committed to the veterans administra-
tion or other agency of the United States government
pursuant to the original commitment the same as if he
had been originally so committed.

CHAPTER 128

(Senate Bill No. 174—By Mr. Randolph, Mr. President)

AN ACT to amend chapter six of the code of West Virginia,
one thousand nine hundred thirty-one, by adding thereto
a new article, designated article eleven, providing for
preference ratings to veterans on the written parts of examinations for positions in the departments of public assistance, health and unemployment compensation filled according to a non-partisan merit basis.

[Passed March 5, 1941; in effect ninety days from passage. Approved by the Governor.]

Article 11. Preference Rating of Veterans on Written Examinations on Non-Partisan Merit Basis.

Section
1. Preference rating of veterans on written examination for positions in departments of public assistance, health and unemployment compensation.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Preference Rating of Veterans on Written Examinations for Positions in Departments of Public Assistance, Health and Unemployment Compensation.—For the written part of the examinations for positions in the departments of public assistance, health and unemployment compensation, to be filled according to non-partisan merit standards, a preference of five points in addition to the regular numerical score received on the written part of such examinations shall be awarded to veterans.

For the purposes of this act, "veteran" shall mean any person who has served in the armed, naval or air forces of the United States during the Spanish American or World War.

The aforesaid preference award shall be made applicable only to the examinations held on and after the first day of September, one thousand nine hundred forty-one.
AN ACT authorizing the county court of Barbour county to compensate J. N. Forman, former sheriff of Barbour county, for moneys paid by him into the general county fund of Barbour county for A. D. Marks, former clerk of the county court of Barbour county.

Section 1. Barbour county court authorized to reimburse J. N. Forman.

Be it enacted by the Legislature of West Virginia:

Section 1. Barbour County Court Authorized to Reimburse J. N. Forman.—The county court of Barbour county is authorized and empowered to pay J. N. Forman, former sheriff of Barbour county, the sum of one hundred fifty-four dollars and thirty cents, in cash, and to make provisions for the same in its next annual budget, such sum to be paid to indemnify the said J. N. Forman, former sheriff of Barbour county, for said sum so paid by him into the general county fund of Barbour county for A. D. Marks, former clerk of the county court of Barbour county, which sum is represented by a check given by said A. D. Marks to said J. N. Forman, sheriff, dated May fourteenth, one thousand nine hundred thirty-seven, and the said A. D. Marks, clerk as aforesaid, did not have sufficient funds in the First National Bank of Philippi, on which said check was drawn, at the time it was given, nor at any time thereafter, to pay the same, and the same was paid personally by said J. N. Forman into the general county fund for the county court of Barbour county, and that upon the payment of said sum by the county court of Barbour county to the said J. N. Forman that the said J. N. Forman do turn over and transfer said check to the county court of Barbour county with the right to collect and receive the same from the said A. D. Marks.
AN ACT to provide reimbursement to Charles Zinn, as administrator of Roscoe D. Zinn, deceased, who was clerk of the circuit court of Barbour county, West Virginia, for certain sums of money deposited by said clerk in the First National Bank of Philippi and paid by him to the county of Barbour.

[Passed February 27, 1941; in effect from passage. Approved by the Governor.]

Section 1. Barbour county court authorized to make settlement with Charles Zinn, administrator of Roscoe D. Zinn, deceased.

Be it enacted by the Legislature of West Virginia:

Section 1. Barbour County Court Authorized to Make Settlement With Charles Zinn, Administrator of Roscoe D. Zinn, Deceased.—The county court of Barbour county is authorized and empowered to pay the sum of one hundred four dollars and seven cents to Charles Zinn as administrator of Roscoe D. Zinn, deceased, the said Roscoe D. Zinn as clerk of the circuit court of Barbour county, West Virginia, having paid said sum of one hundred four dollars and seven cents to the sheriff of Barbour county, West Virginia, which payment of said sum was required to be paid by the said Roscoe D. Zinn to said sheriff of Barbour county, West Virginia, by reason of the said Zinn having had on deposit as clerk of said court in the First National Bank of Philippi on March six, one thousand nine hundred thirty-three, the sum of two hundred dollars and fourteen cents, at which time the said bank closed its doors, whereof fifty per cent thereof was repaid to said Zinn when the bank was reorganized.
CHAPTER 131
(House Bill No. 316—By Mr. Rice)

AN ACT authorizing the transfer to the permanent improvement fund of the board of education of the county of Berkeley all unused funds collected for the retirement of school bonds of Hedgesville district of said county.

[Passed March 1, 1941; in effect from passage. Approved by the Governor.]

Section 1. State sinking fund commission authorized to return certain funds to Berkeley county board of education; use of funds.

2. Sheriff of Berkeley county authorized to transfer Hedgesville district school bond funds to permanent improvement fund of board of education; use of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. State Sinking Fund Commission Authorized to Return Certain Funds to Berkeley County Board of Education; Use of Funds.—The state sinking fund commission of West Virginia is hereby authorized and directed to return to the credit of the permanent improvement fund of the board of education of the county of Berkeley all funds collected in Hedgesville district of said county for the retirement of school bonds of said district and remaining after all such bonds have been retired. Said funds 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 permanent improvement fund of the board of education of the county of Berkeley, but such funds hereby authorized and directed to be transferred shall be expended in Hedgesville district.

Sec. 2. Sheriff of Berkeley County Authorized to Transfer Hedgesville District School Bond Funds to Permanent Improvement Fund of Board of Education; Use of Funds.—The sheriff of Berkeley county is authorized and directed to transfer to the permanent improvement fund of the board of education of the county of Berkeley all funds collected by him for the retirement of school bonds in
CHAPTER 132

(House Bill No. 279—By Mr. Speaker, Mr. Arnold, by request)

AN ACT to authorize the board of education of the county of Boone to pay James Midkiff a monthly sum for life, or to make a settlement with him, for permanent injuries received by him while in the employ of said board.

[Passed March 7, 1941; in effect from passage. Approved by the Governor.]

Section

1. Boone county board of education authorized to pay James Midkiff for permanent injuries received while an employee of said board.

Be it enacted by the Legislature of West Virginia:

Section 1. Boone County Board of Education Authorized to Pay James Midkiff for Permanent Injuries Received While an Employee of Said Board.—The board of education of the county of Boone is hereby authorized and empowered to pay James Midkiff a sum not to exceed twenty-five dollars per month during the remainder of his life as compensation for permanent injuries received by him in the year one thousand nine hundred thirty-four, while employed by said board as supervisor of busses and while in the discharge of his official duties. The said board of education is further authorized and empowered to pay the said James Midkiff at a rate not to exceed twenty-five dollars per month dating from July one, one thousand nine hundred thirty-four: Provided, however, That in lieu of a monthly compensation as
herein provided, the board of education of said county
is hereby authorized, at its discretion, to compromise and
settle the claim of said James Midkiff.

CHAPTER 133
(House Bill No. 79—By Mr. Gentry)

AN ACT authorizing the county court of Cabell county to pro­
vide for the care and maintenance of abandoned public
cemeteries.

[Passed March 8, 1941; in effect ninety days from passage. Approved by the
Governor.]

Section 1. Cabell county court authorized to provide care and maintenance for
abandoned cemeteries.

Be it enacted by the Legislature of West Virginia:

Section 1. Cabell County Court Authorized to Provide
Care and Maintenance for Abandoned Cemeteries.—
Where public cemeteries have been abandoned and are no
longer used for burial purposes in the county of Cabell,
the county court of Cabell county may, upon the request
of ten citizens of the county, or upon its own motion, pro­
vide such care and maintenance as it deems proper.
Nothing herein contained shall be construed as granting
authority for the rehabilitation, maintenance, or care of
any private cemetery or one connected with any church
organization, or religious sect.

CHAPTER 134
(House Bill No. 359—By Mr. Hudson and Mr. Casey)

AN ACT to authorize and empower the county of Cabell and
the city of Huntington, a municipal corporation, to acquire,
improve, operate, maintain and lease for operation a
Ch. 134] Cabell County—Sewage Disposal Plant, etc. 529

sewage disposal plant, and other public facilities outside the corporate limits of said city and outside the state of West Virginia, and for other purposes.

[Passed March 5, 1941; in effect from passage. Approved by the Governor.]

Section 1. Cabell county court and city of Huntington empowered to acquire lands for sewage disposal plant and other public facilities outside corporate limits of the city and outside the state.

Section 2. Appointment of board or commission; incorporation of non-stock, non-profit corporation.

Be it enacted by the Legislature of West Virginia:

Section 1. Cabell County Court and City of Huntington Empowered to Acquire Lands for Sewage Disposal Plant and Other Public Facilities Outside Corporate Limits of the City and Outside the State.—The county of Cabell, acting by and through the county court of said county, and the city of Huntington, a municipal corporation, acting by and through the mayor and the common council of said city, or either or both of them, jointly and severally, shall be and are hereby fully empowered and authorized to acquire by lease, gift, purchase or otherwise, any and all lands reasonably necessary for the purposes herein set out, whether located and situate within or without the boundaries of the county of Cabell, or the corporate limits of the city of Huntington, or the boundaries of the state of West Virginia, for use as sewage disposal plant, incinerator plants, piers, docks, terminals, airports, recreational parks and swimming pools for the use of said county or city and their inhabitants, and to enact such rules and regulations for the government and control of the same as may be expedient and proper and not in conflict with any governmental authority.

Sec. 2. Appointment of Board or Commission; Incorporation of Non-Stock, Non-Profit Corporation.—For the
practical exercise and enjoyment of the powers and authorities hereby conferred, said county or said city, or either or both of them, as circumstances may require, may designate and appoint a board or commission, or if such public projects, works or improvements be located or situated outside the said state of West Virginia, may cause to be incorporated under the laws of the state of West Virginia a non-stock, non-profit corporation, and may cause such non-stock, non-profit corporation to be domesticated in the state in which any such public projects, works or improvements are to be situate.

Sec. 3. Powers, etc., of Board, Commission or Corporation.—Any such board or commission when so designated and appointed, and any such non-stock, non-profit corporation, when so incorporated and organized, shall have, exercise and enjoy, for and on behalf of said county and said city, or either or both of them, all of the powers, authorities and privileges as are set out in section one hereof. together with any and all such other powers as may be legally conferred upon such corporation under the general laws of the state of West Virginia.

Sec. 4. County of Cabell and City of Huntington Authorized to Levy for Cost of Such Public Projects.—The said county of Cabell and the said city of Huntington, or either or both of them, may provide and are hereby empowered and authorized to provide, by levy (but without thereby exceeding the limitation of the levies imposed by applicable constitutional and statutory provisions) for the reasonable and necessary cost of acquiring, improving and equipping such public projects, works or improvements, including the cost of all professional and clerical services incidental thereto, and all funds levied for and allocated to such purpose shall be collected, administered, disbursed and accounted for as other public moneys.

Sec. 5. State Law Applicable to Project Situate Outside State.—Notwithstanding the fact that any such project, works or improvement may be situate outside the boundaries of the state of West Virginia, the said city of Hunt-
5 ington and any board, commission or non-stock, non-profit
6 corporation which it may cause to be incorporated and
7 organized under the powers hereby conferred, shall have,
8 exercise and enjoy all of the powers, rights and privileges,
9 and in the event of the exercising of any of said rights,
10 powers and privileges shall be charged with all of the
11 duties and responsibilities with respect to providing for
12 the reasonable and necessary cost and expense of acquir-
13 ing, improving and equipping any such project, works or
14 improvement, as are set out in chapter sixty-eight, acts
15 of the Legislature of West Virginia, regular session, one
16 thousand nine hundred thirty-five, as fully and completely
17 and with the same force and effect as if said chapter
18 sixty-eight were included herein.

Sec. 6. County and City Authorized to Operate or Lease
2 Facilities.—Having acquired and improved any such land
3 for the purposes as contemplated hereby, said county and
4 said city or either of them, or any such board or commis-
5 sion, or any such non-stock, non-profit corporation as cir-
6 cumstances may require may:
7 (a) Operate the same under such terms and conditions
8 and under such rules and regulations as the county or
9 municipal authorities prescribed; or
10 (b) Let, lease and demise any or all said facilities and
11 all the improvements thereon to any responsible person,
12 firm or corporation, for such period of time and upon such
13 terms and conditions as the lessor may prescribe.

CHAPTER 135

( Senate Com. Sub. for House Bill No. 275—Originating in the Senate
Committee on Counties and Municipal Corporations)

AN ACT to authorize the county court of Clay county, West
Virginia, to lay a levy and use the proceeds therefrom for
the general repair of the county jail and general repair
of the courthouse and courthouse yard and the purchase
of necessary furniture, said levy to be laid for a period of three years.

[Passed March 8, 1941; in effect from passage. Approved by the Governor.]

Section
1. County court of Clay county authorized to lay levy and use proceeds for repair of county jail, courthouse, courthouse yard and purchase of furniture; maximum amount to be expended; duration of levy.
2. Repairs to county jail; amount to be expended.
3. Repairs to courthouse and grounds; county court must provide for improvement of courthouse if funds are expended in repair of jail.

Be it enacted by the Legislature of West Virginia:

Section 1. County Court of Clay County Authorized to Lay Levy and Use Proceeds for Repair of County Jail, Courthouse, Courthouse Yard and Purchase of Furniture; Maximum Amount to Be Expended; Duration of Levy.—
The county court of Clay county, West Virginia, shall be, and is hereby, authorized to levy, use and expend for the purpose of making general repairs to the county jail and certain equipment, and general repairs to the courthouse and court yards, and necessary furniture and the levies heretofore apportioned to the said county, for the purpose of paying the principal and interest and providing of sinking fund for the general repairs for county jail, courthouse and necessary furniture and equipment. The proceeds derived from said levy shall be used in repairs of said county jail, courthouse, and the funds shall be designated as “General County Repair Funds”: Provided, however, That the principal of said levy so laid shall not exceed the sum of thirty-five hundred dollars to be levied over a period of three years. When said levy is so laid by the county court, the approval in writing of the state tax commissioner shall be necessary.

Sec. 2. Repairs to County Jail; Amount to Be Expended.—The said county court shall contract for the general repair of the county jail and shall include in the repair contract for the equipment of new locks on all inside and
out outside doors and other hardware necessary to provide the most modern locks for all inside and outside cell doors, also necessary plumbing, etc., and to provide for the necessary repairs to the exterior walls and other general repairs as may be deemed necessary to provide a first class jail. Of the sum of thirty-five hundred dollars, the sum of twenty-three hundred dollars of this amount shall be used for the above purposes.

Sec. 3. Repairs to Courthouse and Grounds; County Court Must Provide for Improvement of Courthouse if Funds Are Expended in Repair of Jail.—Of the remaining twelve hundred dollars, the county court is authorized to expend the remainder herein provided for the purpose of general repairs to the courthouse in the way of replacing broken glass and windows, where needed; repair of spouting and drains on building; painting window sashes, including all outside doors and windows; providing sufficient venetian blinds for all the windows; beautifying the court yard; providing flower beds for the court yard; making repairs for the steps leading from street to courthouse, and also providing for the cleaning out and opening of water wells and providing sufficient steps and platforms to make it convenient for the public to secure drinking water; and, in fact, to use and expend said money efficiently for general repairs of the building and grounds. It shall be mandatory on the county court to carry out this provision as to the beautifying and general repairs of the courthouse if the court provides for the general repair of the jail; in fact, one is predicated on the other.

CHAPTER 136
(Senate Bill No. 150—By Mr. Vickers)

AN ACT to authorize the common council of the municipality of Fayetteville to transfer from its municipal bond fund to its
general fund not exceeding one thousand dollars of the
unused excess in said municipal bond fund.

[Passed March 1, 1941; in effect from passage. Approved by the Governor.]

Section
1. Authorizing Fayetteville council to transfer excess funds from its
bond fund to its general fund.

Be it enacted by the Legislature of West Virginia:

Section 1. Authorizing Fayetteville Council to Transfer
Excess Funds From Its Bond Fund to Its General Fund.—
The common council of the municipality of Fayetteville
in Fayette county be and it is hereby authorized and em-
powered to transfer from the unused excess in its munici-
pal bond fund to the general fund of said municipality
not exceeding one thousand dollars to meet existing
emergencies in the said general fund.

CHAPTER 137

(House Bill No. 46—By Mr. McClung, of Fayette, by request)

AN ACT authorizing the county court of Fayette county to
employ a stenographer.

[Passed January 30, 1941; in effect from passage. Approved by the Governor.]

Section
1. Fayette county court authorized to employ a stenographer.

Be it enacted by the Legislature of West Virginia:

Section 1.—Fayette County Court Authorized to Employ
a Stenographer.—The county court of Fayette county
shall have authority to employ a stenographer for part
time, or full time, as may be necessary. The county court
of Fayette county shall also have authority to fix the
compensation of any stenographer so employed, and to
pay the same out of the county treasury. Any such steno-
grapher so employed may be removed at the pleasure of
the county court.
CHAPTER 138

(House Bill No. 185—By Mr. Bush)

AN ACT to authorize the board of education of Gilmer county, West Virginia, to make settlement with Rolla Yerkey for injuries received while an employee of said board of education.

[Passed February 24, 1941; in effect from passage. Approved by the Governor.]

Section 1. Gilmer county board of education authorized to make settlement with Rolla Yerkey.

Be it enacted by the Legislature of West Virginia:

Section 1. Gilmer County Board of Education Authorized to Make Settlement with Rolla Yerkey.—The board of education of Gilmer county, West Virginia, is authorized to pay out of the building fund a sum not to exceed three hundred dollars to Rolla Yerkey for injuries received by the said Rolla Yerkey while an employee of said board of education.

CHAPTER 139

(Senate Bill No. 85—By Mr. Bowling)

AN ACT to authorize the board of education of Greenbrier county to settle the claim of Mabel Fulwider.

[Passed March 7, 1941; in effect from passage. Approved by the Governor.]

Section 1. Greenbrier county board of education authorized to settle claim of Mabel Fulwider.

Be it enacted by the Legislature of West Virginia:

Section 1. Greenbrier County Board of Education Authorized to Settle Claim of Mabel Fulwider.—The board
of education of the county of Greenbrier is hereby au-
thorized and empowered, at its discretion, to compromise
and settle the claim of Mabel Fulwider, for injuries she
received from the explosion of a stove belonging to said
board, while she was employed as janitor in the Caldwell
grade school, in White Sulphur district of said Greenbrier
county.

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CHAPTER 140
(House Bill No. 11—By Mr. Alexander)

AN ACT to authorize the board of education of the county of
Jefferson to settle the claim of Mrs. W. P. Engbrecht.

[Passed March 3, 1941; In effect from passage. Approved by the Governor.]

Section
1. Jefferson county board of education authorized to make settle-
ment with Mrs. W. P. Engbrecht.

Be it enacted by the Legislature of West Virginia:

Section 1. Jefferson County Board of Education Author-
ized to Make Settlement with Mrs. W. P. Engbrecht.—The
board of education of the county of Jefferson is hereby
authorized and empowered, at its discretion, to compromise
and settle the claim of Mrs. W. P. Engbrecht for the death
of her husband, W. P. Engbrecht, who fell while he was
washing windows in the high school building in Harpers
Ferry district of said Jefferson county.

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CHAPTER 141
(Senate Bill No. 196—By Mr. Jimison, by request)

AN ACT authorizing the county court of Kanawha county to
pay to the Salvation army, a corporation, of Charleston,
Ch. 142] LEWIS COUNTY—FIRE-FIGHTING EQUIPMENT

West Virginia, a sum of money not to exceed ten thousand dollars.

[Passed March 5, 1941; in effect from passage. Approved by the Governor.]

Section 1. Kanawha county court authorized to pay Salvation army for hospital services.

Be it enacted by the Legislature of West Virginia:

Section 1. Kanawha County Court Authorized to Pay Salvation Army for Hospital Services.—The county court of Kanawha county is authorized to pay to the Salvation army, a corporation, the sum of ten thousand dollars in payment for hospital service rendered by said corporation at its hospital in Charleston, West Virginia, to indigent persons in the county of Kanawha, state of West Virginia.

CHAPTER 142

(House Bill No. 67—By Mr. Smith, of Lewis)

AN ACT to authorize the county court of Lewis county to lay a levy for and appropriate money to purchase, equip, maintain and support fire-fighting apparatus and equipment.

[Passed February 14, 1941; in effect from passage. Approved by the Governor.]

Section 1. Lewis county court authorized to levy and expend funds for fire-fighting equipment.

Be it enacted by the Legislature of West Virginia:

Section 1. Lewis County Court Authorized to Levy and Expend Funds for Fire-fighting Equipment.—The county court of Lewis county is hereby authorized and empowered to lay a levy for and appropriate money, payable out of the general county fund, toward the purchase, equipment, maintenance and support of fire-fighting apparatus and equipment in Lewis county.
CHAPTER 143
(House Bill No. 403—By Mr. Jackson)

AN ACT authorizing the creation and maintenance of public parks, playgrounds, athletic fields and recreational centers in Logan county, and providing for the acquisition of lands for such purposes by gift, purchase, condemnation or otherwise, and authorizing the creation of indebtedness and extra levies for any of such purposes, and creating a park board for the management and supervision of public parks, playgrounds, athletic fields and recreational centers.

[Passed March 6, 1941; in effect from passage. Approved by the Governor.]

Section
1. Logan county court empowered to acquire lands and to establish parks, playgrounds, athletic fields, swimming pools, recreational centers, etc.
2. May issue and sell bonds.
3. Increased levies.
4. Power to levy, collect and expend funds for purposes of act.
5. When municipality may contribute toward acquisition, construction and maintenance of project.
6. When board of education of Logan county may contribute toward expense of constructing and maintaining project.
7. Logan county park board; appointment; term; nominating committee; meetings; organization; records.
8. Power of park board as to employees and expenditures.
9. Election for bonded indebtedness or increased levies must be requested by park board; estimate.
10. Expenditure of bond and levy funds to be approved by park board.
11. Park board to submit estimate of funds needed to county court prior to levy term; what funds may be expended for purpose of act by county court.
12. Limit on expenditures by park board to be fixed by county court.
13. Charges by park board for use of services and facilities; use of funds collected; bond required for faithful accounting of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. Logan County Court Empowered to Acquire Lands and to Establish Parks, Playgrounds, Athletic Fields, Swimming Pools, Recreational Centers, etc.—The county court of Logan county shall have and is hereby given power to acquire lands or leasehold estates or other interests therein for, and to create, establish and main-
tain parks, parkways, bridges, playgrounds, athletic fields, stadiums, swimming pools and recreational centers, and to expend moneys for such purposes. Lands for any such purposes may be acquired by lease, gift, purchase or otherwise, and if the lands necessary for such purposes cannot be acquired by purchase at prices deemed reasonable by the court, the power of eminent domain is hereby conferred upon such court for any of the aforesaid purposes, and it shall have the right to institute condemnation proceedings against the owners thereof in the same manner as said court may now or hereafter acquire lands by condemnation for other public purposes.

Any parks, parkways, bridges, playgrounds, athletic fields, stadiums, swimming pools and recreational centers may be located in whole or in part within the limits of any municipality now or hereafter existing in the county of Logan, and lands wholly or in part located within municipalities may be acquired by the court for any of the purposes aforesaid.

Sec. 2. May Issue and Sell Bonds.—For any of the purposes aforesaid the county court of Logan county may issue and sell its bonds for an aggregate principal amount not in excess of two hundred thousand dollars, but subject to limitations upon bonded indebtedness prescribed by article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, or any amendments thereto. The issuance and sale of bonds for any of the purposes aforesaid shall be governed by the provisions of chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, and any amendments thereto.

Sec. 3. Increased Levies.—In lieu of the issuance and sale of bonds for the purposes aforesaid, or at any time that there shall exist no bonded indebtedness created by the county court for any of the purposes aforesaid, the county court of Logan county may provide funds for any of the purposes aforesaid by increased levies when authorized in the manner prescribed by article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, or any amendments thereto.
Sec. 4. Power to Levy, Collect and Expend Funds for Purposes of Act.—For the purposes aforesaid the county court of Logan county may, in its annual levy estimate for current expenses, provide for and thereafter collect and expend funds for any of the purposes aforesaid.

Sec. 5. When Municipality May Contribute Toward Acquisition, Construction and Maintenance of Project.—Whenever any of the parks, parkways, bridges, playgrounds, athletic fields, stadiums, swimming pools or recreational centers shall be located within the corporate limits of any municipality, such municipality shall have authority to expend funds in the way of contributions toward the acquisition, construction and maintenance of any of such projects, and to make provisions for such expenditures in its annual levy estimates.

Sec. 6. When Board of Education of Logan County May Contribute Toward Expense of Constructing and Maintaining Project.—Whenever any of the parks, parkways, bridges, playgrounds, athletic fields, stadiums, swimming pools or recreational centers shall be used for public school athletic events, for physical education of public school students, or otherwise for public school purposes, the board of education of the county of Logan may contribute toward the expense of constructing and maintaining such public project as may be used for any public school athletics, physical development of public school children, or for other public school purposes, or may pay rentals for the use of any such facilities for any of the purposes aforesaid.

Sec. 7. Logan County Park Board; Appointment; Term; Nominating Committee; Meetings; Organization; Records.—There shall be a board of park commissioners consisting of six members, known as “Logan County Park Board”, which shall be a body corporate. The members of such board shall be appointed by the county court of Logan county in the manner hereinafter provided. Such park board shall be organized and shall have and exercise the powers and duties hereinafter provided.
(a) There shall be one member of the park board appointed from each magisterial district within the county. The other members may be residents of any magisterial district within the county. All members of the park board shall be residents and qualified voters of Logan county.

(b) Two of such members shall be appointed for a term of two years; two for a term of four years; and two for a term of six years. Whenever a vacancy shall occur by death, resignation, removal or expiration of term of office, a successor member shall be appointed by the county court in the same manner as original appointments were made. All members appointed to fill the vacancies occasioned by the expiration of the terms of office of their predecessors shall be appointed for a term of six years.

(c) Members of "Logan County Park Board" shall be appointed after nomination by a nominating committee, which nominating committee shall consist of seven members to be constituted as follows:

One member of the nominating committee shall be the judge of the circuit court of Logan county. One member of the nominating committee shall be the superintendent of schools of Logan county. One member of the nominating committee shall be a person selected by any organization representing the majority of companies engaged in the business of mining coal in Logan county. One member of the nominating committee shall be selected by the labor organization having the largest membership of employees in the coal mining industry in Logan county. One member of the nominating committee shall be selected by the labor organization having the largest membership of employees in the railroad industry in Logan county. One member of the nominating committee shall be appointed by the bank or banks doing business in Logan county. One member of the nominating committee shall be appointed by the chamber of commerce of Logan county.
If any officer or organization authorized to appoint a member of the nominating committee shall cease to exist, or fail to exercise its privilege of appointment, such nominating committee may still function as long as at least five members thereof are appointed and participate.

Nominations for vacancies in membership of "Logan County Park Board" shall be made in the same manner. No person shall be appointed to fill any vacancy until after he shall have been nominated by the nominating committee as hereinbefore provided.

(d) Before entering upon their duties as members of "Logan County Park Board", each member shall be required to qualify by taking and subscribing to an oath to faithfully perform his duties as a member of such board. Such oath shall be administered by the clerk of the county court of Logan county.

(e) The first meeting of "Logan County Park Board" shall be held at the time and place to be designated by the county court. Thereafter regular meetings shall be held at least every two months, as fixed by the park board. Special meetings may be held at any time as prescribed by the park board, or when called by the president, or any three members thereof.

(f) The park board shall elect from its members a president and a secretary. The president shall preside as chairman of the meetings and shall not vote upon any matter except in case of tie. A majority of the members shall constitute a quorum for the transaction of business. The secretary shall keep records of all meetings of members of the park board. Minutes of such meetings shall be filed in the office of the clerk of the county court. The secretary shall keep, or cause to be kept, a record of all expenditures made by the park board, and of all collections received by the park board. Such record shall be submitted to the county court of Logan county at least once every three months, or more often as may be required by the court.

Sec. 8. Power of Park Board as to Employees and Expenditures.—"Logan County Park Board" shall have supervisory authority over all parks, parkways, bridges,
playgrounds, athletic fields, stadiums, swimming pools
and recreational centers created or established under au-
thority of this act. The county court shall appoint only
such engineers, supervisors and other employees as may
be recommended to it by the park board.

No expenditures shall be made for the acquisition of
any land, for the construction of any improvements, or
for the maintenance and operation of any parks, park-
ways, bridges, playgrounds, athletic fields, stadiums,
swimming pools and recreational centers created or estab-
lished under authority of this act, except upon the recom-
mendation and approval of the park board.

Sec. 9. Election for Bonded Indebtedness or Increased
Levies Must Be Requested by Park Board; Estimate.—No
election shall be called or held for the creation of bonded
indebtedness, or for increased levies, for the purposes set
forth in section one of this act until and unless such elec-
tion shall have been requested by “Logan County Park
Board”. Before any election shall be held for the crea-
tion of bonded indebtedness or increased levies for any
of the purposes enumerated in section one of this act,
“Logan County Park Board” shall submit to the county
court of Logan county an estimate of the amount that will
be required for the acquisition of lands, cost of improve-
ments, and other expenditures to be made out of any
funds realized from the creation of bonded indebtedness,
or from increased levies. The park board shall include
within any estimate made by it all necessary engineering,
planning and other expenses.

Sec. 10. Expenditure of Bond and Levy Funds to Be
Approved by Park Board.—All funds realized by the
county court of Logan county from the sale of bonds, or
from increased levies, for the purposes enumerated in
section one of this act, shall be expended only as ap-
proved by “Logan County Park Board”.

Sec. 11. Park Board to Submit Estimate of Funds
Needed to County Court Prior to Levy Term; What Funds
May Be Expended for Purposes of Act by County Court.—
“Logan County Park Board” shall each year, prior to the
levy term of the county court of Logan county, submit
to the court a detailed estimate of the amounts required
to be expended for any of the purposes enumerated in
section one of this act. In making its levy estimate the
court may provide for all, or such portion of the funds so
estimated by the park board as necessary for the purposes
included in its estimate. The court may, from time to
time, allocate and spend for the purposes enumerated in
section one of this act, and for engineering, planning and
investigation for any such purposes, such funds as to it
may seem desirable and as may be available and not re-
quired for other purposes for which the same may have
been levied or collected.

Sec. 12. Limit on Expenditures by Park Board to Be
Fixed by County Court.—The county court of Logan
county may, from time to time, authorize "Logan County
Park Board" to expend moneys for engineering, planning
and otherwise as to the court may seem advisable, but
before any expenditures are authorized to be made by
the park board, the limit of such expenditures shall be
fixed by the court. Neither the court nor the county shall,
in any event, be liable for any expenditures made or in-
debtedness incurred by the park board in excess of the
amounts from time to time theretofore authorized by the
court.

Sec. 13. Charges by Park Board for Use of Services and
Facilities; Use of Funds Collected; Bond Required for
Faithful Accounting of Funds.—In the management and
operation of any of the projects enumerated in section
one of this act, "Logan County Park Board" may, with
the approval of the county court, establish and collect
fair and reasonable charges for automobile parking, use
of athletic fields or other facilities for private use or where
admission is charged, and for such other services and
facilities as it may be determined by the park board that
charges shall be made. All moneys collected for any of
such purposes shall be the property of the county court
of Logan county and shall be used only for the purposes
enumerated in section one of this act, or for paying in-
Chapter 144

(House Bill No. 357—By Mr. Meredith)

AN ACT to confer authority on the county court of Marion county to cooperate with the federal work projects administration in the preparation and publication of historical works.

[Passed March 5, 1941; in effect from passage. Approved by the Governor.]

Section 1. Marion county court authorized to publish local histories in cooperation with W. P. A.

Be it enacted by the Legislature of West Virginia:

Section 1. Marion County Court Authorized to Publish Local Histories in Cooperation with W. P. A.—The county court of Marion county is hereby authorized to prepare and publish local histories of the Marion county communities in cooperation with the federal work projects administration, and to expend public funds in pursuance of such object.

Chapter 145

(House Bill No. 306—By Mr. Ballard, of Mercer)

AN ACT to authorize the county court of Mercer county to expend funds for the construction and maintenance of a
Four-H camp in Mercer county, and for the acquisition of necessary buildings, land and equipment in connection therewith.

[Passed February 27, 1941; in effect from passage. Approved by the Governor.]

Section 1. Mercer county court authorized to expend funds for Four-H camp.

Be it enacted by the Legislature of West Virginia:

Section 1. Mercer County Court Authorized to Expend Funds for a Four-H Camp.—The county court of Mercer county is hereby authorized to expend annually from the general county fund or any other funds available, a sum not to exceed five thousand dollars, for the purpose of constructing and maintaining a Four-H camp in Mercer county, and for the acquisition of buildings, land and equipment in connection therewith.

CHAPTER 146

(House Bill No. 360—By Mr. Eddy)

AN ACT to authorize the municipalities of Westover, Riverside, Sabraton, Suncrest and Star City, or any of them, together with any unincorporated territory not embraced within any of said municipalities but contiguous to them, or to any of them, or to the city of Morgantown, all lying in Monongalia county, state of West Virginia, to consolidate with the city of Morgantown and become one municipality under the name of the city of Morgantown.

[Passed March 5, 1941; in effect from passage. Approved by the Governor.]

Section 1. Authority to consolidate.
2. Order for elections in municipalities.
3. Order for election in unincorporated territory.
4. Elections.
5. Ballots.
7. Manner of holding elections; certificate of results.
8. Results and effects of elections.
9. Effective date of consolidation.
11. Commission on wards and election districts.
13. Officers and employees of consolidating 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.

Be it enacted by the Legislature of West Virginia:

Section 1. Authority to Consolidate.—The municipalities of Westover, Riverside, Sabron, Suncrest and Star City, or any of them, together with any unincorporated territory not embraced within any of said municipalities but contiguous to them, or to any of them, or to the city of Morgantown, all lying in Monongalia county, state of West Virginia, are hereby authorized to consolidate with the city of Morgantown and become one municipality under the name of the city of Morgantown, in the manner provided in this bill.

Sec. 2. Order for Elections in Municipalities.—The council of each or any of said municipalities, including the city of Morgantown, may by order or resolution submit the question of such consolidation to the qualified voters of such municipality at any regular municipal election or may call a special election for such purpose. Such election shall be on the same day in each of the municipalities concerned.

Sec. 3. Order for Election in Unincorporated Territory. — (a) As to any territory in said Monongalia county contiguous to any of said municipalities, but not embraced within the boundaries of any of them, which is proposed to be included within said consolidated municipality, the county court of said Monongalia county may by order or resolution submit the question of such consolidation to the qualified voters of such territory at an election to be held upon the same day as is selected by said municipalities for voting upon such question. Such order or resolution shall describe the boundaries of any such un-
incorporated territory proposed to be included within said consolidated municipality.

(b) Said county court shall designate one or more voting places within said unincorporated territory for such election, and shall cause all qualified voters residing in such territory to be registered for such election, and a list of said registered qualified voters shall be furnished to the election officials for said voting place or places. Election officials for the holding of such election shall be appointed by said county court.

Sec. 4. Elections.—Said elections in said municipalities shall be held as are other municipal elections, and in said unincorporated territory as other elections in which county and district officers are elected. The provisions of law governing municipal elections generally shall apply to such elections held under the provisions of this bill within said municipalities, and as to an election held under the provisions of this bill in said unincorporated territory contiguous to any of said municipalities the provisions of law governing general elections at which county and district officers are elected shall apply.

Sec. 5. Ballots.—The ballots to be used shall be substantially in the following form:

Shall ___________________________________________ (name of municipality or description of unincorporated territory, as the case may be,) be consolidated with ___________________________________________, and become one municipality to be known as the city of Morgantown?

( ) For Consolidation

( ) Against Consolidation

Sec. 6. Expenses of Elections.—The expenses of such elections within each municipality shall be borne by each municipality, and as to such unincorporated territory shall be borne by the said county court.

Sec. 7. Manner of Holding Elections; Certificate of Results.—The county court shall furnish sealed ballot boxes to the proper officers of the municipalities wherein such elections are to be held and to the proper officers ap-
pointed by the county court at the voting places designated by said county court for such unincorporated territory wherein such election is to be held. Said elections shall be conducted and the results thereof duly ascertained, declared and certified by the election officials for each voting place to the county court, together with the ballot boxes and ballots therein, in the same manner as at a general election, and the said county court shall proceed to canvass the votes cast and certify over their signatures the results of their canvass, showing in their certificate the number of votes for and the number of votes against the consolidation in each of the said municipalities and in said unincorporated territory.

Sec. 8. Results and Effects of Elections.—A majority of the votes cast upon the question of consolidation in each of said municipal corporations must be in the affirmative to authorize such municipality to become a part of the proposed consolidated municipality, and a majority of the votes cast upon such question in unincorporated territory contiguous to any of said municipalities must be in the affirmative to authorize the annexation thereof so as to become a part of said proposed consolidated municipality. Such proposed consolidation shall not be effective unless a majority of the votes cast upon the question of consolidation within the municipality of Morgantown are in the affirmative, and then shall be effective only as to each of the other municipalities and said unincorporated territory in which the majority of votes cast are in the affirmative for such consolidation: Provided, That for the consolidation with the municipality of Morgantown to be effective as to any other such municipality or unincorporated territory, such municipality or unincorporated territory must adjoin the municipality of Morgantown or another municipality or unincorporated territory adjoining the municipality of Morgantown which has voted affirmatively to consolidate with the said municipality of Morgantown.

Sec. 9. Effective Date of Consolidation.—Such consolidation shall be effective as of the beginning of the first
day of the fiscal year of the city of Morgantown next succeeding the date of said elections, unless that day is less than ninety days prior to such date, in which event such consolidation shall not be effective until the first day of the next fiscal year thereafter.

Sec. 10. Charter and Ordinances of Consolidated Municipality.—When the consolidation becomes effective, the consolidating municipalities and contiguous unincorporated territory affected shall constitute and be one municipality under the same of “The City of Morgantown”. The charter of the city of Morgantown shall be and remain the charter for the whole of the consolidated municipality, until supplanted. The ordinances, resolutions, orders, rules and regulations in force in the city of Morgantown shall extend to and be in force throughout the whole of 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. 11. Commission on Wards and Election Districts.—Within two weeks after the certificate of the county court of the result of such elections is made, a joint commission shall be formed consisting of the mayor and the clerk of each municipality to be included in such consolidation, and three inhabitants of each of said consolidating municipalities to be appointed by the respective councils thereof. Such commission shall be called together by the mayor of the city of Morgantown at a time and place to be 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, verified as to the truth and correctness thereof, in the office of the clerk of the said county court of Monongalia county within fourteen days after the commission has filed its report and certificate hereinafter prescribed. The commission shall fix and determine the ward lines and election districts of the consolidated municipality,
and shall determine the number of wards into which such consolidated municipality shall be divided. 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 said county court. The certificate shall set forth and accurately describe the ward lines and election districts fixed by the commission, and shall contain a proper map of the consolidated municipality with such lines set out thereon. The clerk of the commission shall cause a copy of the certificate to be filed in the office of the secretary of state of the state of West Virginia, and also a copy in the office of the assessor of Monongalia county.

The lines fixed and determined by the commission shall be those of the consolidated municipality until changed in accordance with law. Wards shall be formed of contiguous territory. No election district shall be in more than one ward. In dividing the consolidated municipality into wards and election districts the commission shall have regard for, and shall take into consideration, the election laws of the state, as well as the area and population in all wards and election districts, and shall divide and arrange the same so that each will contain, as nearly as practicable, an equal number of inhabitants.

A notice setting forth the new ward lines and election districts as fixed by the commission shall be published by the clerk thereof in at least one newspaper of general circulation in said Monongalia county for two successive weeks next succeeding the filing of the certificate with the clerk of the county court. The expenses of the publication shall be paid by the new municipality. Upon the completion of the publication, the wards and election districts of the consolidating municipalities shall be superseded. The commission shall appoint, in accordance with the charter provisions of the new municipality, election officers to serve at the election provided for by section twelve of this bill.

The commission may employ an engineer, or engineers, and clerks, and an attorney, to assist in performing its
duties; and the commission may provide for compensation to be allowed to its clerk, engineers, clerks and attorney, which shall be paid by the new municipality. The commission members shall not receive compensation for their services, but all expenses incurred by them in the performance of their duties, when itemized and sworn to by the chairman and clerk, shall be paid by the new municipality.

Sec. 12. Election of New Councilmen.—An election shall be held upon the first Tuesday in June next preceding the date when the consolidation becomes effective for the election of councilmen for the new municipality. Two councilmen shall be elected from each ward, one councilman from each ward to be elected for one year and one councilman from each ward to be elected for two years. Such election shall be conducted in accordance with the charter of 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. Thereafter, the election of councilmen shall be as provided by the charter of said consolidated municipality.

Sec. 13. Officers and Employees of Consolidating Municipalities.—When the consolidation becomes effective, the terms of all councilmen of the consolidating municipalities shall cease and be at an end and all administrative officers and appointees thereof of said consolidating municipalities shall cease to hold such offices and positions, except that the administrative officers and employees of the city of Morgantown shall continue to serve until supplanted or replaced under the provisions of the charter and ordinances of the consolidated municipality.

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 city manager 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 the consolidating municipalities shall not be affected by said consolidation.

Sec. 14. Succession to Rights and Properties of Merged Municipalities.—The new consolidated municipality shall, when the consolidation becomes effective, be vested with all the rights and properties of the municipalities of which it is formed, and shall be responsible and liable for all contracts, debts and obligations of such municipalities. But the lands and properties in each of the municipalities superseded by such consolidation shall not be taxed or assessed for the debts or obligations of another of the municipalities 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 any of the superseded municipalities remaining outstanding and unpaid, and all other moneys due and owing any of such municipalities when the consolidation becomes effective, shall be collected by the new consolidated municipality and shall be applied to the purpose 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 consolidated 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 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 consolidating 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 consolidating municipalities to the proper officers of the new government, who shall 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.
AN ACT to authorize the county court of Nicholas county, West Virginia, to lay a levy and use the proceeds therefrom for the construction or erection of a county jail at Summersville, and addition to the courthouse of said county, the levy to be laid for a period of ten years and not longer than twelve years.

[Passed March 7, 1941; in effect from passage. Approved by the Governor.]

Section 1. County court of Nicholas county authorized to levy and expend funds for construction of county jail and addition to courthouse.

2. County court may contract for completion of jail and courthouse.

WHEREAS, The county jail of Nicholas county is insufficient, unsafe, unsanitary and incapable of adequate repairs, and the courthouse needs additional rooms; and

WHEREAS, An emergency is declared to exist in said county, calling for a new county jail and improvement to the courthouse; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. County Court of Nicholas County Authorized to Levy and Expend Funds for Construction of County Jail and Addition to Courthouse.—The county court of Nicholas county shall be and is hereby authorized and empowered to levy, use and expend for the purpose of erecting a county jail and addition to the courthouse with necessary equipment, furniture and fixtures, the levies heretofore apportioned to the said county for the purpose of paying the principal and interest and to provide a sinking fund for the construction and erection of a county jail and addition to the courthouse. The proceeds derived from said levy shall be used in the construction of the said county jail, and addition to the courthouse, and the fund shall be designated as “New County Jail and Court-
[Passed March 7, 1941; in effect ninety days from passage. Approved by the Governor.]

Section 1. Board of commissioners of Ohio county authorized to reimburse Wheeling-Ohio county airport association.

Be it enacted by the Legislature of West Virginia:

    Section 1. Board of Commissioners of Ohio County Authorized to Reimburse Wheeling-Ohio County Airport Association.—The board of commissioners of the county of Ohio, a corporation, is hereby authorized to reimburse and pay over to the Wheeling-Ohio county airport association.
Ch. 149] PETERSTOWN AUTHORIZED TO CONVEY REAL ESTATE

AN ACT to authorize the town of Peterstown, Monroe county, West Virginia, to convey certain real estate to the board of education of Monroe county.

[Passed March 6, 1941; in effect from passage. Approved by the Governor.]

Section 1. Town of Peterstown authorized to convey real estate to Monroe county board of education.

Be it enacted by the Legislature of West Virginia:

Section 1. Town of Peterstown Authorized to Convey Real Estate to Monroe County Board of Education.—The town of Peterstown, Monroe county, West Virginia, is hereby authorized to convey the following described real estate to the board of education of the county of Monroe:

Beginning on north side and at the head of the Mill race (locust stump called for) corner to Eliza J. Spangler dower tract and J. O. Hunter (formerly W. W. Dunn) thence with Hunter 980 feet to stake in line of H. O. Cunningham corner
CHAPTER 150
(Senate Sub. for Senate Bill No. 13—By Mr. Allen)

AN ACT to authorize the county court of Pocahontas county, West Virginia, to acquire lands and to erect and maintain a hospital as a memorial to soldiers and sailors of the World War; to provide for raising funds by taxation for the purchase of such lands and the construction, equipment and maintenance of such hospital, and to provide for the maintenance and management of such hospital by a board of directors to be appointed by said county court.

[Passed February 21, 1941; in effect ninety days from passage. Approved by the Governor.]

Section
1. Pocahontas county court empowered to establish and maintain hospital as memorial to World war veterans; memorial fund; board of directors; who to use hospital; report and estimate of expenses; gifts, etc.
Ch. 150] POCAHONTAS COUNTY—MEMORIAL HOSPITAL

Be it enacted by the Legislature of West Virginia:

Section 1. Pocahontas County Court Empowered to Establish and Maintain Hospital as Memorial to World War Veterans; Memorial Fund; Board of Directors; Who to Use Hospital; Report and Estimate of Expenses; Gifts, etc.—The county court of Pocahontas county, West Virginia, shall have the power, upon petition of not less than twenty per cent of the voters of such county, based on the number of votes cast for governor at the last general election, to acquire and establish at the county seat, or adjacent thereto, by purchase or otherwise, lands, and to erect and maintain thereon a hospital to be used as a memorial in memory of and in recognition of the virtues and sacrifices of the soldiers and sailors from said county in the World War, and to lay a tax for the purpose of acquiring, establishing and operating such hospital, of not more than one cent on Class No. I property; two cents on Class II property; and four cents on Classes III and IV property; which rates of levy may be made up from any unused county-wide rates allocated for county current purposes and not needed for such county current purposes and from any unused county-wide school debt rates not needed for school current purposes under the provisions of section seven, article eight, chapter eleven of the code of West Virginia, as amended by chapters one hundred thirty-two and one hundred thirty-three, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, and such taxes shall be levied and collected in like manner as the general taxes of the county. The taxes derived from said levy shall be kept in a separate fund to be known as the "Memorial Fund".

Whenever such hospital is established under this act, said county court shall appoint a board of directors consisting of one resident from each magisterial district of the county without regard to sex, giving consideration to their fitness for such office. Such directors shall hold office for four years from the first day of July following their appointment, and until their successors are appointed and qualified. Vacancies in the board shall be
reported to said county court and filled for the unexpired term by appointment in like manner as the original appointments were made. The said county court may remove any director for misconduct or neglect of duty. No compensation shall be paid or allowed any director.

The board of directors of any hospital established as a memorial under this act shall, immediately after their appointment, meet and organize by electing one of their number as president and one as secretary; a majority of such board shall constitute a quorum for the transaction of business. They shall make and adopt such by-laws, rules and regulations from time to time, for their own guidance and for the government and use of said hospital, as the board may deem expedient and not inconsistent with this act. Such board shall have authority to contract for the construction or purchase of a hospital established under this act and for repairs thereon and for the maintenance and operation thereof, and for the supervision, care and custody of said land, structure or structures.

All contracts shall be approved by said county court and the expenditure of all sums shall be subject to the approval of said county court. All moneys belonging to the memorial fund shall be deposited in the treasury of said county court to the credit of the memorial fund and shall be drawn therefrom only on orders issued by the county court. Such orders shall not be drawn except upon requisition of the memorial board attached to properly authenticated vouchers. The title to all such property shall be vested in the county court. The board shall have power to appoint a suitable custodian and assistants and prescribe rules for their conduct, fix their duties and compensation, and shall have power to remove such appointees and, in general, to carry out the spirit and intention of this act.

Any hospital established under this act shall be free for the use of the inhabitants of said county, subject to such reasonable rules and regulations and charges for hospitalization as the board may adopt, in order to render the use of such hospital of the greatest benefit to the greatest number; and the board may exclude from the
use of such hospital any and all persons who shall wilfully violate such rules: The board of directors may extend the use and privileges of such hospital to nonresidents of the county upon such terms and conditions as the board may prescribe.

The board of directors, on or before the first day of July of each year, shall make a report to the county court, showing the condition of the property, the various sums of money received from the memorial fund, and from all other sources, how such money was expended and for what expended; and shall submit an itemized budget estimate of expenses of the hospital for the ensuing year, with such other information and suggestions as they may deem of general interest, or that may be required by said county court.

Said county court is empowered to receive from any person, firm or corporation, by deed, gift, devise or bequest, funds and property of any kind for the benefit of such hospital, and the title to same shall be vested in said county court, and said county court and board shall hold such funds and property in trust and administer the same according to the terms and for the purposes set forth in such deed, gift, devise or bequest.

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CHAPTER 151

(House Bill No. 375—By Mr. Hall and Mr. Huffman)

AN ACT authorizing the creation and maintenance of public parks, playgrounds, athletic fields and recreational centers in Raleigh county, and providing for the acquisition of lands for such purposes by gift, purchases, condemnation or otherwise, and authorizing the creating of indebtedness and extra levies for any of such purposes, and creating a
park board for the management and supervision of public parks, playgrounds, athletic fields and recreational centers.

[Passed March 7, 1941; in effect from passage. Approved by the Governor.]

Section
1. Raleigh county court empowered to acquire lands and to establish parks, playgrounds, athletic fields, swimming pools, recreational centers, etc.
2. May issue and sell bonds.
3. Increased levies.
4. Power to levy, collect and expend funds for purposes of act.
5. When municipality may contribute toward acquisition, construction and maintenance of project.
6. When board of education of Raleigh county may contribute toward expense of constructing and maintaining project.
7. Raleigh county park board; appointment; term; nominating committee; meetings; organization; records.
8. Powers of park board as to employees and expenditures.
9. Election for bonded indebtedness or increased levies must be requested by park board; estimate.
10. Expenditure of bond and levy funds to be approved by park board.
11. Park board to submit estimate of funds needed to county court prior to levy term; what funds may be expended for purposes of act by county court.
12. Limit on expenditures by park board to be fixed by county court.
13. Charges by park board for use of services and facilities; use of funds collected; bond required for faithful accounting of funds.

Be it enacted by the Legislature of West Virginia:

Section 1. Raleigh County Court Empowered to Acquire
2 Lands and to Establish Parks, Playgrounds, Athletic
3 Fields, Swimming Pools, Recreational Centers, etc.—The county court of Raleigh county shall have and is hereby given power to acquire lands or leasehold estates or other interests therein for, and to create, establish and maintain parks, parkways, bridges, playgrounds, athletic fields, stadiums, swimming pools and recreational centers, and to expend moneys for such purposes. Lands for any such purposes may be acquired by lease, gift, purchase or otherwise, and if the lands necessary for such purposes cannot be acquired by purchase at prices deemed reasonable by the court, the power of eminent domain is hereby conferred upon such court for any of the aforesaid purposes, and it shall have the right to institute condemnation proceedings against the owners thereof in the same
manner as said court may now or hereafter acquire lands
by condemnation for other public purposes.
Any parks, parkways, bridges, playgrounds, athletic
fields, stadiums, swimming pools and recreational centers
may be located in whole or in part within the limits of
any municipality now or hereafter existing in the county
of Raleigh, and lands wholly or in part located within
municipalities may be acquired by the court for any of
the purposes aforesaid.

Sec. 2. May Issue and Sell Bonds.—For any of the pur-
poses aforesaid the county court of Raleigh county may
issue and sell its bonds for an aggregate principal amount
not in excess of one hundred thousand dollars, but sub-
ject to limitations upon bonded indebtedness prescribed
by article one, chapter thirteen of the code of West Vir-
ginia, one thousand nine hundred thirty-one, or any
amendments thereto. The issuance and sale of bonds for
any of the purposes aforesaid shall be governed by the
provisions of chapter thirteen of the code of West Vir-
ginia, one thousand nine hundred thirty-one, and any
amendments thereto.

Sec. 3. Increased Levies.—In lieu of the issuance and
sale of bonds for the purposes aforesaid, or at any time that
there shall exist no bonded indebtedness created by the
county court for any of the purposes aforesaid, the county
court of Raleigh county may provide funds for any of the
purposes aforesaid by increased levies when authorized
in the manner prescribed by article eight, chapter eleven
of the code of West Virginia, one thousand nine hundred
thirty-one, or any amendments thereto.

Sec. 4. Power to Levy, Collect and Expend Funds for
Purposes of Act.—For the purposes aforesaid the county
court of Raleigh county may, in its annual levy estimate
for current expenses, provide for and thereafter collect
and expend funds for any of the purposes aforesaid.

Sec. 5. When Municipality May Contribute Toward Ac-
quisation, Construction and Maintenance of Project.—
Whenever any of the parks, parkways, bridges, play-
grounds, athletic fields, stadiums, swimming pools or recreational centers shall be located within the corporate limits of any municipality, such municipality shall have authority to expend funds in the way of contributions toward the acquisition, construction and maintenance of any such projects, and to make provisions for such expenditures in its annual levy estimates.

Sec. 6. When Board of Education of Raleigh County May Contribute Toward Expense of Constructing and Maintaining Project.—Whenever any of the parks, parkways, bridges, playgrounds, athletic fields, stadiums, swimming pools or recreational centers shall be used for public school athletic events, for physical education of public school students, or otherwise for public school purposes, the board of education of the county of Raleigh may contribute toward the expense of constructing and maintaining such portions of such public project as may be used for any public school athletics, physical development of public school children, or for other public school purposes, or may pay rentals for the use of any such facilities for any of the purposes aforesaid.

Sec. 7. Raleigh County Park Board; Appointment; Term; Nominating Committee; Meetings; Organization; Records.—There shall be a board of park commissioners consisting of eight members, known as "Raleigh County Park Board", which shall be a body corporate. The members of such board shall be appointed by the county court of Raleigh county in the manner hereinafter provided. Such park board shall be organized and shall have and exercise the powers and duties hereinafter provided.

(a) All members of the park board shall be residents and qualified voters of Raleigh county.
(b) Two of such members shall be appointed for a term of one year; two for a term of two years; two for a term of three years, and two for a term of four years. Whenever a vacancy shall occur by death, resignation, removal or expiration of term of office, a successor member shall be appointed by the county court in the same manner as original appointments were made.
All members appointed to fill the vacancies occasioned by the expiration of the terms of office of their predecessors shall be appointed for a term of four years.

(c) Before entering upon their duties as members of "Raleigh County Park Board", each member shall be required to qualify by taking and subscribing to an oath to faithfully perform his duties as a member of such board. Such oath shall be administered by the clerk of the county court of Raleigh county.

(d) The first meeting of "Raleigh County Park Board" shall be held at the time and place to be designated by the county court. Thereafter regular meetings shall be held at least every three months, as fixed by the park board. Special meetings may be held at any time as prescribed by the park board, or when called by the president, or any three members thereof.

(e) The park board shall elect from its members a president and a secretary. The president shall preside as chairman of the meetings and shall not vote upon any matter except in case of tie. A majority of the members shall constitute a quorum for the transaction of business.

The secretary shall keep records of all meetings of members of the park board. Minutes of such meetings shall be filed in the office of the clerk of the county court.

The secretary shall keep, or cause to be kept, a record of all expenditures made by the park board, and of all collections received by the park board. Such record shall be submitted to the county court of Raleigh county at least once every three months, or more often as may be required by the court.

Sec. 8. Powers of Park Board as to Employees and Expenditures.—"Raleigh County Park Board" shall have supervisory authority over all parks, parkways, bridges, playgrounds, athletic fields, stadiums, swimming pools and recreational centers created or established under authority of this act. The county court shall appoint only such engineers, supervisors and other employees as may be recommended to it by the park board.
No expenditures shall be made for the acquisition of any land, for the construction of any improvements, or for the maintenance and operation of any parks, park-ways, bridges, playgrounds, athletic fields, stadiums, swimming pools and recreational centers created or established under authority of this act, except upon the recommendation and approval of the park board.

Sec. 9. Election for Bonded Indebtedness or Increased Levies Must Be Requested by Park Board; Estimate.—No election shall be called or held for the creation of bonded indebtedness, or for increased levies, for the purposes set forth in section one of this act, until and unless such election shall have been requested by "Raleigh County Park Board". Before any election shall be held for the creation of bonded indebtedness or increased levies for any of the purposes enumerated in section one of this act, "Raleigh County Park Board" shall submit to the county court of Raleigh county an estimate of the amount that will be required for the acquisition of lands, cost of improvements, and other expenditures to be made out of any funds realized from the creation of bonded indebtedness, or from increased levies. The park board shall include within any estimate made by it all necessary engineering, planning and other expenses.

Sec. 10. Expenditure of Board and Levy Funds to Be Approved by Park Board.—All funds realized by the county court of Raleigh county from the sale of bonds, or from increased levies, for the purposes enumerated in section one of this act, shall be expended only as approved by "Raleigh County Park Board".

Sec. 11. Park Board to Submit Estimate of Funds Needed to County Court Prior to Levy Term; What Funds May Be Expended for Purposes of Act by County Court.—"Raleigh County Park Board" shall each year, prior to the levy term of the county court of Raleigh county, submit to the court a detailed estimate of the amounts required to be expended for any of the purposes enumerated in section one of this act. In making its levy...
9 estimate the court may provide for all or such portion
10 of the funds so estimated by the park board as necessary
11 for the purposes included in its estimate. The court may,
12 from time to time, allocate and spend for the purposes
13 enumerated in section one of this act, and for engineering,
14 planning and investigation for any such purposes, such
15 funds as to it may seem desirable and as may be avail-
16 able and not required for other purposes for which the
17 same may have been levied or collected.

Sec. 12. Limit on Expenditures by Park Board to Be
2 Fixed by County Court.—The county court of Raleigh
3 county may, from time to time, authorize “Raleigh County
4 Park Board” to expend moneys for engineering, planning
5 and otherwise as to the court may seem advisable, but
6 before any expenditures are authorized to be made by the
7 park board, the limit of such expenditures shall be fixed
8 by the court. Neither the court nor the county shall, in
9 any event, be liable for any expenditures made or indebt-
10 edness incurred by the park board in excess of the
11 amounts from time to time theretofore authorized by the
12 court.

Sec. 13. Charges by Park Board for Use of Services and
2 Facilities; Use of Funds Collected; Bond Required for
3 Faithful Accounting of Funds.—In the management and
4 operation of any of the projects enumerated in section
5 one of this act, “Raleigh County Park Board” may, with
6 the approval of the county court, establish and collect fair
7 and reasonable charges for automobile parking, use of
8 athletic fields or other facilities for private use or where
9 admission is charged, and for such other services and
10 facilities as it may be determined by the park board that
11 charges shall be made. All moneys collected for any such
12 purposes shall be the property of the county court of Ra-
13 leigh county and shall be used only for the purposes enu-
14 merated in section one of this act, or for paying indebted-
15 ness that may have been incurred for such purposes. All
16 money collected by the park board shall be collected, re-
17 ceived and held by the secretary, or some other person
designated by the park board. Every person entitled to collect, receive or hold any moneys under this act shall give bond for the faithful accounting for all such moneys in an amount fixed by the county court of Raleigh county.

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CHAPTER 152

(House Bill No. 9—By Mr. Huffman)

AN ACT to amend and reenact section ten, chapter twenty-nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred seven, fixing the time of holding the four regular terms of the criminal court of Raleigh county, and providing for special terms of said court.

[Passed March 6, 1941; in effect from passage. Approved by the Governor.]

Section 10. Criminal court of Raleigh county; regular terms; special terms.

Be it enacted by the Legislature of West Virginia:

That section ten, chapter twenty-nine, acts of the Legislature, regular session, one thousand nine hundred seven, be amended and reenacted to read as follows:

   Section 10. Criminal Court of Raleigh County; Regular Terms; Special Terms.—There shall be four terms of said court held in each year, commencing on the second Monday in January, the third Monday in March, the second Monday in June, and the first Monday in October; special terms of said court may be called and held as provided for special terms of circuit courts.

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CHAPTER 153

(Senate Bill No. 109—By Mr. Jimison, by request)

AN ACT to authorize the city of Saint Albans to compromise and settle with the owners of properties in the said city the
unpaid sewer and paving assessments due said city on said properties.

[Passed February 28, 1941; in effect ninety days from passage. Approved by the Governor.]

Section 1. Authorizing city of Saint Albans to compromise sewer and paving assessments.

Be it enacted by the Legislature of West Virginia:

Section 1. Authorizing City of Saint Albans to Compromise Sewer and Paving Assessments.—The city of Saint Albans is hereby authorized to compromise and settle with the owners of property in said city any unpaid sewer and paving assessments levied prior to the year one thousand nine hundred thirty and due said city on properties situate in said city, in accordance with a resolution or ordinance now adopted or passed, or which may be hereafter adopted or passed.

CHAPTER 154
(House Bill No. 240—By Mr. Maddy)

AN ACT to authorize the county court of Summers county to construct, improve, equip and maintain a Four-H camp in Summers county.

[Passed March 6, 1941; in effect from passage. Approved by the Governor.]

Section 1. Summers county court authorized to construct, improve, equip and maintain a Four-H camp.

Be it enacted by the Legislature of West Virginia:

Section 1. Summers County Court Authorized to Construct, Improve, Equip and Maintain a Four-H Camp.—The county court of Summers county is hereby authorized
to expend from any available funds the amount of money which it deems necessary for the purpose of constructing, improving, equipping and maintaining a Four-H camp in Summers county.

CHAPTER 155

(House Bill No. 201—By Mr. Farr, by request)

AN ACT to authorize the town of West Union, by and with the consent of the holders of bonds, to transfer the surplus sum of three thousand two hundred forty-two dollars and fifty cents from said town's sinking fund account to the credit of said town's general fund account, and to employ and use the said sum of money to reimburse said town's water plant fund.

[Passed February 21, 1941; in effect from passage. Approved by the Governor.]

Section 1. Town of West Union authorized to transfer funds from sinking fund to general fund, and to employ and use said sum to reimburse water plant fund.

Be it enacted by the Legislature of West Virginia:

Section 1. Town of West Union Authorized to Transfer Funds from Sinking Fund to General Fund, and to Employ and Use Said Sum to Reimburse Water Plant Fund.—
CHAPTER 156
(Senate Bill No. 34—By Mr. Doak)

AN ACT authorizing the county court of Wetzel county to pay the Wetzel Democrat and the Wetzel Republican for publishing the list of real estate and lists of persons and property, other than real estate in said county, delinquent for the nonpayment of the taxes thereon for the year one thousand nine hundred thirty.

[Passed February 14, 1941; in effect from passage. Approved by the Governor.]

Section 1. County court of Wetzel authorized to pay for publication of delinquent tax lists in 1931.

Be it enacted by the Legislature of West Virginia:

Section 1. County Court of Wetzel Authorized to Pay for Publication of Delinquent Tax Lists in 1931.—The county court of Wetzel county is hereby authorized to pay the Wetzel Democrat and the Wetzel Republican, newspapers of opposite politics published in said county, at the rate provided by law, for publishing as required by law, in the month of June, one thousand nine hundred thirty-one, copies of the list of real estate and copies of the list of persons and property other than real estate, of said county, delinquent for the nonpayment of taxes thereon, for the year one thousand nine hundred thirty.

CHAPTER 157
(House Bill No. 109—By Mr. Schupbach)

AN ACT to authorize the county court of Wetzel county to expend funds for the construction and improvement of a
Four-H camp and county recreation center, and for the construction and acquisition of necessary buildings and equipment in connection therewith.

[Passed February 7, 1941; in effect from passage. Approved by the Governor.]

Section
1. Wetzel county court authorized to expend funds for a Four-H camp and county recreation center, buildings and equipment.

Be it enacted by the Legislature of West Virginia:

Section 1. Wetzel County Court Authorized to Expend Funds for a Four-H Camp and County Recreation Center, Buildings and Equipment.—The county court of Wetzel county is hereby authorized to expend annually from its general county fund moneys not to exceed five thousand dollars for the construction and improvement of a county Four-H camp and county recreation center, and for necessary buildings and equipment in connection therewith.
RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 1
(By Mrs. Walker)
[Adopted January 8, 1941.]

Raising a joint assembly to open and publish election returns.

Resolved by the House of Delegates, the Senate concurring therein:

That the two houses of the Legislature convene in joint assembly in the hall of the House of Delegates at 2:00 o'clock P. M., this day, that the Speaker of the House of Delegates may, in the presence of the Senate, open and publish the returns of the election of Governor and other state officers elected at the general election held throughout the state on the 5th day of November, one thousand nine hundred forty, as provided by section three, article seven of the Constitution of this State.

HOUSE CONCURRENT RESOLUTION NO. 2
(By Mr. Amos)
[Adopted January 8, 1941.]

Providing for a joint assembly to hear the biennial message of the Governor.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 2:30 o'clock P. M., this day, to hear the biennial message of His Excellency, Governor Homer A. Holt.
HOUSE CONCURRENT RESOLUTION NO. 3
(By Mr. Amos)
[Adopted January 15, 1941.]

Providing for a legislative recess.

Resolved by the House of Delegates, the Senate concurring therein:

That when adjournment is taken by the respective houses of the Legislature at the close of this day’s sessions, such adjournment shall be until Tuesday, January 21, 1941, at 2:00 o’clock P. M.

HOUSE CONCURRENT RESOLUTION NO. 4
(By Mr. Russek)
[Adopted January 22, 1941.]

Inviting Mrs. Roosevelt to address joint assembly.

WHEREAS, It has been called to the attention of many members of the West Virginia Legislature that Mrs. Eleanor Roosevelt, wife of our beloved President of the United States, His Excellency, Franklin D. Roosevelt, will speak at the municipal auditorium in Charleston, West Virginia, on February 9, 1941; and

WHEREAS, Mrs. Roosevelt in her own right is a lady of great prominence, ability and charm, and is widely known throughout West Virginia through her various visits to our state, made in a desire to be of assistance to the underprivileged men, women and children of this state; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That an invitation be extended to this distinguished West Virginia visitor, Mrs. Eleanor Roosevelt, to address a joint assembly of the West Virginia Legislature, if time will permit her to do so, and that the Speaker of the House of Delegates and the President of the Senate appoint three members each
to serve as a committee to contact the representatives of Mrs. Roosevelt in an effort to secure her attendance, and inquire if this would be feasible with her plans during her visit to Charleston.

HOUSE CONCURRENT RESOLUTION NO. 5
(By Mr. Matthews and Mr. Taylor)

[Adopted February 7, 1941.]

Authorizing the distribution of the West Virginia Blue Book to all public and private schools in the state, and to the Boys' State.

Resolved by the House of Delegates, the Senate concurring therein:

That the Clerk of the Senate is hereby authorized to have printed additional copies of the 1940 edition of the West Virginia Blue Book sufficient to provide one copy for each high school, junior high school, grade school, and private and parochial school in the State of West Virginia.

In addition to the number provided for schools, four hundred fifty copies of the Blue Book shall be provided for the White Boys' State and one hundred copies shall be provided for the Colored Boys' State, both of which are conducted annually in this state.

Books for distribution to these schools and Boys' State shall be delivered to the State Department of Education and the state department of American Legion to be mailed by these departments to the proper persons. The books placed in the libraries of the schools shall remain the property of the State of West Virginia, and a statement to this effect shall be printed on the books mailed to each school. Such books shall not be removed from the schools by any person. The cost of printing the additional books authorized by this resolution shall be paid for out of the legislative printing fund in the same manner as such printing cost has heretofore been paid.
HOUSE CONCURRENT RESOLUTION NO. 6
(By Mr. Paul)
[Adopted January 28, 1941.]

Providing for a joint assembly to hear an address by His Excellency, Governor Matthew M. Neely.

WHEREAS, His Excellency, Governor Matthew M. Neely, has informed the presiding officers of the Senate and House of Delegates that he would be pleased to address the Legislature on Wednesday, January 29, 1941; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the two houses of the Legislature convene in joint assembly at 2:25 o'clock P. M., on Wednesday, January 29, 1941, to hear an address by His Excellency, the Governor, at 2:30 o'clock P. M., that day.

HOUSE CONCURRENT RESOLUTION NO. 13
(By Mr. Jones)
[Adopted February 25, 1941.]

Concerning a memorial for Booker T. Washington.

WHEREAS, Booker T. Washington, reared in Malden, Kanawha County, West Virginia, a child of slavery, was, without even a name, having taken to himself the name of the father of this great country, born in obscurity, handicapped by dire poverty; and through great difficulties, at a great sacrifice and amidst unsurmountable obstacles secured an education, when educational opportunities were meager for the white race and practically none at all for the race to which he belonged, in order to uplift and enlighten his people that he might help break the chains of ignorance and superstition, planting in their places industry and thrift; and

WHEREAS, He established one of the first and greatest institutions for industrial education in the world, having been justly called the father of industrial education, having popu-
larized manual training to the extent that it has been put in the public school systems of the United States and adopted by leading universities, and through this, the great contribution he made in bringing about better relationship between the races in America, he arose to be acclaimed by two continents as one of the greatest men America has produced; and

WHEREAS, As a son of West Virginia, he never forgot the land of his childhood, having returned at intervals, taught here, and toured the state in the interest of locating the Capitol in Charleston. He referred to Malden repeatedly in his autobiography as the place where he received his inspiration, and having by his life and works brought honor to this great state of West Virginia; and

WHEREAS, There has been a consistent demand for many years, on the part of his admirers throughout the state and nation, that a monument be erected to him in Malden, his old home town, and the Negro Club Women, through the West Virginia Federation of Colored Women's Clubs, have accepted this challenge and have formed a corporation to establish and maintain a fitting memorial in Malden, and having been consistently working on it for a number of years; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Board of Public Works is hereby requested to include in an amended and supplemental budget an appropriation of not to exceed five thousand dollars for a suitable monument or memorial for the illustrious Booker T. Washington, to be erected at or near Malden, West Virginia, which money, when appropriated, shall be spent by the Booker T. Washington Memorial Association, by and with the approval of the Board of Public Works.

HOUSE CONCURRENT RESOLUTION NO. 17

(By Mr. Cuyler E. Ewing and Mr. Russek)

[Adopted March 5, 1941.]

Relating to historical significance of American Legion Post No. 1.
...WHEREAS, On March 1, 1919, a meeting of veterans of the World War was called in Wheeling, W. Va., by Joseph H. Reass. This meeting adopted by-laws and elected all necessary officers for the organization. These officers were: Messrs. P. J. McGinley, Thomas McK. Cummins, Joseph H. Reass, Edmund Lee Jones and George S. Hutson. This organization being the first of such organizations, became Post No. 1 of the American Legion and thereby the oldest post in the country; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature now in session recognize this meeting as having historical value and instruct the state historian to include an account of said meeting in any history of the state hereinafter compiled and published.

HOUSE CONCURRENT RESOLUTION NO. 19

(By Mr. Johnston)

[Adopted March 8, 1941.]

Authorizing the State Conservation Commission to make a survey, an investigation and to purchase certain lands.

WHEREAS, There is no state park or state-owned forest in the County of Wood or within one hundred miles thereof; and

WHEREAS, West Virginia, rich in natural beauty, history and tradition, is a land which invites visitors to revel in its beauties and enjoy its traditions; and

WHEREAS, There is not a sufficient number of state parks and recreational centers in Wood or adjoining counties; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the State Conservation Commission be authorized and requested to make a survey and investigation of the available sites in Wood or adjoining counties for the purpose of establishing a state park therein and, if a suitable location can be
secured, and if funds are available, to purchase said land and establish a state park.

**HOUSE CONCURRENT RESOLUTION NO. 22**

(By Mr. Ballard, of Monroe, and Mr. Hansbarger)

[Adopted March 1, 1941.]

Granting permission to introduce a bill authorizing the town of Peterstown, Monroe County, West Virginia, to convey certain real estate to the Board of Education of Monroe County.

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 town of Peterstown, Monroe County, West Virginia, to convey certain real estate to the board of education of Monroe County."

**HOUSE CONCURRENT RESOLUTION NO. 23**

(By Mr. Righter)

[Adopted March 5, 1941.]

Granting permission to introduce two bills.

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 two bills with the following titles:

"A Bill providing for the investment of that certain fund appropriated by the United States government on June twenty-five, one thousand nine hundred eight, for the purpose of paying the West Virginia National Guard from the time of the call until the date of muster into the service of the United States for the Spanish American War, and directing the dis-
position of the interest moneys realized from such investment for the benefit of the United Spanish War veterans of the State of West Virginia.

And,

"A Bill to amend and reenact section one, article seven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the collection of capitation taxes, and exempting soldiers and sailors of the Civil War and the Spanish American War from paying capitation taxes."

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HOUSE CONCURRENT RESOLUTION NO. 24

(By Mr. Winters)

[Adopted March 8, 1941.]

Authorizing legislative study of damages caused on the highways of this state to persons and property by financially irresponsible automobile owners and operators.

WHEREAS, There is an ever increasing number of motor vehicles operating on and over the highways of our state; and

WHEREAS, Many of these vehicles have evident mechanical defects, and their continued operation in a careless, reckless and irresponsible manner has resulted in:

(a) The death during the past calendar year of 391 people within the borders of our state;

(b) The injury and consequent misery and suffering to 2,473 other persons injured within the state in the last calendar year;

(c) The estimated loss in property and other values of hundreds of thousands of dollars annually; and

WHEREAS, Statistics available disclose that only approximately thirty per cent of the motor vehicles now operating under authority of the state carry any kind of insurance or other means of indemnifying for loss of lives or property; therefore, be it
Resolved by the House of Delegates, the Senate concurring therein:

That the Speaker of the House of Delegates and the President of the Senate be, and are hereby authorized and directed to recommend to the committee appointed under authority of House Concurrent Resolution No. 26 that they study this grave situation, and to prepare for submission to the 1943 Legislature such legislation as is deemed necessary and adequate to the proper protection of our citizens in their lives and property.

HOUSE CONCURRENT RESOLUTION NO. 25
(By Mr. Duff)
[Adopted March 3, 1941.]
Granting permission to introduce a bill authorizing the county court of Nicholas County to lay a levy for improvements and additions to the courthouse and jail.

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 county court of Nicholas County, West Virginia, to lay a levy and use the proceeds therefrom for the construction or erection of a county jail at Summersville, and addition to the courthouse of said county, the levy to be laid for a period of ten years and not longer than twelve years.”

HOUSE CONCURRENT RESOLUTION NO. 26
(By Mr. Shinn)
[Adopted March 6, 1941.]
Concerning the creation of an interim legislative committee for the purpose of studying and reporting upon important problems of government in West Virginia.
WHEREAS, Certain major problems of state government require research and analysis more extensive and intensive than the demands of a regular legislative session would permit; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That an interim legislative committee, consisting of ten members, be created in order to study problems as are hereafter set forth, and such other problems as may be requested by the Governor or the committee:

Mining laws,
Conservation laws,
Juvenile court law,
Institutional care of children and adults,
Public lands corporation,
Civil service for state employees;

That the committee make and issue reports concerning such studies 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 the public needs may require;

That the membership of the committee be composed of the President of the Senate, and three members of the Senate, to be appointed by the President thereof; the Speaker of the House of Delegates, and five members of the House of Delegates, to be appointed by the Speaker thereof;

That the committee be empowered to employ advisory, clerical and stenographic assistance necessary for the fulfillment of its duties;

That the committee be authorized to meet in Charleston or elsewhere, as it may determine;

That the committee be authorized to fix compensation for the members of the committee as well as for such advisory, clerical and stenographic assistance as the committee may deem it necessary to employ;
That the expenses incurred be paid from the contingent funds of the Senate and the House of Delegates in proportion to the membership on the committee from each respective chamber.

HOUSE CONCURRENT RESOLUTION NO. 27
(By Mr. Hickman)
[Adopted March 4, 1941.]
Concerning the death of the Honorable Homer B. Woods.

WHEREAS, This body has learned with unfeigned sorrow of the death of the Honorable Homer B. Woods while serving in this session as a member of the House of Delegates from Ritchie County, which occurred this morning, March 4, 1941, at a Charleston hospital; and

WHEREAS, The deceased was an eminent lawyer, statesman and judge; and

WHEREAS, He served his County of Ritchie as superintendent of schools; was prosecuting attorney of that county for two terms; and

WHEREAS, He was elevated to the judgeship of the third judicial circuit of West Virginia, serving the people of that district for twenty years, where his rare knowledge and sympathy with mankind, in addition to his tolerance, tactfulness, fairness and honesty made him beloved by all who appeared in his court, whether as members of the bar or as humble citizens seeking justice before a tribunal whose presiding officer's life was an epitome of justice and fairness; and

WHEREAS, The people of West Virginia called him to serve as Judge of the Supreme Court of Appeals, where for twelve years the qualities which had endeared him to the people of the third judicial circuit were made manifest to the people of all West Virginia; and

WHEREAS, He was elected to the House of Delegates from Ritchie County in 1940, where his sterling qualities as one of
West Virginia's most outstanding citizens were recognized and appreciated by this honorable body; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the State of West Virginia, more particularly the members of the bar and this Legislature, has suffered a distinct and irreparable loss in the passing of this distinguished member of the House of Delegates; and, be it

Further Resolved, That the members of these bodies 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 the Clerks of the two houses are directed to send a copy of this resolution to the family of the deceased, together with suitable floral tributes; and, be it

Further Resolved, That the desk occupied by the deceased member of the minority be draped in mourning for the remainder of the session.

HOUSE CONCURRENT RESOLUTION NO. 28
(By Mr. Ballard, of Mercer)
[Adopted March 5, 1941.]

Granting permission to introduce two bills.

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 two bills with the following titles:

“A Bill to amend and reenact section eighteen, article three, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter four, acts of the Legislature, regular session, one thousand nine hundred thirty-
five, relating to the uses of operating and reserve funds of the West Virginia liquor control commission.

And,

“A Bill to amend and reenact section two, article three, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter one hundred thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to the custody, investment and disbursement of the workmen's compensation fund.”

HOUSE CONCURRENT RESOLUTION NO. 29
(By Mr. Russek)
[Adopted March 5, 1941.]
Granting permission to introduce a bill, providing for the submission to the voters of a constitutional amendment.

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 providing for the submission to the voters of the state an amendment to the constitution of the State of West Virginia, by adding section fifty-two to article six thereof, the said amendment to be known as the ‘Good Roads Amendment’.”

HOUSE CONCURRENT RESOLUTION NO. 30
(By Mr. Bass)
[Adopted March 8, 1941.]
Granting permission to introduce a bill authorizing the State Compensation Commissioner to reopen the case of Ben Ross.

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 authorizing the state compensation commissioner to reopen the case of Ben Ross.”

HOUSE CONCURRENT RESOLUTION NO. 31

(By Mr. Perry, of Logan)

[Adopted March 8, 1941.]

Granting permission to introduce a bill.

Resolved by the Legislature of West Virginia, two-thirds of all the members of each House present and voting concurring therein:

That permission is hereby granted to introduce a bill with the following title:

“A Bill to amend and reenact section eleven, article nine-a chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the allocation of state aid to public schools.”

HOUSE CONCURRENT RESOLUTION NO. 32

(By Mr. Perry, of Logan)

(Originating in the Committee on Rules)

[Adopted March 8, 1941.]

Authorizing the printing and distribution of the acts of the Legislature, regular session, one thousand nine hundred forty-one.

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 advance copies of the acts of this session of the Legislature, head-
noted in accordance with the form and style of headnoting used in the code of West Virginia, one thousand nine hundred thirty-one, and with a full table of contents, 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 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. When the bound volumes of the acts are completed, ten copies of same shall be mailed to each member of the Legislature.

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 the proper requisitions 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 requisitions of the Clerk of the Senate.

For the work required in printing and distributing advance copies of the acts and for the proofreading, indexing and printing the bound volumes of the acts of this session of the Legislature, the time of the following assistants to the Clerk and
other employees and attaches of the House of Delegates 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 stenographer to the Clerk, the secretary and stenographer to the Speaker, the three assistant clerks, the Journal clerk, the Journal stenographer, the supervisor of printing is extended for ninety days; eight clerks, six proofreaders and one stenographer is extended for sixty days; four clerks and five stenographers is extended for thirty days.

The Clerk of the House of Delegates shall draw his requisitions 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 requisitions 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 day, is extended for sixty days; and the Clerk of the Senate is hereby authorized to employ the following assistants for sixty days at the per diems herein set out: One Journal editor at fifteen dollars per day; a secretary to the Clerk at twelve dollars per day; one Journal stenographer at ten dollars per day; one supervisor of printing at ten dollars per day; one mail supervisor at ten dollars per day; two mail clerks at seven dollars per day each, and two proofreaders at eight dollars per day each.

The Clerk of the Senate shall draw his requisitions in favor of the person 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 requisitions when presented and charge same to the contingent fund of the Senate.

The Speaker of the House of Delegates shall have authority to remove any person given an extension of per diem in the House of Delegates 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 CONCURRENT RESOLUTION NO. 33
(By Mrs. Walker)
[Adopted March 8, 1941.]

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. 6
(By Mr. Meredith and Mr. Russek)
[Adopted March 5, 1941]

Proposing an amendment to the Constitution of the State amending article six thereof by adding thereto a new section to be numbered section fifty-two.

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each House agreeing thereto:

That the question of ratification or rejection of an amendment to the constitution of West Virginia shall be submitted to the voters of the State at the next general election to be held in the year one thousand nine hundred forty-two, which proposed amendment is as follows:

That article six of the Constitution of the State of West Virginia be, and the same is hereby amended by adding thereto a new section to be numbered section fifty-two, to read as follows:

Section 52. Revenue from gasoline and other motor fuel excise and license taxation, motor vehicle registration and license taxes, and all other revenue derived from motor vehicles or
HOUSE RESOLUTION NO. 1
(By Mr. Hudson)

[Adopted January 8, 1941.]

Election of Clerk, Sergeant-at-Arms and Doorkeeper of the House of Delegates.

Resolved by the House of Delegates:

That J. R. Aliff, of the County of Fayette, be, and he is hereby, elected Clerk of the House of Delegates;

That Lafayette Graner, of the County of Ohio, be, and he is hereby, elected Sergeant-at-Arms of the House of Delegates; and

That Grover C. Combs, of the County of Logan, be, and he is hereby, elected Doorkeeper of the House of Delegates.

HOUSE RESOLUTION NO. 2
(By Mr. Alltop)

[Adopted January 8, 1941.]

Adopting rules for the House of Delegates.

Resolved by the House of Delegates:

That the rules of the House of Delegates for the regular session, one thousand nine hundred thirty-nine, shall govern the proceedings of this House, pending a report from the Committee on Rules, hereafter to be appointed.
HOUSE RESOLUTION NO. 3
(By Mr. Hopkins)
[Adopted January 8, 1941.]

Raising a committee to inform the Senate that the House of Delegates is organized.

Resolved by the House of Delegates:

That the Speaker appoint a committee of three to inform the Senate that the House of Delegates is organized by the election of Malcolm R. Arnold, of the County of Boone, as Speaker, and J. R. Aliff, of the County of Fayette, as Clerk, and is ready to proceed with the business of the session.

HOUSE RESOLUTION NO. 4
(By Mr. Matthews)
[Adopted January 8, 1941.]

Raising a committee to wait upon the Governor.

Resolved by the House of Delegates:

That a committee of three members be appointed by the Speaker, on the part of the House of Delegates, to join with the committee on the part of the Senate to notify the Governor of the State of West Virginia that a quorum of each House has assembled and has organized by the election of officers as required by the Constitution, and that the Legislature is ready to receive any communication that he may be pleased to make.

HOUSE RESOLUTION NO. 5
(By Mr. Kidd)
[Adopted January 8, 1941.]

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 House of Delegates, the joint rules of the Senate and House of Delegates, and such other matter and material as he may deem to be useful and convenient for the members of the Legislature.

HOUSE RESOLUTION NO. 6
(By Mr. Ballard, of Mercer)
(Originating in the Committee on Rules)
[Adopted January 14, 1941.]

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 payroll and supply 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 seven 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 five dollars per day;

One clerk, one assistant clerk and one stenographer to the Committee on Taxation and Finance at fifteen, nine and eight dollars per day, respectively;

One clerk, one assistant clerk and one stenographer to the Committee on the Judiciary at fifteen, 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 voting machine technician at ten dollars per day;

One clerk at ten dollars per day, one assistant clerk and one stenographer at eight dollars each per day, to the Committee on Roads;

Twelve 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 superintendent of document room at ten dollars per day;

Twelve document 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 seven dollars per day;

Eight 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;

Ten assistant doorkeepers at seven dollars per day each;

One mimeograph supervisor at eight dollars per day;

Two assistant to the mimeograph supervisor at seven dollars per day;

One custodian of offices and property at seven dollars per day;

One ladies' cloak room attendant at five dollars per day;

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 assistant shall receive fifteen dollars per day and the other two assistants shall receive twelve 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 requisitions upon the Auditor in favor of the persons so appointed and the Auditor shall honor and pay such requisitions when presented and charge same to the "per diem of officers and attaches" fund of the House of Delegates. The Clerk shall draw his requisitions in favor of 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; and, be it

Further Resolved, That each Delegate shall have the right to name one attache which shall be appointed by the Speaker under authority of this resolution.

HOUSE RESOLUTION NO. 7
(By Mrs. Walker)
(Originating in the Committee on Rules)
[Adopted January 14, 1941.]

Relating to the appointment of assistant janitors.

WHEREAS, The Superintendent of Capitol Building and Grounds, under authority of section twenty-two, article one, chapter four of the code of West Virginia, has designated ten 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 Superintendent of Capitol Building and Grounds is fixed at two dollars, as the House of Delegates' one-half of his per diem. Said per diems shall be paid from the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, upon proper requisitions of the Clerk.

HOUSE RESOLUTION NO. 8
(By Mr. Powell)
[Adopted January 14, 1941.]

Extending sympathy to Delegates E. O. Waugh in the death of his mother.

WHEREAS, It has come to the attention of the House of Delegates that Mrs. Sarah Elizabeth Waugh, mother of the Delegate from the County of Taylor, has passed from this earthly realm; and

WHEREAS, The gentleman from Taylor is an honored member of this body; and

WHEREAS, We, the members, do hereby express our heartfelt sympathy to our bereaved fellow-member in this, his great hour of sorrow; therefore, be it

Resolved by the House of Delegates:

That we tender our sincere sympathy to the gentleman from Taylor [Mr. Waugh] and the family of the deceased; and, be it

Further Resolved, That copies of this resolution be sent to the bereaved son and family of Mrs. Sarah Elizabeth Waugh.

HOUSE RESOLUTION NO. 9
(By Mr. Matthews)
[Adopted January 14, 1941.]

Providing for a mailing list for House Journals.
Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to have mailed from the House document room, copies of the daily Journal of the House to lists of persons to be furnished to the Clerk by the members of the House of Delegates, such lists not to exceed twelve names from each Delegate; 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 requisitions of the Clerk. All such mail shall bear the stamp of the Clerk of the House of Delegates, and the Clerk shall designate such persons as are to deliver such mail to the Central Mailing Office and notify the postmaster of such designation, and said office shall not accept mail from any person or persons other than those so designated by the Clerk; and, be it

Further Resolved, That the Clerk is also authorized to mail copies of Journals, Bills and other documents printed by the House to persons requesting the same.

HOUSE RESOLUTION NO. 10
(By Mr. Perry, of Logan)
[Adopted January 14, 1941.]

Providing for the appointment of a delegation to attend the Fifth General Assembly of the Council of State Governments at Washington, D. C.

WHEREAS, The Fifth General Assembly of the Council of State Governments will be held at Washington, D. C., Tuesday, Wednesday and Thursday, January 21, 22, and 23, 1941, to deliberate upon important interstate problems requiring cooperative action by the states with each other, and with the federal government; and

WHEREAS, It is believed that substantial benefits would result from this state's representation at the Fifth 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 Fifth General Assembly of the Council of State Governments which convenes in Washington, D. C., on January 21, 1941. Such delegation shall be and is hereby instructed to return to this body and report the definite recommendation of the Fifth 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 requisitions 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. 12
(By Mr. Meredith, by request)

[Adopted January 15, 1941.]

Authorizing payment of expenses of delegate to Federal State Conference on Law Enforcement Problems of National Defense, held in joint sessions of the Governors' Conference, the Council of State Governments, the National Association of Attorneys General, the Department of Justice, and the Interstate Commission on Crime.

WHEREAS, The Federal State Conference on Law Enforcement Problems of National Defense, held in joint sessions of the Governors' Conference, the Council of State Governments, the National Association of Attorneys General, the Department of Justice, and the Interstate Commission on Crime, met at Washington, D. C., August 4 and 5, 1940; and
WHEREAS, The Honorable Fred L. Doringer, a member of the Interstate Commission on Crime, 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 requisition upon the Auditor in favor of Mr. Doringer in the amount of thirty-seven dollars and thirty 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, and affiliated conferences.

HOUSE RESOLUTION NO. 14
(By Mr. Perry, of Logan)
(Originating in the Committee on Rules)

[Adopted January 15, 1941.]

Authorizing the payment of janitors for services preparatory to and at the beginning of the session.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to draw his requisitions upon the Auditor in favor of the following named persons in the amounts set opposite their names for janitor services rendered preparatory to and at the beginning of this session of the Legislature:

Othello Green ........................................... $ 20.00
Walter C. Harris ........................................ 20.00
Paul Warrington ....................................... 20.00
John Board .............................................. 20.00
Dick Winston ........................................... 20.00
J. F. Randolph ......................................... 20.00
Sie Trimble ............................................. 20.00

All of said amounts to be paid out of the "per diem of officers and attaches fund" in advance of the appropriation for same.
HOUSE RESOLUTION NO. 15
(By Mr. Mace)
[Adopted January 21, 1941.]

Extending condolences to Delegate Gordon R. Duff in the death of his son.

WHEREAS, It has transpired that in the recent absence of the Delegate from Nicholas County, his son, James A. Duff, passed to his eternal reward at Richwood last Tuesday, January 14; and

WHEREAS, The gentleman from Nicholas is a revered member of this legislative body; and

WHEREAS, We, the members, do hereby tender our sympathy to our colleague in his hour of need; therefore, be it

Resolved by the House of Delegates:

That we express sincere condolences to the gentleman from Nicholas [Mr. Duff] and the family of the deceased; and, be it

Further Resolved, That copies of this resolution be sent to the bereaved father and family of the late James A. Duff, and a copy each furnished to the Nicholas Chronicle at Summersville, W. Va., and the Nicholas Republican, at Richwood, W. Va.

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HOUSE RESOLUTION NO. 16
(By Mr. Jackson)
[Adopted January 21, 1941.]

Reserving the gallery at the west end of the House chamber for members of families and friends of the Delegates.

Resolved by the House of Delegates:

That the gallery over the main entrance to the House chamber is hereby reserved for members of families and friends of members of the House of Delegates. Entrance to said gallery shall be by card only, proper cards to be prepared and fur-
nished to the Delegates by the Clerk for distribution by the Delegates.

HOUSE RESOLUTION NO. 17
(By Mrs. Walker)
(Originating in the Committee on Rules)
[Adopted January 21, 1941.]

Authorizing payment for services incident to organization set-up of office routine in the House of Delegates.

Resolved by the House of Delegates:

That the Clerk is hereby directed to draw his requisition upon the Auditor in favor of the following persons in the amounts herein set out, for services rendered the House of Delegates in setting up routine office organization for the regular session of the Legislature:

Frances Baker $63.00
R. P. Curran 72.00
Grace Calhoun 108.00
Scott Warrington 45.00
Gus W. Taylor 50.00
J. Simms Percy 20.00
Eleanor Simpson 40.00
John S. Hall 80.00

All of said amounts to be paid out of the "per diem of officers and attache fund" in advance of the appropriation for same.

HOUSE RESOLUTION NO. 18
(By Mr. Ballard, of Mercer)
(Originating in the Committee on Rules)
[Adopted January 23, 1941.]

Authorizing the appointment of additional attaches.
Resolved by the House of Delegates:

That the Speaker be, and he is hereby, authorized to appoint the following attaches for the House of Delegates to receive the per diem as herein provided:

Eight committee clerks at eight dollars per day;
Eight document room clerks at seven dollars per day;
Nine assistant mailing room clerks at seven dollars per day;
One stenographer for the Clerk's office at ten dollars per day.

Said attaches shall be paid as provided by House Resolution No. 6, adopted on the 14th day of January, 1941.

HOUSE RESOLUTION NO. 19
(By Mr. Moore)
[Adopted January 23, 1941.]

Relating to Dr. Harriet B. Jones, former member of the House of Delegates.

WHEREAS, Harriet B. Jones, M. D., of Glendale, West Virginia, a former member of this House from the County of Marshall, in the session of 1925, was presented by the Tuesday Arts Club of Moundsville as West Virginia's outstanding pioneer woman, at the State Convention of Federated Women's Clubs held in Huntington, West Virginia, May 15, 1940; and

WHEREAS, The convention so declared her to be, and awarded her a gold medal; and

WHEREAS, By reason of having been so declared, the Federated Women's Clubs of West Virginia desire her to represent them at the National Convention of the General Federation of Women's Clubs of the United States to be held in Atlantic City, New Jersey, May 19 to 24, 1941, in celebration of the 50th Anniversary Golden Jubilee of the General Federation of Women's Clubs of the United States; and

WHEREAS, It appears to the House that it's former member, Harriet B. Jones, M. D., should represent their state of West
Virginia at said convention in accordance with the wishes and desires of the Federated Women's Clubs of West Virginia; and presented to said convention with those representatives from other states in competition for the honor of being selected as the "outstanding pioneer woman of the United States", therefore, be it

Resolved by the House of Delegates:

That the history of this pioneer woman, and former member of this House, written by Mrs. O. F. Covert of Moundsville, be printed in the Journal of the House.

HOUSE RESOLUTION NO. 20
(By Mr. Thomas)
[Adopted January 27, 1941.]

Authorizing payment of expenses of delegate to the meeting of the Interstate Commission on Crime held in Washington, D.C.

WHEREAS, The Honorable Russell D. Meredith attended the meeting of the Interstate Commission on Crime at Washington, D.C., August 5-6, 1940, as a representative of the West Virginia House of Delegates, and incurred certain expenses in attending said meeting; therefore, be it

Resolved by the House of Delegates:

That the Clerk is hereby authorized to draw his requisition upon the Auditor in favor of Russell D. Meredith in the amount of seventy-five dollars, payable from the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, for necessary traveling expenses while attending said meeting of the Interstate Commission on Crime.

HOUSE RESOLUTION NO. 21
(By Mr. Cresap and Mr. Cuyler E. Ewing)
[Adopted January 29, 1941.]

Providing for furnishing and use of Room 200-G.
WHEREAS, It appears that the facilities of the Delegates' lounge room are not sufficient to provide for the proper reception of many important visitors; and

WHEREAS, There is space available that can be obtained and arranged without any cost to the House of Delegates or the State of West Virginia; and

WHEREAS, There has arisen a sustained demand on the part of many members of the House of Delegates that additional reception space should be provided due to the lack of privacy in the lounge room; therefore, be it

Resolved by the House of Delegates:

That the Committee on Executive Offices and Library be, and it hereby is, directed and authorized to make the necessary arrangements to take over the corridor and room situated directly to the south of room 200 in the House of Delegates wing of the Capitol building, which corridor and room shall thereafter be known as room 200-G; and, be it

Further Resolved, That the Chairman of the House Committee on Executive Offices and Library shall appoint from the members of that committee a sub-committee of three members, whose duty it shall be to make all proper arrangements with the Superintendent of Building and Grounds to see that the aforesaid room 200-G is cleared of unnecessary debris and proper, though not elaborate, furniture is provided; and, be it

Further Resolved, That the use of room 200-G shall be reserved by the sub-committee provided for above to those members of the House who shall have suitably qualified for admittance to and use of the aforesaid room 200-G.

HOUSE RESOLUTION NO. 22

(Originating in the Committee on Elections and Privileges)

[Adopted January 30, 1941.]

Approving the report of the Committee on Elections and Privileges in the contest case of I. Raymond Murphy against
William Janes for the seat in the House of Delegates for the County of Barbour.

Resolved by the House of Delegates:

That the report of the Committee on Elections and Privileges, signed and submitted by the chairman of said Committee, in the contest of I. Raymond Murphy against William Janes for the seat in the House of Delegates for the County of Barbour, be received and approved; and, be it

Further Resolved, That William Janes is hereby declared to have been duly and lawfully elected to the House of Delegates from the County of Barbour at the general election held on the 5th day of November, 1940, and that he continue to occupy such seat in this body.

HOUSE RESOLUTION NO. 23
(By Mr. Ballard, of Mercer)
[Adopted January 30, 1941.]

Authorizing payment of mileage to members of the House of Delegates.

Whereas, Members of the House of Delegates have certified to the Clerk that they are entitled to be paid mileage at the rate of ten cents per mile for each mile traveled in going to and returning from the seat of government as provided by section thirty-three of the Constitution of West Virginia, as follows:

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<th>Amount</th>
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<td>W. Londa Lilly</td>
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<td>Irvin S. Maddy</td>
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## HOUSE RESOLUTIONS

**Name** | **Miles** | **Amount**
--- | --- | ---
Chas. J. Marcum | 162 | $16.20
R. L. Matthews | 54 | 5.40
Magee McClung | 108 | 10.80
William McCoy | 436 | 43.60
June McElwee | 300 | 30.00
Russell D. Meredith | 440 | 44.00
William T. Millerson | 550 | 55.00
Frank Mills | 324 | 32.40
Everett F. Moore | 510 | 51.00
Lacy Neely | 124 | 12.40
Cecil L. Nichols | 420 | 42.00
Hugh Paul | 144 | 14.40
Lester Perry | 144 | 14.40
J. C. Powell | 422 | 42.20
Cleon W. Rease | 440 | 44.00
George A. Rairden | 86 | 8.60
A. L. Reed | 424 | 42.40
Leon Rice | 742 | 74.20
Edgar E. Righter | 320 | 32.00
John I. Rogers | 592 | 59.20
Walter V. Ross | 264 | 26.40
Perce Ross | 280 | 28.00
Stephen J. Russek | 534 | 53.40
Owen S. Schaeffer | 590 | 59.00
Herbert Schupbach | 500 | 50.00
J. C. Shanklin | 262 | 26.20
Fred L. Shinn | 326 | 32.60
E. L. Simpson | 328 | 32.80
Lewis E. Smith | 180 | 18.00
Kingsley R. Smith | 240 | 24.00
Harlan Staats | 80 | 8.00
Glenn Taylor | 250 | 25.00
Mrs. Nell W. Walker | 124 | 12.40
E. Otto Waugh | 400 | 40.00
Henry F. White | 104 | 10.40
Andrew R. Winters | 110 | 11.00
Homer B. Woods | 262 | 26.20
Floyd R. Yoho | 510 | 51.00

Therefore; be it
Resolved by the House of Delegates:

That the Clerk be, and he is hereby, directed to draw his requisitions upon the Auditor in favor of each member of this body entitled to mileage at the rate of ten cents per mile as set forth herein, payable out of the appropriation hereafter to be made for the payment of mileage.

HOUSE RESOLUTION NO. 25
(By Mrs. Walker)  
[Adopted January 31, 1941.]

Concerning the death of the Honorable John W. Blizzard, a former member of this body.

WHEREAS, The House of Delegates has just learned of the death of the Honorable John W. Blizzard, who was a member of this body, representing Fayette County in the session of one thousand nine hundred three, and was a valiant soldier in the cause of the Confederacy, serving under that distinguished general from West Virginia, Stonewall Jackson, having engaged in 21 major battles, including the battle of Chancellorsville and the second battle of Bull Run, and was the last survivor of the battle of Kesslers Cross Roads and of the guests of the Robert E. Lee Confederate Soldiers Home, at Richmond; and

WHEREAS, He will be buried today with his former comrades in arms, in Richmond, wearing, according to his often expressed desire, his most prized possessions, his Confederate uniform of grey and the Southern Cross of Honor; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates deplores the death of this brave and distinguished West Virginian, and as a mark of respect to his memory stands with bowed heads for one minute; and, be it

Further Resolved, That a copy of this resolution be sent by the Clerk to the surviving members of his family, and the Robert E. Lee Confederate Soldiers Home at Richmond.
HOUSE RESOLUTION NO. 26
(By Mr. Blankenship)
[Adopted February 7, 1941.]

Commemorating the anniversary of the Legislature's sole feminine member.

Whereas, Today is a memorable occasion for Mrs. Nell W. Walker, the only woman member of the House of Delegates, this being the anniversary of her birth; and

Whereas, Two years ago on this date both Mrs. Walker and her colleagues in the House were not cognizant of its significance until the following day, when it was fittingly recognized; and

Whereas, The members of the forty-fifth Legislature were alert as concerns the correct date and on schedule do formally celebrate it, even should the lady herself again fail to remember her natal day; and

Whereas, The remaining ninety-three members of the House are fully aware of the exceptional character and high standard of citizenship embodied in the person of their only woman delegate; respect her not only as the single representative of her sex in this body, but also as a peer in matters of state, a recognized governmental authority, and a highly revered stateswoman now serving her third consecutive term from the County of Fayette; therefore, be it

Resolved by the House of Delegates:

That we denote our affection and tender sincere congratulations to the lady from Fayette [Mrs. Walker], and that a fitting tribute be manifested by the presentation of a floral token suitable to the occasion; and, be it

Further Resolved, That a copy of this resolution be transmitted to Mrs. Walker for her personal files.

HOUSE RESOLUTION NO. 27
(By Mr. Schupbach)
[Adopted February 7, 1941.]

Authorizing payment of expenses of the House Committee on the Penitentiary.
WHEREAS, The House Committee on the Penitentiary has visited the penitentiary during this session of the Legislature and incurred certain expenses; therefore, be it

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to draw his requisition upon the Auditor, payable from the contingent fund of the House of Delegates, in advance of the appropriation, in favor of the Chairman of the Committee on the Penitentiary in the amount of two hundred sixty-six dollars and three cents, to reimburse him for funds expended in the visiting and inspection of the State Penitentiary and the West Virginia Medium Security Prison by the House Committee on the Penitentiary.

HOUSE RESOLUTION NO. 28

(By Mr. Perry, of Logan)

[Adopted February 11, 1941.]

Raising a committee to investigate conditions at Lakin State Hospital at Lakin, in Mason County, and The West Virginia Industrial School for Boys at Pruntytown, in Taylor County.

WHEREAS, There have been reports of cruel and inhuman treatment of patients at Lakin State Hospital, as well as various charges of mismanagement and neglect of duty on the part of those in charge of this hospital; and

WHEREAS, There have also been reports and charges of irregularities and mismanagement at The West Virginia Industrial School for Boys at Pruntytown; therefore, be it

Resolved by the House of Delegates:

That the Speaker appoint a committee of five members of the House of Delegates to investigate said charges at Lakin State Hospital and at The West Virginia Industrial School for Boys, as well as to make a general investigation of all questions relating to the management and official conduct of those in charge of said institutions. The committee shall have power to subpoena witnesses and compel their attendance, and to compel the production of pertinent records and documents. The
Clerk of the House of Delegates shall designate an assistant to accompany said committee to administer oaths to witnesses, and to perform such other duties as the committee may direct. The Speaker shall assign a stenographer to the committee to take and transcribe such evidence as the committee may desire.

The necessary expenses incurred by the committee shall be paid from the contingent fund of the House of Delegates; and, be it

**Further Resolved**, That the committee shall make a report to the House of Delegates, setting forth its findings and recommendations as a result of said investigation, a copy of which report shall be filed with the Governor, and all evidence taken and transcribed shall be filed with the Clerk of the House of Delegates.

**HOUSE RESOLUTION NO. 29**

(By Mr. Thomas)

[Adopted February 12, 1941.]

Congratulating the Gentleman from Brooke on his long marital career.

**WHEREAS,** It has come to the attention of the members of the House of Delegates that today is an auspicious occasion in the life of Delegate Cresap, the member from the County of Brooke; and

**WHEREAS,** The significance of this date is identified as the 35th anniversary of the marriage of this gentleman; and

**WHEREAS,** This is a long period of time, and a commendation on the fortitude of each partner, and the record is ample proof of the amiability and good disposition of both parties; therefore, be it

**Resolved by the House of Delegates:**

That his colleagues extend congratulations on his wedding anniversary to Delegate Cresap; and, be it

**Further Resolved,** That the proofreading of this resolution
be carefully done, and the word "marital" be correctly spelled, and not confused, as is oftentimes done in print, with the word "martial".

HOUSE RESOLUTION NO. 30
(By Mr. Knight)
[Adopted February 13, 1941.]

Raising a committee to investigate the Police Department of the City of Charleston.

WHEREAS, There has been enacted a civil service law for the police departments of municipalities of the State of West Virginia under which said law the police department of the City of Charleston, West Virginia, is operating; and

WHEREAS, It was the intent of said law to raise the standards of the personnel of police departments, make the members of police departments secure in their employment, restrain members of civil service police departments from engaging in political activities, and in general to secure a better enforcement of law in municipalities; and

WHEREAS, It is generally known to the public at large that the police department of the City of Charleston is inefficiently managed, that its members take an active part in political activities, contribute to campaign funds, permit and encourage the operation of houses of ill fame, gambling and other vices; and

WHEREAS, Said Charleston police department has permitted one of its members to serve as chief of detectives while being held on a charge of murder in the Intermediate Court of Kanawha County, West Virginia; and

WHEREAS, The City of Charleston is dependent for law enforcement upon members of the Department of Public Safety and deputy sheriffs of Kanawha County, West Virginia, for most of the law enforcement because of the inefficiency, graft, political activity, negligence and general malfeasance and misfeasance of the members of said police department; therefore, be it
Resolved by the House of Delegates:

That the Speaker of the House of Delegates appoint a committee of five members of the House to investigate generally the police department of the City of Charleston; that said committee shall inquire into and investigate all questions relating to the management and official conduct of the officers and members of said police department, and any and all pertinent matters; that said committee shall have power to subpoena witnesses and compel their attendance and to compel the production of pertinent records and documents. Said committee shall cause the evidence adduced before it to be transcribed by a competent stenographer, and the necessary expenses incurred by the committee shall be paid from the contingent fund of the House of Delegates; and, be it

Further Resolved, That the committee shall make a report to the House of Delegates setting forth its findings and recommendations as a result of said investigation.

HOUSE RESOLUTION NO. 31
(By Mr. Russek)
[Adopted February 21, 1941.]

Relating to teaching of industrial arts.

WHEREAS, The present industrial boom brought about by the National Defense program discloses that although we have an abundance of unemployed high school and college graduates, there is a definite shortage of skilled labor and for this reason the National Defense program is being handicapped; and

WHEREAS, The Budget Bill presented to the Legislature contains a tremendous sum of money to be spent by the State Department of Education in regulating our public free schools and state supported colleges, and this amount is a definite increase over past appropriations, although in some cases enrollment is smaller; and

WHEREAS, For the most part our schools and colleges do not offer sufficient Industrial Art subjects, but confine studies to Liberal Arts and students find upon graduation there are a
great number of graduates similarly trained and few positions available for graduates of a general course; and

WHEREAS, Students graduating from high schools and colleges in this state that feature Industrial Arts are having no difficulty in securing positions in industrial plants, and this year some of the students of Industrial Arts schools are resigning school to accept lucrative positions in private industry; and

WHEREAS, A thorough study of the appropriations for our schools and colleges discloses that the educational system of West Virginia is obsolete by virtue of the fact that it does not feature Industrial Arts, in this day of highly mechanized operations in our plants, and since many graduates of our schools find their education inadequate to train them for positions available, while graduates of Industrial Art schools enjoy their choice of positions at excellent salaries; therefore, be it

Resolved by the House of Delegates:

That the State Superintendent of Free Schools of West Virginia and the West Virginia State Board of Education are hereby requested to submit to the members of the House of Delegates a report of the present Industrial Arts courses offered in the schools of West Virginia, the amount of money spent in furthering these much needed courses, their plans, if any, for the expansion of Industrial Art courses and the feasibility or objection of using Industrial Art courses in every school and college in West Virginia. The above report to be submitted to the Clerk of the House of Delegates not later than March 1, 1941.

HOUSE RESOLUTION NO. 32
(By Mr. Cavender)
(Adopted February 25, 1941.)

Requesting a supplementary budget bill providing for an appropriation for the Charleston Colored Children's Shelter.

WHEREAS, The Charleston Colored Children's Shelter, located at the present time at 418 Shrewsberry Street in the City of Charleston, is essentially a charitable organization; and
WHEREAS, Said institution takes under its shelter and provides for unfortunate, neglected and dependent colored children, and has now in its custody forty children from ten different counties of the state; and

WHEREAS, The home of said institution was seriously damaged by fire two years ago, and it is the desire of the institution to erect a suitable home on Shrewsberry Street in Charleston, West Virginia, in which a larger number of neglected and dependent colored children may be properly cared for and trained to be better citizens of our state; therefore, be it

Resolved by the House of Delegates:

That the budget commission is requested to file with the Legislature an amendment and supplement to the present Budget Bill appropriating the sum of twelve thousand five hundred dollars for the year one thousand nine hundred forty-one and the sum of twelve thousand five hundred dollars for the year one thousand nine hundred forty-two, to be used for the construction of a suitable home for the Charleston Colored Children's Shelter.

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HOUSE RESOLUTION NO. 33

(By Mr. Shinn)

[Adopted February 18, 1941].

Concerning the birthday of the dean of the House of Delegates.

WHEREAS, Today is the seventy-fourth anniversary of the birth of the Hon. Edgar E. Righter, a Delegate from the County of Harrison; and

WHEREAS, Mr. Righter is respected and revered as the dean of the House of Delegates, and commands the wholehearted congratulations of this body on his anniversary; and

WHEREAS, He is not only recognized in his official capacity, but is dearly beloved by the membership at large for his courageous championship of right, honest and fair dealing to all, and respect for his fellow-man; and
WHEREAS, Mr. Righter typifies the highest type of legislator, and his continuance in office over many years signifies the regard in which he is held by his constituency in Harrison County; therefore, be it

Resolved by the House of Delegates:

That the members unanimously go on record as congratulating the County of Harrison and the State of West Virginia on having such a representative as Mr. Righter, the venerable and beloved dean of this House; and, be it

Further Resolved, That a copy of this resolution be transmitted to the Gentleman from Harrison; and, be it

Further Resolved, That a copy be sent to the editor of the Clarksburg Exponent, in Clarksburg, West Virginia, for publication.

HOUSE RESOLUTION NO. 34
(By Mr. Speaker, Mr. Arnold)

[Adopted February 19, 1941.]

Thanking the Inwood Fruit Growers Club for the donation of apples.

WHEREAS, The Inwood Fruit Growers Club, comprising the fruit growers of Berkeley County, West Virginia, and sponsored by the West Virginia Demonstration Packing Plant, has so generously supplied the House membership and personnel with apples during the 45th session of the Legislature; and

WHEREAS, The fruit donated was the Star King Delicious Apple, a particularly luscious and edible food; and

WHEREAS, The donation itself was not only gratis, but the apples were shipped prepaid freight to be given freely to members of the House of Delegates and attaches alike; therefore, be it

Resolved by the House of Delegates:

That the membership go on record as extending appreciation for this generous gift; and, be it
Further Resolved, That a copy of this resolution be transmitted to the Inwood Fruit Growers Club at Inwood, West Virginia.

HOUSE RESOLUTION NO. 35
(By Mr. Ross, of Mercer)
[Adopted February 19, 1941.]

Requesting the legislative correspondents to arrange a Third House.

WHEREAS, The press of West Virginia is a recognized part of the legislative function, carrying to the people news of the activities of the Legislature and thereby performing a distinct, valuable and necessary public service; and

WHEREAS, The members of the Legislature are able to see their portraits in printer's ink in the columns of the newspapers, in black and white, but not in more appealing and alluring colors; and

WHEREAS, We, the members of the House of Delegates, voice a plea in the words of the great Scottish poet, Robert Burns—

"Oh, wad some power the giftie gie us
To see oursel's as others see us
It wad frae monie a blunder free us,
And foolish notion," and

WHEREAS, We believe that the press can hold before us a mirror in which we can see things of pleasure and profit; therefore, be it

Resolved by the House of Delegates:

That we invite and request the legislative correspondents of the forty-fifth session to prepare and stage, in keeping with tradition, a Third House, at a time agreeable to them and to the officers of the House; and, be it

Further Resolved, That the Speaker of the House is hereby authorized, empowered and directed to conspire, connive and concert with the legislative correspondents to this end; that
the legislative correspondents be in full and sole charge of said Third House; and that the Governor, the members of the Board of Public Works, the President and members of the Senate, and the public generally be cordially invited to attend the assembly of the said Third House.

HOUSE RESOLUTION NO. 37
(By Mr. Ballard, of Mercer)

[Adopted February 25, 1941.]

Authorizing the Committee on Rules to arrange a Special Calendar.

Resolved by the House of Delegates:

That effective Wednesday, February 26, 1941, the Committee on Rules may arrange a special daily calendar as provided for by House Rule No. 70, the same to be known as the Special Calendar. After the 9th order of business shall have been passed the Special Calendar shall be called, and until this calendar 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 the consideration of the Local Calendar on Friday of each week.

No bill or resolution shall be placed upon the Special Calendar except by the Committee on Rules. In making up this calendar the Committee on Rules may hear any member in behalf of any resolution or bill which he may desire placed upon such calendar, and the committee shall give due consideration to the merits of bills and resolutions pending in the House of Delegates and take cognizance of measures which affect the interests of the people as a whole.

HOUSE RESOLUTION NO. 38
(By Mr. Ross, of Mercer)

[Adopted February 26, 1941.]

Memorializing the Congress of the United States to extend the provisions of the Coal Stabilization Act.
WHEREAS, The chief industry of West Virginia is the mining and producing of bituminous coal; that more people are engaged in and dependent upon this industry for a livelihood than any other industry of the state; and

WHEREAS, There are now pending in the Congress of the United States House Resolution No. 101 and Senate Resolution No. 32, the object of which is to extend for a period of two years from the expiration date thereof, April 26, 1941, the terms and provisions of the Coal Stabilization Act, commonly known as the “Guffey Act”; and

WHEREAS, It is the sense of the membership of this House that the terms and provisions of the Coal Stabilization Act should be extended in order to promote the bituminous coal industry; therefore, be it

Resolved by the House of Delegates:

That we recommend to the Congress of the United States that the terms and provisions of the Coal Stabilization Act be extended as provided by said Resolutions Nos. 101 and 32 and that we respectfully recommend that the Members of Congress from the State of West Virginia support the terms and provisions of said resolution; and, be it

Further Resolved, That a copy of this resolution be forwarded to the Clerk of the Senate and the Clerk of the House of Representatives of the Congress of the United States.

HOUSE RESOLUTION NO. 39
(By Mr. Ross, of Mercer)
[Adopted February 26, 1941.]

Memorializing the Congress of the United States to pass House Resolution No. 2082, providing for a system of federal inspection of coal mines.

WHEREAS, The leading industry of the State of West Virginia is the mining and producing of coal; that more people are engaged in and dependent upon this industry than any other industry in West Virginia; that there is now pending before the House of Representatives of the United States House Resolu-
tion No. 2082, the object of which is to establish a system of federal inspection of coal mines; and

WHEREAS, We believe that the enactment of this resolution will save the lives of many coal miners who are engaged in the hazardous employment of mining and producing coal; and

WHEREAS, This measure was originally introduced, sponsored and passed in the United States Senate through the efforts of Honorable Mansfield M. Neely, now Governor of West Virginia, while a member of the United States Senate; therefore, be it

Resolved by the House of Delegates:

That it is the sense of this body that House Resolution No. 2082 be enacted into law and therefore we recommend its passage. Also that we commend the members of the House of Representatives of the United States from the State of West Virginia for their earnest efforts in trying to promote the passage of this resolution; and, be it

Further Resolved, That a copy of this resolution be mailed to the Clerk of the House of Representatives of the United States.

HOUSE RESOLUTION NO. 40
(By Mr. Perry, of Logan)
[Adopted February 28, 1941.]

Regarding legislative furniture and equipment.

WHEREAS, Heretofore it has been the practice in recess to lend furniture and equipment belonging to the House of Delegates; and

WHEREAS, While this procedure is in no wise condemned, it is the sense of the House of Delegates that such state departments as received the loan of this property are in the same position to supply these needs as is this body; and

WHEREAS, The depreciation of such property from normal wear and tear of daily departmental usage, added to the or-
dinary hazard of damage from moving, constantly lessens the
life expectancy of House of Delegates’ property; therefore,
be it

Resolved by the House of Delegates:

That the 45th session of this body go on record as disapproving
the removal of any furniture or equipment from the legislative offices during recess; and, be it

Further Resolved, That a proper record book and inventory
of all furniture and equipment belonging to the House, showing in what rooms and offices the same is located, be kept by
the Clerk of the House of Delegates, during both the session
and legislative interim.

HOUSE RESOLUTION NO. 41
(By Mr. Kidd)
[Adopted March 5, 1941.]
Concerning the illness of P. G. Cutlip.

WHEREAS, This legislative body is and ought to be interested
in the record and health of any citizen of this state who has
distinguished himself as a good citizen and a trusted officer of
the law; and

WHEREAS, P. G. Cutlip of Gassaway, West Virginia, is the
oldest man in years and the oldest in point of service of any
office holder in this state, being eighty-seven years of age, and
having served as justice of the peace for fifty-four years; and

WHEREAS, The said Mr. Cutlip is now seriously ill; therefore,
be it

Resolved by the House of Delegates:

That this body express to him its regret at his illness and
send its greetings to him, with the hope that he shall soon be
restored to good health; and, be it

Further Resolved, That the Clerk of the House send a copy
of this resolution to him and to the two newspapers in Braxton
County.
HOUSE RESOLUTION NO. 42
(By Mr. Perry, of Logan)
(Originating in the Committee on Rules)

[Adopted March 8, 1941.]

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 stenographer to the Clerk, the Journal clerk, the Journal stenographer, the three assistant clerks, the supervisor of printing, two clerks, one stenographer and four 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 ten days; the time of the clerk and assistant clerk to the Committee on Enrolled Bills is extended for ten days each; the time of six stenographers is extended for ten days; the time of six janitors is extended for ten days; the time of two janitors is extended for thirty days; the time of the chief document room clerk is extended for thirty days, and three assistant document 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 and the supervisor of the mimeograph room is extended for ten days; the time of the clerk to the Committee on Education is extended for ten days; the time of the payroll and supply clerk is extended for thirty days; the time of the secretary and stenographer to the Speaker is extended for ninety days each; the time of four clerks is extended for thirty 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 twenty days; and to have charge of the House chamber during the clearing and closing process, the time of the Doorkeeper is extended for twenty days; and, be it

Further Resolved, That the per diem of the persons given extensions in this resolution, shall be the same as that paid for the same positions during this regular session of the Legislature.

HOUSE RESOLUTION NO. 43
(By Mr. Perry, of Logan)
[Adopted March 8, 1941.]

Authorizing the payment of expenses of delegates to meetings of the Council of State Governments.

WHEREAS, Heretofore when delegates have been appointed to attend meetings of the Council of State Governments after the adjournment of the regular session of the Legislature, it has been necessary for them to wait until the next session in order to receive expenses incurred in attending such meeting; therefore, be it

Resolved by the House of Delegates:

That the Clerk of the House of Delegates be, and he hereby is, authorized to draw his requisitions upon the contingent fund of the House of Delegates to pay expenses of members of the Commission on Interstate Cooperation, or delegates appointed to attend the regularly called meetings of the Council of State Governments during interims between sessions of the Legislature, upon the approval by the Speaker of such expense accounts.

HOUSE RESOLUTION NO. 44
(By Mr. Hudson, and Mr. Casey)
[Adopted March 8, 1941.]

Concerning the death of the Honorable Carney M. Layne.
WHEREAS, The House of Delegates has learned with genuine sorrow of the death of the Honorable Carney M. Layne, Judge of the Sixth Judicial Circuit, composed of the counties of Cabell, Lincoln and Putnam; and

WHEREAS, The Honorable Carney M. Layne was a member of the House of Delegates in the 1915 session of the Legislature, and distinguished himself as a capable and courageous legislator; and

WHEREAS, Judge Layne has been an outstanding member of the bar for a number of years, and has been a capable, fair and learned judge, and was loved and respected by all members of the bar who had the privilege of knowing him, as well as by citizens in all walks of life; and

WHEREAS, Judge Layne was an ardent churchman and fraternalist; therefore, be it

Resolved by the House of Delegates:

That we hereby express our unfeigned sorrow on the passing of this outstanding West Virginian and eminent jurist, and extend to the family of the deceased our heartfelt sympathy; and, be it

Further Resolved, That a copy of this resolution be sent to the family of the deceased.

HOUSE RESOLUTION NO. 45
(By Mr. Ross, of Mercer)

[Adopted March 8, 1941.]

Authorizing the Clerk to purchase presents for members of the press and others.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to purchase fountain pen desk sets for the following members of the press: Walter Mason, Leo Peters, Lewis Welch, Harry Hoffmann, Lee Garrett, Harry Ball, Max Fullerton and Dick Estill, and for Oshel Parsons, House parliamentarian, and Lafayette Graner, Sergeant-at-Arms.
HOUSE RESOLUTION NO. 46
(By Mr. Alltop)
[Adopted March 8, 1941.]

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. Allen)
[Adopted January 8, 1941.]

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 bills for the legislative printing of this session, as the accounts for same may become due.

SENATE CONCURRENT RESOLUTION NO. 2
(By Mr. Proctor)
[Adopted January 8, 1941.]

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 Tuesday, January fourteenth, one thousand nine hundred forty-one, at two o'clock P. M.

SENATE CONCURRENT RESOLUTION NO. 6

(By Mr. Jimison)

[Adopted January 28, 1941.]

Reserving parking space on the Capitol Grounds for automobiles of members of the Legislature.

Resolved by the Senate, the House of Delegates concurring therein:

The Superintendent of Capitol Building and Grounds is directed to reserve parking space on the capitol grounds on the north side of the capitol building, between the two units, said space to be designated by proper signs, for parking automobiles of the members of the Legislature, during this session.

SENATE CONCURRENT RESOLUTION NO. 9

(By Mr. Randolph, Mr. President)

(Originating in the Committee on Rules)

[Adopted February 7, 1941.]

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-nine, are hereby adopted and shall govern the proceedings of this session.
Concerning the death of the Honorable William M. LaFon.

WHEREAS, The Honorable William M. LaFon, of Union, Monroe County, while serving in this session as a Senator from the Tenth Senatorial District, died suddenly in Charleston, on February 4, 1941; and

WHEREAS, Senator LaFon was an outstanding citizen of West Virginia, had established a reputation as one of the leaders at the Bar, had served as prosecuting attorney of his home county and was prominent in all movements for civic improvement there; and

WHEREAS, He represented his county in the House of Delegates in the sessions of one thousand nine hundred thirty-three, one thousand nine hundred thirty-five, and one thousand nine hundred thirty-seven, where his sterling qualities as a statesman were recognized by his appointment as chairman of the important Committee on the Judiciary and as the majority floor leader; and

WHEREAS, He was elected to the State Senate in one thousand nine hundred thirty-eight, and shattered precedent by his election as President of the Senate in one thousand nine hundred thirty-nine, at the beginning of his first senatorial term, and served as such in an efficient and impartial manner, adding luster to the reputation he had previously acquired; and

WHEREAS, Senator LaFon was intensely interested in the welfare of his fellow humans, was tolerant of the opinions and judgments of others, was always considerate and courteous and so lived as to endear himself to his host of friends and admirers; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the State of West Virginia, and more particularly the Legislature, has suffered a distinct loss in the passing of this
distinguished lawyer, legislator and statesman, and will miss his efficient services and wise counsel; and

Further Resolved, That the members of these bodies, many of whom served with Senator LaFon in his legislative capacities, have suffered a great personal loss in the passing of this, their friend and counsellor; and

Further Resolved, That the sincerest sympathy of the members of each house is extended to the sorrowing family and friends in this, their and our, bereavement, and that the Clerks of the two Houses are directed to send a copy of this resolution to the family of the deceased, together with suitable floral tributes; and

Further Resolved, That the President of the Senate appoint a committee of five members of the Senate, and the Speaker of the House of Delegates appoint a committee of seven members of the House of Delegates, to attend the funeral services of the deceased; and

Further Resolved, That, as a further mark of respect to the memory of our deceased fellow member, the Legislature shall adjourn until Friday, February 7, 1941, at 2 o’clock P. M.

SENATE CONCURRENT RESOLUTION NO. 15
(By Mr. Paull)
(Adopted February 13, 1941.)

Concerning the creation of a committee to study the tax system of West Virginia.

WHEREAS, It is of prime importance to the citizens of West Virginia to be assured of a fair and equitable tax system; and

WHEREAS, Essential data as to the nature and incidence of the present tax system is lacking; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature of West Virginia hereby requests that His Excellency, the Governor, appoint a committee of five
SENATE CONCURRENT RESOLUTIONS

members representing the people of the state, for the purpose of studying and recommending improvements in the prevailing tax system.

SENATE CONCURRENT RESOLUTION NO. 18
(By Mr. Pelter, and Mr. Paull)
[Adopted March 5, 1941.]

Requesting the State Board of Education to investigate methods for ascertaining aptitudes and talents of pupils of the free school system.

WHEREAS, The Constitution of West Virginia requires that the Legislature shall provide for a thorough and efficient system of free schools and for the support thereof by general taxation throughout the state and in each county thereof; and

WHEREAS, In obedience to said constitutional mandate the Legislature now appropriates annually more than fourteen million dollars as state aid to schools, which sum when added to the more than eleven million levied by the several counties makes an aggregate annual expenditure of more than twenty-five million dollars for the maintenance of our free public school system; and

WHEREAS, By statute the State Board of Education is charged with the determination of the educational policies of the state, and is empowered to make rules to carry into effect such policies and the laws of the state relating to education; and

WHEREAS, It would appear that the public school system could be made more efficient if the natural aptitudes and abilities of those pupils attending junior and senior high schools could be ascertained and made available, both to the several school boards and to the parents or guardians of the pupils, so that the educational facilities and policies of the several counties may be made as responsive as possible to the natural aptitudes and abilities of the pupils, and so that the parents or guardians, by being advised thereof, may be thereby better enabled to cooperate in making the free school system more efficient; therefore, be it
Resolved by the Senate, the House of Delegates concurring therein:

That the State Board of Education be requested:

(1) To make a thorough investigation in order to ascertain if there exist reliable tests, methods or means which would reveal the aptitudes and talents of the pupils of the free school system;

(2) To consider the feasibility or desirability of the county boards of education making use thereof with respect to pupils attending high schools or junior high schools, and the probable cost which would be thereby incurred by such use;

(3) After due investigation to make such recommendations and formulate such policies as, in its judgment, the results of such investigation warrant;

(4) To report its findings, recommendations and any action taken thereunder to the next regular session of the Legislature; and, be it

Further Resolved, That a copy of this resolution be furnished to the secretary of the State Board of Education.

SENATE CONCURRENT RESOLUTION NO. 20
(By Mr. Randolph, Mr. President)
(Originating in the Committee on Rules)
[Adopted February 26, 1941.]

Authorizing the payment of printing bills.

WHEREAS, Due to an error in estimating the amount needed for legislative printing, there was not sufficient funds appropriated for this purpose in the one thousand nine hundred thirty-nine budget bill; and

WHEREAS, There still remain unpaid bills for printing Blue Books and for printing the advance copies of the one thousand nine hundred thirty-nine acts, and the one thousand nine hundred thirty-nine House Journal; therefore, be it
Resolved by the Senate, the House of Delegates concurring therein:

That the Auditor is hereby authorized to pay the public printer the balance owed on Blue Books prior to the one thousand nine hundred forty edition, and advance copies of the one thousand nine hundred thirty-nine acts and one thousand nine hundred thirty-nine House Journal, in advance of the appropriation for this purpose, upon the presentation of such bills properly approved by the supervisor of public printing.

SENATE CONCURRENT RESOLUTION NO. 21
(By Mr. Doak)
[Adopted March 6, 1941.]

Relating to State Route No. 20 in Wetzel County, West Virginia.

WHEREAS, State Route No. 20 in the County of Wetzel is a very important road, and one serving as an outlet to State Route No. 2, at New Martinsville, for nearly all the people of Wetzel County; and

WHEREAS, The section through which State Route No. 20 passes is a good farming section and one of the good oil and gas producing sections of West Virginia, in which is located the great Hastings Gas Station, the greatest gas station of its kind in the world; and

WHEREAS, The towns of Porters Falls, Reader, Pine Grove, Jacksonburg, Smithfield and Folsom, in the County of Wetzel, are located on this road, all of which are good-sized towns having good schools; and

WHEREAS, Children transported to schools of these towns are transported over said State Route No. 20, which is very inadequate for such purpose, at some places being dangerous; and

WHEREAS, The Baltimore and Ohio Railroad Company has discontinued its passenger service over its Shortline Railroad between New Martinsville and Clarksburg, leaving a large and populous section with no railroad passenger service; and
WHEREAS, The only accommodation of this kind to the traveling public in this large and populous section is by bus service over the line of the West Virginia Transportation Company, which passes over State Route No. 20; and

WHEREAS, State Route No. 20 is now very inadequate to accommodate the public bus service and other services of like character for this growing and prosperous section, as well as inadequate for use of private automobiles of that section; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the State Road Commissioner is requested to give early attention to State Route No. 20, and as soon as it is possible to do so, build a suitable road over said route, which will be to the great convenience of the citizens and taxpayers there, as well as to the traveling public desiring to use said road.

SENATE CONCURRENT RESOLUTION NO. 25
(By Mr. Randolph, Mr. President)
(Originating in the Committee on Rules)
(Adopted March 8, 1941.)

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 author-
ized by Senate Resolution No. 27, Senate Resolution No. 28, Senate Resolution No. 29, by House Concurrent Resolution No. 32 and House Resolution No. 42 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. Paull)
[Adopted January 8, 1941.]
Appointment of a committee to notify the House 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 Byron B. Randolph as President and A. Hale Watkins as Clerk, and is ready to proceed with the business of the session.

SENATE RESOLUTION NO. 2
(By Mr. LaFon)
[Adopted January 8, 1941.]
Providing for the appointment of a committee to inform the Governor that the Legislature is organized.

Resolved by the Senate:

That the President of the Senate be, and he is hereby, authorized to appoint a committee of three to join with a similar committee from the House of Delegates, to wait upon the Governor and inform him that the Legislature has assembled in regular session, has organized by the election of officers as required by the Constitution, and is ready, with a quorum of each house present, to proceed with the business of the session and
receive any communication or message he may desire to present.

SENATE RESOLUTION NO. 3
(By Mr. Greene)
[Adopted January 8, 1941.]

Adopting rules of the Senate.

Resolved by the Senate:

That the rules of the Senate, regular session, one thousand nine hundred thirty-nine, be adopted as the rules of the Senate for this session.

SENATE RESOLUTION NO. 4
(By Mr. Robertson)
[Adopted January 8, 1941.]

Concerning the illness of the Honorable Roy Jimison.

Resolved by the Senate:

That the Senate, having just heard of the sudden illness of Senator Roy Jimison, a member of this body, extends to him its deepest regret and sincere sympathy in his illness and hopes that it may be of short duration, with speedy and complete recovery; and

Further Resolved, That the Clerk of the Senate is directed to send a copy of this resolution, together with a floral tribute, to Senator Jimison.

SENATE RESOLUTION NO. 5
(By Mr. Johnston)
[Adopted January 8, 1941.]

Relating to the payment of janitors for services preparatory to and at the beginning of the 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 and at the beginning of this regular session of the Legislature:

Bernard White, 17 days @ $4.00 $ 68.00
Frank Hill, 17 days @ $4.00 68.00
David Hays, 17 days @ $4.00 68.00
Henry Woody, 14 days @ $4.00 56.00

SENATE RESOLUTION NO. 6
(By Mr. Hussion)
(Adopted January 14, 1941.)
Concerning the illness of the Honorable Earl H. Smith.

Resolved by the Senate:

That the Senate, having just heard of the sudden illness of Senator Earl H. Smith, a member of this body, extends to him its deepest regret and sincere sympathy in his illness and hopes that it may be of short duration, with speedy and complete recovery; and

Further Resolved, That the Clerk of the Senate is directed to send a copy of this resolution, together with a floral tribute, to Senator Smith.

SENATE RESOLUTION NO. 7
(By Mr. Allen)
(Adopted January 14, 1941.)
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. 8
(By Mr. Johnston)
[Adopted January 14, 1941.]

Providing for the appointment of a committee to represent the Senate of West Virginia at the Fifth Interstate Assembly of the Council of State Governments at Washington, D. C.

WHEREAS, The Fifth Interstate Assembly has been called by the Council of State Governments to meet at Washington, D. C., on January 21, 22 and 23, 1941, to deliberate upon important interstate problems requiring cooperative 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 Fifth Interstate Assembly, which convenes at Washington, D. C., on January 21, 1941, 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 Council of State Governments 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 the Assembly.

SENATE RESOLUTION NO. 9
(By Mr. Randolph, Mr. President)
(Originating in the Committee on Rules)
[Adopted January 22, 1941.]

Authorizing the appointment of attaches.

Resolved by the Senate:
That the President of the Senate is authorized to make the following appointments, viz:

Twenty floor and committee stenographers, at seven dollars per day, each;
Two mimeograph operators, 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;
One clerk to the Committee on Education, at ten dollars per day;
Four committee clerks-at-large, at eight dollars per day, each;
One secretary to the Minority, at fifteen dollars per day;
One secretary to the President, at fifteen dollars per day;
One stenographer to the President, at eight dollars per day;
One clerk to the Minority Leader, at ten dollars per day;
One clerk to the Sergeant-at-Arms, at seven dollars per day;
Two clerks on enrolled bills, at eight dollars per day, each;
Six assistant doorkeepers, at seven dollars per day, each;
Two assistant sergeants-at-arms, at eight dollars per day, each;

Five clerks at seven dollars per day, each;

One chaplain, at five dollars per day;

Three mail clerks, at seven dollars per day, each;

Two addressograph clerks, at seven dollars per day, each; and

Further Resolved, That the Clerk of the Senate is authorized to make the following appointments, viz:

One supervisor of document room, at eight dollars per day;

One supervisor of Journal room, at eight dollars per day;

Eight document room clerks, at seven dollars per day, each;

Eight Journal room clerks, at seven dollars per day, each;

One assistant to the Clerk, at twelve dollars per day;

One secretary to the Clerk, at twelve dollars per day;

One supervisor of stenographers, at ten dollars per day;

Three proofreaders, at eight dollars per day, each;

Three copyholders, at eight dollars per day, each;

One supervisor of printing, at ten dollars per day;

One bill editor, at ten dollars per day;

Five assistant clerks, at seven dollars per day, each;

Further Resolved, That the Sergeant-at-Arms shall receive ten dollars per day; the Doorkeeper ten dollars per day, and the Clerk twenty dollars per day.

The Clerk shall draw his warrants upon the Auditor in favor of the officers and attaches herein appointed for consecutive days from the date of the opening of this session at the per diem herein set out, and the Auditor shall honor and pay such warrants in advance of the appropriation for the purpose, when presented, and charge same to the “per diem of officers and attaches” fund of the Senate.
The President and the Clerk shall require said employees to perform the duties assigned to them, and they are authorized and directed to remove any of such employees whose work is not satisfactory and to appoint another in his place.

SENATE RESOLUTION NO. 10
(By Mr. McKown)
[Adopted January 23, 1941.]
Concerning the illness of the Honorable C. Frank Millender.

WHEREAS, The Senate has learned of the disastrous fire in the business properties of the Honorable C. Frank Millender, a recent member of this body, in which “Uncle Frank”, as he is affectionately known by all his many friends, sustained not only a large financial loss, but suffered serious burns and other injuries; therefore, be it

Resolved by the Senate of West Virginia:

That the Senate extends to Mr. Millender its sympathy in his financial loss and injuries suffered, with the hope that the injuries may prove to be but temporary and that his recovery may be speedy and complete; and

Further Resolved, That the Clerk of the Senate is directed to send a copy of this resolution to Mr. Millender, together with a suitable floral tribute.

SENATE RESOLUTION NO. 11
(By Mr. Randolph, Mr. President)
(Originating in the Committee on Rules)
[Adopted January 23, 1941.]
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 one of said assistant janitors is fixed at five dollars, the per diem of the remaining nine assistant janitors 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. 12
(By Mr. Randolph, Mr. President)
(Originating in the Committee on Rules)

[Adopted January 23, 1941.]

Authorizing the appointment of pages.

Resolved by the Senate:

That the President of the Senate is authorized to appoint five pages to serve in the Senate during the remainder of this session of the Legislature, at a per diem of four dollars per day, each.

The Clerk shall draw his warrants upon the Auditor in favor of the attaches herein appointed at the per diem 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 shall require said employees to perform the duties assigned to them, and he is authorized and directed to remove any of such employees whose work is not satisfactory and to appoint another in his place.

SENATE RESOLUTION NO. 13
(By Mr. Randolph, Mr. President)
(Originating in the Committee on Rules)

[Adopted January 23, 1941.]

Authorizing the payment of salaries of officers and attaches,
for services preliminary to the organization of the Senate and for services performed during the first fifteen days of this regular session of the Legislature.

Resolved by the Senate:

The Clerk shall draw his warrants upon the Auditor in favor of the officers and attaches hereinafter named for the amounts set opposite their names out of the Contingent Fund of the Senate, for services preliminary to the organization of the Senate and for services performed during the first fifteen days of this regular session of the Legislature:

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<tr>
<th>Name</th>
<th>Description</th>
<th>Amount</th>
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<tr>
<td>Charles Lively, Clerk</td>
<td>compensation for services preparatory to session, opening day of session, and expenses</td>
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<td>Alfred K. Hays, Sergeant-at-Arms</td>
<td>for services for eight days preparatory to session</td>
<td>80.00</td>
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<tr>
<td>M. L. Jackson, supervisor of printing</td>
<td>for services for eight days preparatory to session</td>
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<td>Frederick Roseberry, proofreader</td>
<td>for services for first day of session</td>
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<td>Frank Hill, assistant janitor</td>
<td>15 days at $5.00 per diem</td>
<td>75.00</td>
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<tr>
<td>David Hays, assistant janitor</td>
<td>15 days at $4.00 per diem</td>
<td>60.00</td>
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<tr>
<td>Bernard White, assistant janitor</td>
<td>15 days at $4.00 per diem</td>
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<td>Henry Woody, assistant janitor</td>
<td>15 days at $4.00 per diem</td>
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<tr>
<td>Martin Moore, assistant janitor</td>
<td>15 days at $4.00 per diem</td>
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<tr>
<td>Charles Barnes, assistant janitor</td>
<td>3 days at $4.00 per diem</td>
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<tr>
<td>Mary Fairfax, assistant janitor</td>
<td>2 days at $4.00 per diem</td>
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Lawrence M. Cunningham, superintendent of building, 15 days at $2.00 as the Senate's one-half of his per diem __________________________ 30.00

Reavey Giles, page, 3 days at $4.00 per diem ______ 12.00

Harry Andrews, page, 8 days at $4.00 per diem ___ 32.00

SENATE RESOLUTION NO. 14
(By Mr. Johnston)
[Adopted January 29, 1941.]
Concerning the illness of the Honorable William M. LaFon. Resolved by the Senate:

That the Senate, being advised of the illness of Senator William M. LaFon, a member of this body, extends to him its deepest regret and sincere sympathy in his illness and hopes that it may be of short duration, with speedy and complete recovery; and

Further Resolved, That the Clerk of the Senate is directed to send a copy of this resolution, together with a floral tribute, to Senator LaFon.

SENATE RESOLUTION NO. 15
(By Mr. Smith)
[Adopted February 4, 1941.]
Concerning the death of Frank Hussion, brother of the Senator from Taylor.

WHEREAS, The members of this body have been saddened by the news of the death of Frank Hussion, brother of the Senator from Taylor, which took place in Hot Springs, Arkansas, on February 3; therefore, be it

Resolved by the Senate:

That the Senate express its deep sympathy for its unfortun-
ate member and that the Clerk of the Senate be instructed to provide a floral tribute to reach the family before the funeral, which will be on February 7, at 9:00 o'clock A. M.

SENATE RESOLUTION NO. 16
(By Mr. Randolph, Mr. President)
(Originating in the Committee on Rules)
[Adopted February 7, 1941.]
Amending the standing rules of the Senate.

Resolved by the Senate:

That rule 24, rule 45 and rule 52 of the Rules of the Senate for this session be amended to read as follows:

Rule 24. At the commencement of each session the following standing committees shall be appointed, to consist of not less than five nor more than nine members, except the Committees on Education, on Forestry and Conservation and on Public Buildings and Humane Institutions, which shall each consist of not less than eleven and not more than fifteen members, the Committee on Roads and Navigation, which shall consist of seventeen members, and the Committees on Judiciary and on Finance, which shall each consist of eighteen members:

I. On Privileges and Elections.

II. On the Judiciary.

III. On Finance.

IV. On Education.

V. On Counties and Municipal Corporations.

VI. On Roads and Navigation.

VII. On Banks and Corporations.

VIII. On Public Buildings and Humane Institutions.

IX. On the Penitentiary.

X. On Railroads.
XI. On Militia.
XII. On Federal Relations.
XIII. On Insurance.
XIV. On Agriculture.
XV. On Mines and Mining.
XVI. On Medicine and Sanitation.
XVII. On Labor.
XVIII. On Claims and Grievances.
XIX. On Forfeited, Delinquent and Unappropriated Lands.
XX. On Public Printing.
XXI. On Rules (the President of the Senate to be ex officio Chairman.)
XXII. On Joint Rules (to be composed of the President of the Senate as ex officio Chairman, and two members of the Senate to be appointed by the President.)
XXIII. Joint Committee on Enrolled Bills on the part of the Senate (to consist of five members.)
XXIV. On Public Library.
XXV. To Examine Clerk’s Office (to consist of three members.)
XXVI. On Temperance.
XXVII. On Forestry and Conservation.
XXVIII. On Redistricting.
XXIX. On Interstate Cooperation.

Rule 45. When a question is pending, no motion shall be received but to adjourn, to lay on the table, for the previous question, to postpone the question to a different day, to commit, to amend, or to postpone indefinitely, which several motions shall have precedence in the order in which they are herein arranged.
Rule 52. There shall be a motion for the previous question, which being ordered by a majority of the members present, if a quorum, shall have the effect to cut off all debate and bring the Senate to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions, or may be made to embrace and authorize motions and amendments and include the bill to its engrossment and third reading and then, on renewal and second of said motion, to its passage or rejection. It shall be in order pending a motion for or after the previous question shall have been ordered on its passage, for the President to entertain and submit a motion to commit with or without instructions to a standing or select committee; and a motion to lay upon the table shall be in order on the second and third reading of a bill.

A call of the Senate shall not be in order after the previous question is ordered, unless it shall appear upon an actual count by the President that a quorum is not present.

All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

SENATE RESOLUTION NO. 17

(By Mr. Smith)

[Adopted February 7, 1941.]

Concerning the death of the Honorable Morris P. Shawkey.

WHEREAS, The state has again suffered the loss of a distinguished and outstanding citizen in the death of Dr. Morris P. Shawkey, whose sudden departure came on February 5, as he was traveling back to his home in Charleston, after a sojourn in the south; and

WHEREAS, Through long years of public life and official service, and as an author of distinction, Dr. Shawkey had so im-
pressed his personality upon the lives of the people of our state, especially in the field of educational leadership and achievement, that his name was familiar to a majority of the people; and

Whereas, In public service Dr. Shawkey had served with distinction as superintendent of the schools of the City of Charleston; as state superintendent of schools, which position he held for a period of twelve years, a period distinguished by a remarkable development in the public school system of the state; later as president of Marshall College, a position held for twelve years, or until his health had begun to fail him and make imperative a less strenuous life; and finally as a member of the official staff of Morris Harvey College, where he had served during the last five years of his life to the time of his death; and

Whereas, Dr. Shawkey will be remembered (even more perhaps than for his official services in education) for his deep and understanding interest in human affairs, his broad sympathy for the problems of human welfare, his confidence in the abiding good and ultimate triumph of the right, and especially by his friends and all who knew him personally, for his pleasant manner and unfailing smile—unfailing even in those moments when ill health might have meant discouragement to one less hopeful and less vigorous in mind and spirit and soul; therefore, be it

Resolved by the Senate:

That the Senate of West Virginia hereby officially expresses its gratitude for the life and services of Dr. Shawkey, and for his contribution as an official, a public servant, and a citizen, in promoting a better society and a better West Virginia; and

Further Resolved, That the profound sympathy of the members of the Senate is extended to the family and friends of Dr. Shawkey in this hour of their bereavement; and

Further Resolved, That a copy of this resolution be sent to the members of the family of Dr. Shawkey.
SENATE RESOLUTION NO. 19
(By Mr. Jimison)
[Adopted February 20, 1941.]
Requesting a supplementary budget bill providing for an appropriation for The Charleston Colored Children’s Shelter.

WHEREAS, The Charleston Colored Children’s Shelter, located at the present time at 418 Shrewsberry street in the City of Charleston, is essentially a charitable organization; and

WHEREAS, Said institution takes under its shelter and provides for unfortunate, neglected and dependent colored children, and has now in its custody forty children from ten different counties of the state; and

WHEREAS, The home of said institution was seriously damaged by fire two years ago, and it is the desire of the institution to erect a suitable home on Shrewsberry street in Charleston, West Virginia, in which a larger number of neglected and dependent colored children may be properly cared for and trained to be better citizens of our state; therefore, be it

Resolved by the Senate:
That the budget commission is requested to file with the Legislature an amendment and supplement to the present Budget Bill appropriating the sum of twelve thousand five hundred dollars for the year one thousand nine hundred forty-one and the sum of twelve thousand five hundred dollars for the year one thousand nine hundred forty-two, to be used for the construction of a suitable home for The Charleston Colored Children’s Shelter.

SENATE RESOLUTION NO. 20
(By Mr. McKown)
[Adopted February 17, 1941.]
Concerning the illness of the Honorable A. M. Martin.

Resolved by the Senate:
That the Senate, being advised of the illness of Senator
Martin, a member of this body, extends to him its deepest regret and sincere sympathy in his illness and hopes that it may be of short duration, with speedy and complete recovery; and

_Further Resolved_, That the Clerk of the Senate is directed to send a copy of this resolution, together with a floral tribute, to Senator Martin.

**SENATE RESOLUTION NO. 24**

(By Mr. Randolph, Mr. President)

(Originating in the Committee on Rules)

[Adopted February 26, 1941.]

Authorizing the Committee on Rules to arrange a special calendar.

_Resolved by the Senate:*

That on and after the twenty-seventh day of February, and for each legislative day thereafter 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 on 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. 25**

(By Mr. Wylie)

[Adopted March 3, 1941.]

Concerning the illness of the Honorable T. E. Bibb.

_Resolved by the Senate:*

That the Senate, having just heard of the sudden illness of Senator T. E. Bibb, a member of this body, extends to him its deepest regret and sincere sympathy in his illness and hopes
that it may be of short duration, with speedy and complete recovery; and

Further Resolved, That the Clerk of the Senate is directed to send a copy of this resolution, together with a floral tribute, to Senator Bibb.

SENATE RESOLUTION NO. 26
(By Mr. Randolph, Mr. President)
(Originating in the Committee on Rules)
[Adopted March 4, 1941]
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. 27
(By Mr. Randolph, Mr. President)
(Originating in the Committee on Rules)
[Adopted March 8, 1941]
Janitor service after adjournment.

Resolved by the Senate:

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 Superintendent
of Capitol Building and Grounds, at a per diem of two dollars, and eight assistant janitors, heretofore appointed at a per diem of four dollars, is hereby extended for five days each.

SENATE RESOLUTION NO. 28
(By Mr. Randolph, Mr. President)
(Originating in the Committee on Rules)
[Adopted March 8, 1941.]

Resolved by the Senate:

That in order to assist in the completion of the work of this session the time of five pages at a per diem of four dollars is hereby extended for five days each.

SENATE RESOLUTION NO. 29
(By Mr. Randolph, Mr. President)
(Originating in the Committee on Rules)
[Adopted March 8, 1941.]

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 the secretary to the Clerk at twelve dollars, is
extended for one hundred and twenty days; and the per diem of the stenographer to the President, at eight dollars, is extended for sixty days.

The Clerk of the Senate is hereby authorized to employ the following assistants for the number of days and at the per diems hereinafter set forth: One Journal editor at ten dollars per diem for one hundred and twenty days; one clerk to the Minority Leader at ten dollars per diem for sixty days; one Journal clerk at fifteen dollars per diem for one hundred and twenty days; one Journal stenographer at ten dollars per diem for one hundred twenty days; Sergeant-at-Arms at ten dollars per diem for ten days; one supervisor of mail at ten dollars per diem for ninety days; four proofreaders at eight dollars per diem for ninety days; one printing supervisor at ten dollars per diem for one hundred and twenty days; one messenger at five dollars per diem for thirty days; two mail clerks at seven dollars per diem for thirty days; two mail clerks at seven dollars per diem for sixty days; twenty floor and committee stenographers at seven dollars per diem for five days; two mimeograph operators at seven dollars per diem for five days; one clerk to the Committee on the Judiciary at ten dollars per diem for five days; one clerk to the Committee on Finance at ten dollars per diem for five days; one clerk to the Committee on Education at ten dollars per diem for five days; four committee clerks-at-large at eight dollars per diem for five days; one secretary to the President, at fifteen dollars per diem for five days; one clerk to the Sergeant-at-Arms at seven dollars per diem for five days; three mail clerks at seven dollars per diem for five days; one addressograph clerk at seven dollars per diem for five days; one clerk on enrolled bills at eight dollars per diem for five days; six assistant doorkeepers at seven dollars per diem for five days; two assistants to the Sergeant-at-Arms at eight dollars per diem for five days; five clerks at seven dollars per diem for five days; six document room clerks at seven dollars per diem for five days; eight Journal and mailing room clerks at seven dollars per diem for five days; one assistant to the Clerk at twelve dollars per diem for five days; one proofreader at eight dollars per diem for five days; two copyholders at eight dollars per diem for five days; five assist-
ant clerks at seven dollars per diem for five days; and one doorkeeper at ten dollars per diem for five days.

SENATE RESOLUTION NO. 30
(By Mr. Randolph, Mr. President)
(Originating in the Committee on Rules)
[Adopted March 8, 1941.]
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 to notify the House of Delegates that the Senate has completed its labors and is ready to adjourn sine die.
The following table shows the disposition of Senate and House Bills passed at the regular session of the 1941 Legislature. The first column gives the bill number and the second column the chapter assigned to it. House Bills appear first, followed by Senate Bills.

### HOUSE BILLS

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### SENATE BILLS

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<tbody>
<tr>
<td>51</td>
<td>67</td>
</tr>
<tr>
<td>52</td>
<td>68</td>
</tr>
<tr>
<td>53</td>
<td>69</td>
</tr>
<tr>
<td>54</td>
<td>70</td>
</tr>
<tr>
<td>55</td>
<td>71</td>
</tr>
<tr>
<td>56</td>
<td>72</td>
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<td>57</td>
<td>73</td>
</tr>
<tr>
<td>58</td>
<td>74</td>
</tr>
<tr>
<td>59</td>
<td>75</td>
</tr>
<tr>
<td>60</td>
<td>76</td>
</tr>
<tr>
<td>61</td>
<td>77</td>
</tr>
<tr>
<td>62</td>
<td>78</td>
</tr>
<tr>
<td>63</td>
<td>79</td>
</tr>
<tr>
<td>64</td>
<td>80</td>
</tr>
<tr>
<td>65</td>
<td>81</td>
</tr>
<tr>
<td>66</td>
<td>82</td>
</tr>
<tr>
<td>67</td>
<td>83</td>
</tr>
<tr>
<td>68</td>
<td>84</td>
</tr>
<tr>
<td>69</td>
<td>85</td>
</tr>
<tr>
<td>70</td>
<td>86</td>
</tr>
<tr>
<td>71</td>
<td>87</td>
</tr>
<tr>
<td>72</td>
<td>88</td>
</tr>
<tr>
<td>73</td>
<td>89</td>
</tr>
<tr>
<td>74</td>
<td>90</td>
</tr>
<tr>
<td>75</td>
<td>91</td>
</tr>
<tr>
<td>76</td>
<td>92</td>
</tr>
<tr>
<td>77</td>
<td>93</td>
</tr>
<tr>
<td>78</td>
<td>94</td>
</tr>
<tr>
<td>79</td>
<td>95</td>
</tr>
<tr>
<td>80</td>
<td>96</td>
</tr>
<tr>
<td>81</td>
<td>97</td>
</tr>
<tr>
<td>82</td>
<td>98</td>
</tr>
<tr>
<td>83</td>
<td>99</td>
</tr>
<tr>
<td>84</td>
<td>100</td>
</tr>
<tr>
<td>85</td>
<td>101</td>
</tr>
<tr>
<td>86</td>
<td>102</td>
</tr>
<tr>
<td>87</td>
<td>103</td>
</tr>
<tr>
<td>88</td>
<td>104</td>
</tr>
<tr>
<td>89</td>
<td>105</td>
</tr>
<tr>
<td>90</td>
<td>106</td>
</tr>
<tr>
<td>91</td>
<td>107</td>
</tr>
<tr>
<td>92</td>
<td>108</td>
</tr>
<tr>
<td>93</td>
<td>109</td>
</tr>
<tr>
<td>94</td>
<td>110</td>
</tr>
<tr>
<td>95</td>
<td>111</td>
</tr>
<tr>
<td>96</td>
<td>112</td>
</tr>
<tr>
<td>97</td>
<td>113</td>
</tr>
<tr>
<td>98</td>
<td>114</td>
</tr>
<tr>
<td>99</td>
<td>115</td>
</tr>
<tr>
<td>100</td>
<td>116</td>
</tr>
<tr>
<td>101</td>
<td>117</td>
</tr>
<tr>
<td>102</td>
<td>118</td>
</tr>
<tr>
<td>103</td>
<td>119</td>
</tr>
<tr>
<td>104</td>
<td>120</td>
</tr>
<tr>
<td>105</td>
<td>121</td>
</tr>
<tr>
<td>106</td>
<td>122</td>
</tr>
<tr>
<td>107</td>
<td>123</td>
</tr>
<tr>
<td>108</td>
<td>124</td>
</tr>
<tr>
<td>109</td>
<td>125</td>
</tr>
<tr>
<td>110</td>
<td>126</td>
</tr>
<tr>
<td>111</td>
<td>127</td>
</tr>
<tr>
<td>112</td>
<td>128</td>
</tr>
<tr>
<td>113</td>
<td>129</td>
</tr>
<tr>
<td>114</td>
<td>130</td>
</tr>
<tr>
<td>115</td>
<td>131</td>
</tr>
<tr>
<td>116</td>
<td>132</td>
</tr>
<tr>
<td>117</td>
<td>133</td>
</tr>
<tr>
<td>118</td>
<td>134</td>
</tr>
<tr>
<td>119</td>
<td>135</td>
</tr>
<tr>
<td>120</td>
<td>136</td>
</tr>
</tbody>
</table>
## INDEX

ABANDONED CEMETERIES:  
(See Cabell County Court)  

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1933</td>
<td>8</td>
<td>1st Ex.</td>
<td>(Non-partisan election of school board members)</td>
<td>187</td>
</tr>
<tr>
<td>1933</td>
<td>11</td>
<td>1st Ex.)</td>
<td>(Teachers' Salaries)</td>
<td>173</td>
</tr>
<tr>
<td>1933</td>
<td>40</td>
<td>2nd Ex.)</td>
<td>(Funeral directors and embalmers)</td>
<td>232</td>
</tr>
<tr>
<td>1933</td>
<td>49</td>
<td>1st Ex.</td>
<td>(County agricultural agents)</td>
<td>1</td>
</tr>
<tr>
<td>1933</td>
<td>75</td>
<td>2nd Ex.</td>
<td>(Housing authorities)</td>
<td>254</td>
</tr>
<tr>
<td>1933</td>
<td>93</td>
<td>2nd Ex.</td>
<td>(Funds of liquor control commission)</td>
<td>369</td>
</tr>
<tr>
<td>1935</td>
<td>4</td>
<td>Reg.</td>
<td>(Public bonded indebtedness)</td>
<td>84</td>
</tr>
<tr>
<td>1935</td>
<td>21</td>
<td>Reg.</td>
<td>(Securities)</td>
<td>244</td>
</tr>
<tr>
<td>1935</td>
<td>104</td>
<td>Reg</td>
<td>(Child welfare)</td>
<td>352</td>
</tr>
<tr>
<td>1936</td>
<td>1</td>
<td>1st Ex.</td>
<td>(Unemployment Compensation)</td>
<td>412</td>
</tr>
<tr>
<td>1936</td>
<td>1</td>
<td>2nd Ex.</td>
<td>(Registration of voters)</td>
<td>216</td>
</tr>
<tr>
<td>1937</td>
<td>56</td>
<td>Reg.</td>
<td>(Assistant attorneys general)</td>
<td>354</td>
</tr>
<tr>
<td>1937</td>
<td>85</td>
<td>Reg.</td>
<td>(Salary of commissioner of labor)</td>
<td>362</td>
</tr>
<tr>
<td>1937</td>
<td>891</td>
<td>Reg.</td>
<td>(Pension fund, dept. of public safety)</td>
<td>384</td>
</tr>
<tr>
<td>1939</td>
<td>342</td>
<td>Reg.</td>
<td>(Compensation of county assessors)</td>
<td>94</td>
</tr>
<tr>
<td>1939</td>
<td>17</td>
<td>Reg.</td>
<td>(Assistants and stenographers to prosecuting attorneys)</td>
<td>102</td>
</tr>
</tbody>
</table>
### ACTS AMENDED (Continued):

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1939</td>
<td>24</td>
<td></td>
<td>Reg.</td>
<td>(Sentences for felonies) .......... 124</td>
</tr>
<tr>
<td>1939</td>
<td>35 2</td>
<td>2, 3</td>
<td>Reg.</td>
<td>(Dept. of public safety) .......... 387</td>
</tr>
<tr>
<td>1939</td>
<td>51, 52</td>
<td>(21-a-)</td>
<td>(21-e)</td>
<td>(Free textbooks in schools) .......... 152</td>
</tr>
<tr>
<td>1939</td>
<td>55</td>
<td></td>
<td>Reg.</td>
<td>(Teachers’ salaries) ............. 173</td>
</tr>
<tr>
<td>1939</td>
<td>64</td>
<td></td>
<td>Reg.</td>
<td>(Game, birds, fish and frogs) ...... 248</td>
</tr>
<tr>
<td>1939</td>
<td>92</td>
<td>2, 8, 9, 12</td>
<td>Reg.</td>
<td>(Municipal streets and sewers) .... 317</td>
</tr>
<tr>
<td>1939</td>
<td>104</td>
<td></td>
<td>Reg.</td>
<td>(Unemployment compensation) ....... 412</td>
</tr>
<tr>
<td>1939</td>
<td>133</td>
<td></td>
<td>Reg.</td>
<td>(Debt levies for current expenses) 518</td>
</tr>
</tbody>
</table>

### ACTS REPEALED:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1933</td>
<td>93</td>
<td>16</td>
<td>2nd Ex.</td>
<td>(Housing authorities) ............. 254</td>
</tr>
<tr>
<td>1935</td>
<td>41, 42</td>
<td></td>
<td>Reg.</td>
<td>(Terms of circuit courts) .......... 109</td>
</tr>
<tr>
<td>1937</td>
<td>15</td>
<td></td>
<td>Reg.</td>
<td>(Terms of circuit courts) .......... 109</td>
</tr>
<tr>
<td>1937</td>
<td>56</td>
<td></td>
<td>Reg.</td>
<td>(Registration of voters) .......... 216</td>
</tr>
<tr>
<td>1939</td>
<td>20</td>
<td></td>
<td>Reg.</td>
<td>(Salaries of county commissioners) .. 96</td>
</tr>
<tr>
<td>1939</td>
<td>150</td>
<td></td>
<td>Reg.</td>
<td>(Trade-marks on jewelry, etc.) ..... 519</td>
</tr>
</tbody>
</table>

### ADJUTANT GENERAL:

Authorized to pay Ernest E. Hurt for damages ...... 1 353

### ADKINS, MOSE:

Reopening compensation case of .................. 1 427

### ADOPTION:

**Adult**

- effect ........................................... 12 139
- jurisdiction .................................... 1 136
- petition ......................................... 12 139

**Minor child**

- annulment ...................................... 11 139
- consent required ................................ 5 137
- effect of; property rights .................... 8 138
### ADOPTION (Continued):

<table>
<thead>
<tr>
<th>Description</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>investigation</td>
<td>4</td>
<td>136</td>
</tr>
<tr>
<td>report</td>
<td>4</td>
<td>136</td>
</tr>
<tr>
<td>jurisdiction</td>
<td>1</td>
<td>136</td>
</tr>
<tr>
<td>transfer</td>
<td>3</td>
<td>136</td>
</tr>
<tr>
<td>notice to registrar</td>
<td>9</td>
<td>136</td>
</tr>
<tr>
<td>order</td>
<td>7</td>
<td>137</td>
</tr>
<tr>
<td>petition for</td>
<td></td>
<td></td>
</tr>
<tr>
<td>form</td>
<td>3</td>
<td>136</td>
</tr>
<tr>
<td>hearing on</td>
<td>6</td>
<td>137</td>
</tr>
<tr>
<td>signing</td>
<td>2</td>
<td>136</td>
</tr>
<tr>
<td>records of proceedings</td>
<td>10</td>
<td>139</td>
</tr>
</tbody>
</table>

### AGRICULTURE:

- (See County Agents) 1
- (See Liens) 3

### AGRICULTURAL CLUB AGENT:

- Board of education may employ 1 152

### AIRPORTS:

- (See Cabell County Court) 529
- (See Municipalities) 4
- (See Ohio County Board of Commissioners) 556

### AMERICANISM:

- Teaching in state schools 9 176

### APPROPRIATIONS (BUDGET BILL):

#### Act

- constitutionality 3 76
- definitions 2 8
- purpose 1 8
- suspension of conflicting 2 76
- Bonded obligations 3 69
- Classification of 3 9
- Conditional 1 76
- upon additional revenues 4 70
- Contingent fund, approval of board of public works... 10 74
- exceptions 10 74
- County Clerks, bond premiums 12-a 75
- Expenditures 10 74
- limitations on 5 10
- maximum 6 10
- method 4 9
- Erroneous payments, refunds 9 74
- Expiration date extended 4-a 73
- Forfeitures, taxes, licenses and filing fees 12 75
- General school fund 16 76

**Governmental:**
### APPROPRIATIONS (Continued):

<table>
<thead>
<tr>
<th>AGRICULTURE</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of agriculture—Acct. No. 510</td>
<td>49</td>
</tr>
<tr>
<td>Department of agriculture (soil conservation)—Acct. No. 510</td>
<td>49</td>
</tr>
<tr>
<td>Fairs and association awards—Acct. No. 515</td>
<td>49</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BUSINESS AND INDUSTRIAL RELATIONS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Board of aeronautics—Acct. No. 6086</td>
<td>47</td>
</tr>
<tr>
<td>Bureau of labor and department of weights and measures—Acct. No. 450</td>
<td>43</td>
</tr>
<tr>
<td>Commission on interstate cooperation—Acct. No. 4727</td>
<td>47</td>
</tr>
<tr>
<td>Compensation commission—Acct. No. 900</td>
<td>45</td>
</tr>
<tr>
<td>Compensation commission (silicosis)—Acct. No. 901</td>
<td>46</td>
</tr>
<tr>
<td>Department of banking—Acct. No. 480</td>
<td>45</td>
</tr>
<tr>
<td>Department of mines—Acct. No. 460</td>
<td>43</td>
</tr>
<tr>
<td>Liquor control commission—Acct. No. 6676</td>
<td>46</td>
</tr>
<tr>
<td>Public service commission (motor carrier division)—Acct. No. 6624</td>
<td>45</td>
</tr>
<tr>
<td>Public service commission (salaries of members)—Acct. No. 470</td>
<td>44</td>
</tr>
<tr>
<td>Public service commission—Acct. No. 6617</td>
<td>44</td>
</tr>
<tr>
<td>Racing commission—Acct. No. 6082</td>
<td>47</td>
</tr>
<tr>
<td>Unemployment compensation commission (reemployment service)—Acct. No. 6412</td>
<td>43</td>
</tr>
<tr>
<td>West Virginia planning commission—Acct. No. 4729</td>
<td>47</td>
</tr>
<tr>
<td>West Virginia publicity commission—Acct. No. 4728</td>
<td>47</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CHARITIES AND CORRECTION</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Virginia children’s home—Acct. No. 380</td>
<td>37</td>
</tr>
<tr>
<td>West Virginia colored children’s home—Acct. No. 381</td>
<td>37</td>
</tr>
<tr>
<td>West Virginia home for aged and infirm colored men and women—Acct. No. 382</td>
<td>37</td>
</tr>
<tr>
<td>West Virginia industrial home for colored girls—Acct. No. 373</td>
<td>36</td>
</tr>
<tr>
<td>West Virginia industrial home for girls—Acct. No. 372</td>
<td>35</td>
</tr>
<tr>
<td>West Virginia industrial school for boys—Acct. No. 370</td>
<td>35</td>
</tr>
<tr>
<td>West Virginia industrial school for colored boys—Acct. No. 371</td>
<td>35</td>
</tr>
<tr>
<td>West Virginia penitentiary—Acct. No. 375</td>
<td>36</td>
</tr>
<tr>
<td>West Virginia penitentiary (medium security prison)—Acct No.376</td>
<td>36</td>
</tr>
<tr>
<td>West Virginia training school—Acct. No. 383</td>
<td>38</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CLAIMS AGAINST THE STATE</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claims to be paid from the state road fund—Acct. No. 6856</td>
<td>66</td>
</tr>
<tr>
<td>Refunding erroneous consumers sales tax payments—Acct. No. 6449</td>
<td>65</td>
</tr>
<tr>
<td>Refunding erroneous gross sales tax payments—Acct. No. 6449</td>
<td>61</td>
</tr>
<tr>
<td>Refunding erroneous inheritance, transfer and estate tax payments—Acct. No. 6449</td>
<td>61</td>
</tr>
<tr>
<td>Refunding erroneous payments to state for charter license tax—Acct. No. 6440</td>
<td>66</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CONSERVATION AND DEVELOPMENT</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clarke-McNary—Acct. No. 522</td>
<td>51</td>
</tr>
<tr>
<td>Conservation commission (division of forestry)—Acct. No. 521</td>
<td>50</td>
</tr>
<tr>
<td>Conservation commission (game and fish)—Acct. No. 521</td>
<td>51</td>
</tr>
<tr>
<td>Conservation commission (general administration)—Acct. No. 6612</td>
<td>50</td>
</tr>
<tr>
<td>Conservation commission (state parks)—Acct. No. 522</td>
<td>51</td>
</tr>
<tr>
<td>Droop Mountain battlefield monument—Acct. No. 5609</td>
<td>52</td>
</tr>
<tr>
<td>Geological survey—Acct. No. 520</td>
<td>49</td>
</tr>
<tr>
<td>Grafton G. A. R. post—Acct. No. 5649</td>
<td>52</td>
</tr>
<tr>
<td>Morgan Morgan memorial—Acct. No. 5639</td>
<td>52</td>
</tr>
<tr>
<td>Point Pleasant battle monument commission—Acct. No. 5619</td>
<td>52</td>
</tr>
<tr>
<td>Rumseyan society—Acct. No. 5629</td>
<td>52</td>
</tr>
</tbody>
</table>
### INDEX TO ACTS

#### APPROPRIATIONS (Continued):

<table>
<thead>
<tr>
<th>EDUCATIONAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Archives and history—Acct. No. 340</td>
</tr>
<tr>
<td>Bluefield State Teachers college—Acct. No. 329</td>
</tr>
<tr>
<td>Concord State Teachers college—Acct. No. 325</td>
</tr>
<tr>
<td>Department of education—Acct. No. 703</td>
</tr>
<tr>
<td>Department of education (free textbooks)—Acct. No. 6408</td>
</tr>
<tr>
<td>Department of education (school fund)—Acct. No. 6407</td>
</tr>
<tr>
<td>Department of education (state aid to supplement the general school fund)—Acct. No. 6405</td>
</tr>
<tr>
<td>Fairmont State Teachers college—Acct. No. 321</td>
</tr>
<tr>
<td>4-H camp for colored boys and girls—Acct. No. 3289</td>
</tr>
<tr>
<td>Glenville State Teachers college—Acct. No. 322</td>
</tr>
<tr>
<td>Marshall college—Acct. No. 320</td>
</tr>
<tr>
<td>Shepherd State Teachers college—Acct. No. 324</td>
</tr>
<tr>
<td>State board of education—Acct. No. 700</td>
</tr>
<tr>
<td>State board of education (rehabilitation)—Acct. No. 702</td>
</tr>
<tr>
<td>State board of education (vocational)—Acct. No. 701</td>
</tr>
<tr>
<td>Storer college—Acct. No. 330</td>
</tr>
<tr>
<td>West Virginia historical society—Acct. No. 351</td>
</tr>
<tr>
<td>West Virginia Institute of Technology—Acct. No. 327</td>
</tr>
<tr>
<td>West Liberty State Teachers college—Acct. No. 323</td>
</tr>
<tr>
<td>West Virginia library commission—Acct. No. 350</td>
</tr>
<tr>
<td>West Virginia schools for colored deaf and blind—Acct. No. 334</td>
</tr>
<tr>
<td>West Virginia schools for deaf and blind—Acct. No. 333</td>
</tr>
<tr>
<td>West Virginia State college—Acct. No. 328</td>
</tr>
<tr>
<td>West Virginia university—Acct. No. 300</td>
</tr>
<tr>
<td>West Virginia university (agricultural, etc.)—Acct. No. 302</td>
</tr>
<tr>
<td>West Virginia university (agricultural experiment station)—Acct. No. 310</td>
</tr>
<tr>
<td>West Virginia university (experiment farm)—Acct. No. 311</td>
</tr>
<tr>
<td>West Virginia university (extension division)—Acct. No. 305</td>
</tr>
<tr>
<td>West Virginia university (Inwood apple packing plant)—Acct. No. 313</td>
</tr>
<tr>
<td>West Virginia university (Jackson’s Mill)—Acct. No. 303</td>
</tr>
<tr>
<td>West Virginia university (mining and industrial)—Acct. No. 301</td>
</tr>
<tr>
<td>West Virginia university (Oglebay Institute)—Acct. No. 304</td>
</tr>
<tr>
<td>West Virginia university (Potomac State school)—Acct. No. 315</td>
</tr>
<tr>
<td>West Virginia university (Reymann memorial farm)—Acct. No. 312</td>
</tr>
<tr>
<td>West Virginia university (to increase agricultural program)—Acct. No. 314</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EXECUTIVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governor’s office—Acct. No. 120</td>
</tr>
<tr>
<td>Parole and probation investigation and supervision—Acct. No. 123</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CUSTODIAL AND SERVICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capitol building and grounds—Acct. No. 270</td>
</tr>
<tr>
<td>Central mailing office—Acct. No. 280</td>
</tr>
<tr>
<td>Purchasing department—Acct. No. 290</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FISCAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auditor’s office—Acct. No. 150</td>
</tr>
<tr>
<td>Auditor’s office (land department)—Acct. No. 704</td>
</tr>
<tr>
<td>Board of control—Acct. No. 190</td>
</tr>
<tr>
<td>Director of the budget—Acct. No. 210</td>
</tr>
<tr>
<td>Sinking fund commission—Acct. No. 170</td>
</tr>
<tr>
<td>Tax commissioner—Acct. No. 180</td>
</tr>
<tr>
<td>Tax commissioner (gasoline department)—Acct. No. 871</td>
</tr>
<tr>
<td>Treasurer’s office—Acct. No. 160</td>
</tr>
</tbody>
</table>
### APPROPRIATIONS (Continued):

<table>
<thead>
<tr>
<th>INCORPORATING AND RECORDING</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent registration—Acct. No. 255</td>
<td>22</td>
</tr>
<tr>
<td>Secretary of state—Acct. No. 250</td>
<td>22, 57</td>
</tr>
</tbody>
</table>

### LEGAL

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney general—Acct. No. 240</td>
<td>21</td>
</tr>
<tr>
<td>Commission on uniform state laws—Acct. No. 245</td>
<td>22</td>
</tr>
<tr>
<td>Court of claims—Acct. No. 243</td>
<td>22</td>
</tr>
</tbody>
</table>

### HEALTH AND WELFARE

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Barbers and beauticians—Acct. No. 402</td>
<td>38</td>
</tr>
<tr>
<td>Berkeley Springs sanitarium—Acct. No. 436</td>
<td>43</td>
</tr>
<tr>
<td>Bureau of Negro welfare and statistics—Acct. No. 403</td>
<td>39</td>
</tr>
<tr>
<td>Denmar sanitarium—Acct. No. 432</td>
<td>42</td>
</tr>
<tr>
<td>Department of public assistance—Acct. No. 641</td>
<td>38</td>
</tr>
<tr>
<td>Fairmont emergency hospital—Acct. No. 425</td>
<td>41</td>
</tr>
<tr>
<td>Health department and public health council—Acct. No. 400</td>
<td>38, 59</td>
</tr>
<tr>
<td>Hopemont sanitarium—Acct. No. 430</td>
<td>42</td>
</tr>
<tr>
<td>Huntington state hospital—Acct. No. 422</td>
<td>40, 60</td>
</tr>
<tr>
<td>Lakin state hospital—Acct. No. 423</td>
<td>42</td>
</tr>
<tr>
<td>McKendree emergency hospital—Acct. No. 424</td>
<td>41, 60</td>
</tr>
<tr>
<td>Morris Memorial hospital—Acct. No. 434</td>
<td>43</td>
</tr>
<tr>
<td>Pinecrest sanitarium—Acct. No. 431</td>
<td>42</td>
</tr>
<tr>
<td>Spencer state hospital—Acct. No. 421</td>
<td>40</td>
</tr>
<tr>
<td>Tuberculosis field clinics—Acct. No. 435</td>
<td>42</td>
</tr>
<tr>
<td>Water commission—Acct. No. 401</td>
<td>38</td>
</tr>
<tr>
<td>Welch emergency hospital—Acct. No. 426</td>
<td>41</td>
</tr>
<tr>
<td>Weston state hospital—Acct. No. 420</td>
<td>40</td>
</tr>
</tbody>
</table>

### HIGHWAYS

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Road commission (administration and engineering)—Acct. No. 670</td>
<td>48</td>
</tr>
<tr>
<td>Road commission (secondary roads)—Acct. No. 6406</td>
<td>48</td>
</tr>
</tbody>
</table>

### JUDICIAL

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Circuit courts—Acct. No. 111</td>
<td>17, 57</td>
</tr>
<tr>
<td>Compensation of special judges—Acct. No. 113</td>
<td>17, 57</td>
</tr>
<tr>
<td>Criminal charges—Acct. No. 119</td>
<td>18</td>
</tr>
<tr>
<td>Judicial council—Acct. No. 118</td>
<td>18</td>
</tr>
<tr>
<td>State law library—Acct. No. 114</td>
<td>18</td>
</tr>
<tr>
<td>Supreme court of appeals—Acct. No. 110</td>
<td>17</td>
</tr>
</tbody>
</table>

### LEGISLATIVE

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>House of Delegates—Acct. No. 102</td>
<td>15</td>
</tr>
<tr>
<td>Joint expenses—Acct. No. 103</td>
<td>16</td>
</tr>
<tr>
<td>Senate—Acct. No. 101</td>
<td>13</td>
</tr>
</tbody>
</table>

### MISCELLANEOUS BOARDS

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Athletic commission—Acct. No. 6017</td>
<td>55</td>
</tr>
<tr>
<td>Board of dental examiners—Acct. No. 6045</td>
<td>55</td>
</tr>
<tr>
<td>Board of embalmers and funeral directors—Acct. No. 6049</td>
<td>56</td>
</tr>
<tr>
<td>Board of examiners for architects—Acct. No. 6069</td>
<td>56</td>
</tr>
<tr>
<td>Board of examiners for veterinarians—Acct. No. 6076</td>
<td>57</td>
</tr>
<tr>
<td>Board of examiners of accountants—Acct. No. 6007</td>
<td>55</td>
</tr>
<tr>
<td>Board of examiners of registered nurses—Acct. No. 6044</td>
<td>55</td>
</tr>
<tr>
<td>Board of law examiners—Acct. No. 6005</td>
<td>55</td>
</tr>
<tr>
<td>Board of optometry—Acct. No. 6048</td>
<td>56</td>
</tr>
<tr>
<td>Board of osteopathy—Acct. No. 6047</td>
<td>56</td>
</tr>
<tr>
<td>Board of pharmacy—Acct. No. 6046</td>
<td>56</td>
</tr>
<tr>
<td>Board of registration for professional engineers—Acct. No. 6068</td>
<td>56</td>
</tr>
</tbody>
</table>
## INDEX TO ACTS

### APPROPRIATIONS (Continued):

#### PROTECTION

<table>
<thead>
<tr>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adjutant general; state militia-Acct. No. 580</td>
<td>53</td>
</tr>
<tr>
<td>Auditor's office—Fire Marshal—Acct. No. 6605</td>
<td>54</td>
</tr>
<tr>
<td>Department of public safety—Acct. No. 570</td>
<td>52, 60</td>
</tr>
<tr>
<td>Department of public safety (radio division)—Acct. No. 571</td>
<td>53</td>
</tr>
<tr>
<td>Department of public safety (traffic violations)—Acct. No. 6720</td>
<td>53</td>
</tr>
<tr>
<td>Fire insurance—Acct. No. 591</td>
<td>55</td>
</tr>
</tbody>
</table>

| Local government                                                           | 13   | 75   |
| Printing costs                                                             | 14   | 76   |
| Revived and extended                                                       | 6    | 74   |
| Sinking fund deficiencies                                                  | 11   | 75   |
| Special revenue                                                            | 5    | 73   |
| Specific funds and collections                                             | 8    | 74   |
| Specific statutory payments                                                | 7    | 74   |
| Total sum, items included                                                 | 15   | 76   |

### APPROPRIATIONS:

- For J. E. Murray: 1 | 5
- Memorial to Booker T. Washington: 1 | 6

### ASSESSORS:

- Compensation: 5 | 94
- commissions: 5 | 96
- payment: 5 | 96

### ATTORNEY GENERAL:

- (See Declaratory Judgments): 11 | 134

#### Assistants

- number: 3 | 355
- salary: 3 | 355
- special: 3 | 355
- salary: 3 | 355

- Legal adviser: 163, 116

### AUDITOR:

- (See Bonds of County Clerks): 93
- (See Face-amount Certificates): 247
- (See Jurors): 285
- (See Property Taxes, delinquent lists): 447
- (See Property Tax, sale of land for taxes): 448 et. seq.
- (See Property Taxes, sale of lands for school fund): 477 et. seq.
- (See State Road Bonds): 77
- Commissioner of forfeited and delinquent lands: 4 | 477
- Secretary board of school fund: 5 | 357

### AUTOMOBILE MUTUAL INSURANCE COMPANIES:

- Powers: 4 | 278
- discrimination prohibited: 4 | 278
- taxable premiums: 14 | 283
<table>
<thead>
<tr>
<th>Name</th>
<th>Description</th>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>AYERS, G. T.</td>
<td>Reopening compensation case of</td>
<td>1</td>
<td>422</td>
</tr>
<tr>
<td>BARBOUR COUNTY COURT</td>
<td>Reimbursement of J. N. Forman</td>
<td>1</td>
<td>524</td>
</tr>
<tr>
<td></td>
<td>Reimbursement of Roscoe D. Zinn's administrator</td>
<td>1</td>
<td>525</td>
</tr>
<tr>
<td>BELL, BENNIE</td>
<td>Reopening compensation case of</td>
<td>1</td>
<td>416</td>
</tr>
<tr>
<td>BERKELEY COUNTY BOARD OF EDUCATION</td>
<td>Transfer of funds to by sheriff</td>
<td>2</td>
<td>526</td>
</tr>
<tr>
<td></td>
<td>by state sinking fund commission</td>
<td>1</td>
<td>526</td>
</tr>
<tr>
<td></td>
<td>use of</td>
<td>2</td>
<td>527</td>
</tr>
<tr>
<td>BOARD OF CONTROL</td>
<td>(See West Virginia Board of Control)</td>
<td></td>
<td>88</td>
</tr>
<tr>
<td>BOARDS OF EDUCATION, COUNTY</td>
<td>Authorized to employ county director of music</td>
<td>13-a</td>
<td>142</td>
</tr>
<tr>
<td></td>
<td>Authorized to employ agricultural club agent</td>
<td>32</td>
<td>152</td>
</tr>
<tr>
<td></td>
<td>Berkeley County, transfer of funds</td>
<td>1</td>
<td>526</td>
</tr>
<tr>
<td></td>
<td>Boone County, to settle claim of James Midkiff</td>
<td>1</td>
<td>527</td>
</tr>
<tr>
<td></td>
<td>Clay County, payment from state road commission</td>
<td>1</td>
<td>374</td>
</tr>
<tr>
<td></td>
<td>Gilmer County, to settle claim of Rolla Yerkey</td>
<td>1</td>
<td>535</td>
</tr>
<tr>
<td></td>
<td>Greenbrier County, to settle claim of Mabel Fulwider</td>
<td>1</td>
<td>535</td>
</tr>
<tr>
<td></td>
<td>Jefferson County, to settle claim of Mrs. W. P. Engbrecht</td>
<td>1</td>
<td>536</td>
</tr>
<tr>
<td></td>
<td>Members</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>election, general</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>form of ballot</td>
<td>4-a</td>
<td>194</td>
</tr>
<tr>
<td></td>
<td>non-partisan</td>
<td>1</td>
<td>188</td>
</tr>
<tr>
<td></td>
<td>election, primary</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ballots</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>form and contents</td>
<td>12</td>
<td>192</td>
</tr>
<tr>
<td></td>
<td>publication and printing</td>
<td>9</td>
<td>191</td>
</tr>
<tr>
<td></td>
<td>eligibility</td>
<td>1, 1-a</td>
<td>188</td>
</tr>
<tr>
<td></td>
<td>non-partisan nomination</td>
<td>1</td>
<td>188</td>
</tr>
<tr>
<td></td>
<td>candidacy</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>announcement</td>
<td>5-a</td>
<td>190</td>
</tr>
<tr>
<td></td>
<td>certification and posting</td>
<td>8</td>
<td>191</td>
</tr>
<tr>
<td></td>
<td>nominees</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>determination of</td>
<td>22-a</td>
<td>193</td>
</tr>
<tr>
<td></td>
<td>number</td>
<td>22-a</td>
<td>193</td>
</tr>
<tr>
<td></td>
<td>number</td>
<td>1</td>
<td>188</td>
</tr>
<tr>
<td></td>
<td>term</td>
<td>1-b</td>
<td>189</td>
</tr>
<tr>
<td></td>
<td>vacancies</td>
<td>23-a</td>
<td>194</td>
</tr>
<tr>
<td>President of, election</td>
<td></td>
<td>1-c</td>
<td>189</td>
</tr>
<tr>
<td>Vacancies in</td>
<td></td>
<td>1-b</td>
<td>189</td>
</tr>
<tr>
<td>filling</td>
<td></td>
<td>2</td>
<td>189</td>
</tr>
</tbody>
</table>
INDEX TO ACTS

<table>
<thead>
<tr>
<th>BOARD OF PUBLIC WORKS:</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>(See Appropriations)</td>
<td>7, 39, 58, 71, 74</td>
<td></td>
</tr>
<tr>
<td>(See Securities)</td>
<td>391</td>
<td></td>
</tr>
<tr>
<td>(See State Court of Claims)</td>
<td>23</td>
<td>123</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BOARD OF SCHOOL FINANCE:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(See Appropriations, State Department of Education)</td>
<td>58</td>
</tr>
<tr>
<td>(See Education)</td>
<td>11-a</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BOARD OF THE SCHOOL FUND:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(See School Fund)</td>
<td>355</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BOARD, STATE PLANNING:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(See State Planning Board)</td>
<td>358</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BONDS:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(See County Clerks)</td>
<td>93</td>
</tr>
<tr>
<td>(See Department of Public Safety)</td>
<td>387, 389</td>
</tr>
<tr>
<td>(See State Road Bonds)</td>
<td>77</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Carrying dangerous weapons</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>amount of bond</td>
<td>5</td>
</tr>
<tr>
<td>liability on</td>
<td>5</td>
</tr>
<tr>
<td>when permitted</td>
<td>5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Public indebtedness</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>amount</td>
<td>3</td>
</tr>
<tr>
<td>purposes by political subdivisions</td>
<td>2, 3</td>
</tr>
<tr>
<td>by municipalities to erect college</td>
<td>2</td>
</tr>
<tr>
<td>amount</td>
<td>2</td>
</tr>
<tr>
<td>sale of</td>
<td>2</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BOONE COUNTY BOARD OF EDUCATION:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>To settle claim of James Midkiff</td>
<td>1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BUDGET BILL:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(See Appropriations)</td>
<td>8</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CABELL COUNTY COURT:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Abandoned public cemeteries, maintenance by</td>
<td>1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Public facilities</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>authorized to acquire and maintain</td>
<td>1</td>
</tr>
<tr>
<td>jointly with city of Huntington</td>
<td>1</td>
</tr>
<tr>
<td>levy for</td>
<td>4</td>
</tr>
<tr>
<td>board or commission for</td>
<td>2</td>
</tr>
<tr>
<td>defined</td>
<td>1</td>
</tr>
<tr>
<td>operation or lease</td>
<td>6</td>
</tr>
<tr>
<td>outside state</td>
<td>1</td>
</tr>
<tr>
<td>corporation for</td>
<td>3</td>
</tr>
<tr>
<td>state law applicable to</td>
<td>5</td>
</tr>
<tr>
<td>powers of board or corporation</td>
<td>2, 3</td>
</tr>
</tbody>
</table>
INDEX TO ACTS

CARSON, IVAN:

Reopening compensation case of .......................... 1 425

CHANCE VOUCHERS:

(See Pool Tickets) .................................................. 126

CHIEF, DEPARTMENT OF MINES:

(See Mines and Mining) ............................................. 299, 302

CHILD WELFARE:

Agencies

articles of incorporation ........................................ 6, 2 336, 340
charter ........................................................................ 2 340
commitment to, by court ........................................... 5(2) 342
license to maintain .................................................... 4 335
duration ........................................................................ 4 335
operation without ....................................................... 8 336
powers under ............................................................. 4, 1 335, 339
provisional ................................................................. 4 335
revocation ................................................................. 7 336
relinquishing child to ................................................. 1 339
supervision, records and reports ................................ 5 335

Definitions .................................................................... 2-5 332

Delinquency or neglect of child
penalty for contributing to ......................................... 7 343

Department of Public Assistance

county

assistance to, by county superintendent ........................ 27 343
commitment to, by court ............................................ 3, 5 342
legal services to, by prosecuting attorney ..................... 26 343
proceedings by ............................................................ 28 343
responsibility for child care ........................................ 16 339
services to crippled children ....................................... 6 340
services to the deaf and blind ..................................... 14 338
welfare services administered by ................................ 1 332

state

admission of deaf and blind to state schools .................. 14 338
certificate from state department ................................. 14 338
investigation by county department ............................. 14 338
children committed to
by court ....................................................................... 4 342
care for ........................................................................ 1 334
duration ......................................................................... 2 334
cooperation with federal agencies ............................... 1 332
duties as to child welfare agencies ............................... 4-8, 2 335, 340
duties as to unsupervised foster homes ......................... 9-12 337
parole of children to .................................................... 13 338
effect of revocation ..................................................... 13 338
placement of children from other states ....................... 15 338
## INDEX TO ACTS

### CHILD WELFARE (Continued):

<table>
<thead>
<tr>
<th>Standards of child care</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3</td>
<td>334</td>
</tr>
<tr>
<td>Welfare services administered by</td>
<td>1</td>
<td>332</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Foster homes, unsupervised certificate from state department</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10</td>
<td>337</td>
</tr>
<tr>
<td>defined</td>
<td>9</td>
<td>337</td>
</tr>
<tr>
<td>records of</td>
<td>11</td>
<td>337</td>
</tr>
<tr>
<td>removal of child from</td>
<td>12</td>
<td>338</td>
</tr>
<tr>
<td>standards of care</td>
<td>10</td>
<td>337</td>
</tr>
<tr>
<td>visits to, by state department</td>
<td>11</td>
<td>337</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Juvenile courts circuit and other courts</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disposition of child by</td>
<td>14</td>
<td>341</td>
</tr>
<tr>
<td>neglected children petition to court</td>
<td>1</td>
<td>341</td>
</tr>
<tr>
<td>disposition of</td>
<td>4, 5</td>
<td>342</td>
</tr>
<tr>
<td>hearing on</td>
<td>2</td>
<td>342</td>
</tr>
<tr>
<td>temporary custody</td>
<td>3</td>
<td>342</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Proceedings against child</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpose of chapter</td>
<td>3</td>
<td>352</td>
</tr>
</tbody>
</table>

### CIRCUIT COURTS:

(See Child Welfare) | Sec. | Page |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(See Judicial Circuits)</td>
<td>1</td>
<td>340</td>
</tr>
</tbody>
</table>

### CITY OF HUNTINGTON:

(See Cabell County Court) | Sec. | Page |
|--------------------------|------|------|

### CLAY COUNTY COURT:

<table>
<thead>
<tr>
<th>Repairs to county jail</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>amount of expenditures</td>
<td>1</td>
<td>532</td>
</tr>
<tr>
<td>levy for</td>
<td>2</td>
<td>532</td>
</tr>
<tr>
<td>Repairs to courthouse and grounds</td>
<td>3</td>
<td>533</td>
</tr>
<tr>
<td>amount of expenditures</td>
<td>3</td>
<td>533</td>
</tr>
<tr>
<td>levy for</td>
<td>1</td>
<td>532</td>
</tr>
</tbody>
</table>

###CLOCKS:

(See Watches and Clocks) | Sec. | Page |
|-------------------------|------|------|

### CODE AMENDED:

<table>
<thead>
<tr>
<th>Ch.</th>
<th>Art.</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>1, 2</td>
<td></td>
<td>195</td>
</tr>
<tr>
<td>3</td>
<td>4, 5, 6, 7</td>
<td>(Permanent registration of voters)</td>
<td>216</td>
</tr>
<tr>
<td>3</td>
<td>4</td>
<td>6, 8</td>
<td>(Elections)</td>
</tr>
<tr>
<td>3</td>
<td>4</td>
<td>29</td>
<td>(Certification of candidacies)</td>
</tr>
<tr>
<td>3</td>
<td>4, 5</td>
<td></td>
<td>(Non-partisan election of school board members)</td>
</tr>
<tr>
<td>3</td>
<td>8</td>
<td>(11-a)</td>
<td>(Corrupt practices in elections)</td>
</tr>
<tr>
<td></td>
<td>(14-20 (new)</td>
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<td>5</td>
<td>3</td>
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<td>(Assistant attorneys general)</td>
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<td>6</td>
<td>2</td>
<td>10-a (new)</td>
<td>(Additional bonds of county clerks)</td>
</tr>
<tr>
<td>Ch.</td>
<td>Art.</td>
<td>Sec.</td>
<td>(new)</td>
</tr>
<tr>
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<td>------</td>
<td>------</td>
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</tr>
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<td>11</td>
<td>6</td>
<td>(new)</td>
</tr>
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<td>7</td>
<td>1</td>
<td>3-a</td>
<td>(new)</td>
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<td>1</td>
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<td>(new)</td>
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<td>4</td>
<td>10</td>
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<td>8</td>
<td>4</td>
<td>10a-10e (new)</td>
<td>(new)</td>
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<td>8</td>
<td>9</td>
<td>18</td>
<td>(new)</td>
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<td>11</td>
<td>14 (new)</td>
<td>(new)</td>
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<tr>
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<td>3</td>
<td>5-a</td>
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<td>8-a</td>
<td>3</td>
<td>7</td>
<td>(new)</td>
</tr>
</tbody>
</table>
| 9   | 1
<p>| 10, 11 | 5    | (new) | 343  |
| 11  | 2    | 5    | (new) | 94   |
| 11  | 8    | 7    | (new) | 518  |
| 11  | 11   | 4    | (new) | 512  |
| 11  | 12   | 18   | (new) | 509  |
| 11  | 13-b | 3    | (new) | 514  |
| 11  | 13-b | 44   | (new) | 513  |
| 11  | 14   | 3    | (new) | 516  |
| 11  | 15   | 9    | (new) | 510  |
| 11-a | (new) | 2, 3, 4 | (new) | 436  |
| 12  | 2    | 2, 3, 4 | (new) | 305  |
| 12  | 5    | 2    | (new) | 390  |
| 13  | 1    | 2, 3 | (new) | 84   |
| 13  | 3    | 4, 7 | (new) | 986  |
| 14  | 2    | 1-28 | (new) | 379  |
| 15  | 2    | 1    | (new) | 112  |
| 15  | 2    | 2, 3 | (new) | 389  |
| 15  | 3    | (new) | (new) | 387  |
| 15  | 4    | (new) | (new) | 294  |
|     |      |      |       | 287  |</p>
<table>
<thead>
<tr>
<th>Ch.</th>
<th>Art.</th>
<th>Sec.</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>2</td>
<td>28</td>
<td>(Pension fund, dept. of public safety)</td>
<td>384</td>
</tr>
<tr>
<td>18</td>
<td>2</td>
<td>9</td>
<td>(Teaching Americanism and temperance in schools)</td>
<td>176</td>
</tr>
<tr>
<td>18</td>
<td>4</td>
<td>1, 2, 9, 10</td>
<td>(Election, etc., of county superintendents)</td>
<td>149</td>
</tr>
<tr>
<td>18</td>
<td>5</td>
<td></td>
<td>(Non-partisan election of school board members)</td>
<td>187</td>
</tr>
<tr>
<td>18</td>
<td>5</td>
<td>21</td>
<td>(Free textbooks in schools)</td>
<td>152</td>
</tr>
<tr>
<td>18</td>
<td>5</td>
<td>13-a</td>
<td>(County director of instrumental music)</td>
<td>142</td>
</tr>
<tr>
<td>18</td>
<td>5</td>
<td>32</td>
<td>(Election, etc., of county superintendents)</td>
<td>149</td>
</tr>
<tr>
<td>18</td>
<td>7</td>
<td>2</td>
<td>(Teachers salaries)</td>
<td>173</td>
</tr>
<tr>
<td>18</td>
<td>7</td>
<td>23-27-a, 30, 32</td>
<td>(Certification of teachers)</td>
<td>142</td>
</tr>
<tr>
<td>18</td>
<td>7-a</td>
<td></td>
<td>(Teachers' retirement system)</td>
<td>159</td>
</tr>
<tr>
<td>18</td>
<td>8</td>
<td>5-a (new)</td>
<td>(Compulsory school attendance)</td>
<td>148</td>
</tr>
<tr>
<td>18</td>
<td>9</td>
<td>3</td>
<td>(Collection, etc., of school money by sheriff)</td>
<td>107</td>
</tr>
<tr>
<td>18</td>
<td>9</td>
<td>5</td>
<td>(Investment of the school fund)</td>
<td>355</td>
</tr>
<tr>
<td>18</td>
<td>9-a</td>
<td>5, 11</td>
<td>(Allocation of state aid for schools)</td>
<td>140, 157</td>
</tr>
<tr>
<td>18</td>
<td>9-a</td>
<td>5</td>
<td>(Public school finance)</td>
<td>158</td>
</tr>
<tr>
<td>18</td>
<td>9-b</td>
<td>11-a (new)</td>
<td>(State aid for schools—attendance adjustments)</td>
<td>159</td>
</tr>
<tr>
<td>18</td>
<td>15</td>
<td>1</td>
<td>(West Virginia Institute of Technology)</td>
<td>87</td>
</tr>
<tr>
<td>19</td>
<td>7</td>
<td>9 (new)</td>
<td>(Greenbrier valley fair designated as the state fair)</td>
<td>435</td>
</tr>
<tr>
<td>19</td>
<td>8</td>
<td>1</td>
<td>(County and home demonstration agents)</td>
<td>1</td>
</tr>
<tr>
<td>20</td>
<td>3</td>
<td>10</td>
<td>(Game, birds, fish and frogs)</td>
<td>248</td>
</tr>
<tr>
<td>21-a</td>
<td>(1, 2, 4, 5, (6, 9, 10</td>
<td>(Unemployment compensation)</td>
<td>392</td>
<td></td>
</tr>
<tr>
<td>21-a</td>
<td>1-a</td>
<td></td>
<td>(new) (Unemployment compensation)</td>
<td>412</td>
</tr>
<tr>
<td>22</td>
<td>1</td>
<td>7, 9-12</td>
<td>(Mine inspection and rescue work)</td>
<td>302</td>
</tr>
<tr>
<td>22</td>
<td>6</td>
<td></td>
<td>(new) (Miners' examining boards)</td>
<td>297</td>
</tr>
<tr>
<td>23</td>
<td>4</td>
<td>3</td>
<td>(Workmen's Compensation)</td>
<td>433</td>
</tr>
<tr>
<td>28</td>
<td>5-b</td>
<td>15</td>
<td>(Sale of prison-made goods)</td>
<td>330</td>
</tr>
<tr>
<td>29</td>
<td>10</td>
<td></td>
<td>(State planning board)</td>
<td>358</td>
</tr>
<tr>
<td>30</td>
<td>6</td>
<td>3-10</td>
<td>(Funeral directors and embalmers)</td>
<td>232</td>
</tr>
<tr>
<td>31</td>
<td>5</td>
<td>5</td>
<td>(General powers of indemnity companies)</td>
<td>275</td>
</tr>
<tr>
<td>32</td>
<td>3</td>
<td></td>
<td>(Face-amount certificates)</td>
<td>244</td>
</tr>
<tr>
<td>33</td>
<td>3</td>
<td>3</td>
<td>(Valuation of life insurance policies)</td>
<td>283</td>
</tr>
<tr>
<td>33</td>
<td>3</td>
<td>35 (new)</td>
<td>(Deposit of securities with treasurer by life insurance companies)</td>
<td>274</td>
</tr>
<tr>
<td>33</td>
<td>3</td>
<td>25 (new)</td>
<td>(Life insurance contracts by minors)</td>
<td>276</td>
</tr>
</tbody>
</table>
### CODE AMENDED (Continued):

<table>
<thead>
<tr>
<th>Ch.</th>
<th>Art.</th>
<th>Sec.</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>33</td>
<td>10</td>
<td>4</td>
<td>(Powers of automobile mutual insurance companies)</td>
<td>277</td>
</tr>
<tr>
<td>33</td>
<td>10</td>
<td>14</td>
<td>(Taxable premiums of automobile mutual insurance companies)</td>
<td>282</td>
</tr>
<tr>
<td>33</td>
<td>13</td>
<td>4</td>
<td>(Standard provisions of group insurance policies)</td>
<td>279</td>
</tr>
<tr>
<td>33</td>
<td>10-a</td>
<td>8</td>
<td>(Liens of federal agencies)</td>
<td>3</td>
</tr>
<tr>
<td>44</td>
<td>15</td>
<td>14</td>
<td>(Commitments to veterans administration)</td>
<td>520</td>
</tr>
<tr>
<td>48</td>
<td>1</td>
<td>17</td>
<td>(Marriage out of state to evade law)</td>
<td>140</td>
</tr>
<tr>
<td>48</td>
<td>4</td>
<td>1-12</td>
<td>(Adoption of minors and adults)</td>
<td>135</td>
</tr>
<tr>
<td>49</td>
<td>1-7</td>
<td></td>
<td>(Child welfare)</td>
<td>331</td>
</tr>
<tr>
<td>49</td>
<td>7</td>
<td>3</td>
<td>(Child welfare)</td>
<td>352</td>
</tr>
<tr>
<td>51</td>
<td>2</td>
<td></td>
<td>(Judicial circuits and terms of court)</td>
<td>109</td>
</tr>
<tr>
<td>52</td>
<td>1</td>
<td>23, 24</td>
<td>(Allowances to jurors)</td>
<td>285</td>
</tr>
<tr>
<td>55</td>
<td>13</td>
<td></td>
<td>(Uniform declaratory judgment act)</td>
<td>131</td>
</tr>
<tr>
<td>60</td>
<td>3</td>
<td>18</td>
<td>(Funds of liquor control commission)</td>
<td>369</td>
</tr>
<tr>
<td>60</td>
<td>3</td>
<td>19</td>
<td>(Funds of liquor control commission, distribution to municipalities)</td>
<td>328</td>
</tr>
<tr>
<td>61</td>
<td>3</td>
<td>49-a</td>
<td>(Sale of second-hand watches and clocks)</td>
<td>127</td>
</tr>
<tr>
<td>61</td>
<td>7</td>
<td>5</td>
<td>(State license to carry weapons)</td>
<td>130</td>
</tr>
<tr>
<td>61</td>
<td>10</td>
<td>10</td>
<td>(Pool tickets and chance vouchers)</td>
<td>126</td>
</tr>
<tr>
<td>61</td>
<td>11</td>
<td>16</td>
<td>(Sentences for felonies)</td>
<td>124</td>
</tr>
<tr>
<td>62</td>
<td>2</td>
<td>5</td>
<td>(Indictment for embezzlement)</td>
<td>128</td>
</tr>
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</table>

### CODE REPEALED:

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<thead>
<tr>
<th>Ch.</th>
<th>Art.</th>
<th>Sec.</th>
<th>Description</th>
<th>Page</th>
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</thead>
<tbody>
<tr>
<td>3</td>
<td>4</td>
<td>2</td>
<td>(Elections)</td>
<td>217</td>
</tr>
<tr>
<td>3</td>
<td>7</td>
<td>13, 23</td>
<td>(Registration of voters)</td>
<td>230, 231</td>
</tr>
<tr>
<td>7</td>
<td>1</td>
<td>5</td>
<td>(Duties and salaries of county commissioners)</td>
<td>96</td>
</tr>
<tr>
<td>8</td>
<td>3</td>
<td>7</td>
<td>(Registration of voters)</td>
<td>216</td>
</tr>
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<td>9</td>
<td>2, 5</td>
<td>15, 15, 34</td>
<td>(Public assistance)</td>
<td>343</td>
</tr>
<tr>
<td>11</td>
<td>9, 10</td>
<td></td>
<td>(Sale of real estate for taxes)</td>
<td>436</td>
</tr>
<tr>
<td>12</td>
<td>3</td>
<td>3</td>
<td>(Claims against the state)</td>
<td>112</td>
</tr>
<tr>
<td>14</td>
<td>2</td>
<td>1-5</td>
<td>(Claims against the state)</td>
<td>112</td>
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<td>18</td>
<td>7</td>
<td>16-22</td>
<td>(Certification of teachers)</td>
<td>142</td>
</tr>
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<td>21-a</td>
<td>5</td>
<td>11</td>
<td>(Unemployment compensation)</td>
<td>392</td>
</tr>
<tr>
<td>22</td>
<td>2</td>
<td>52a-52d</td>
<td>(Certificates of experience and qualification for coal miners)</td>
<td>302</td>
</tr>
<tr>
<td>33</td>
<td>9</td>
<td></td>
<td>(Annuity contracts)</td>
<td>244</td>
</tr>
<tr>
<td>37</td>
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<td>(Sale of real estate for taxes)</td>
<td>436</td>
</tr>
<tr>
<td>47</td>
<td>2</td>
<td>1-a</td>
<td>(Trade-marks on jewelry, etc.)</td>
<td>519</td>
</tr>
<tr>
<td>49</td>
<td>7</td>
<td>1</td>
<td>(Child welfare)</td>
<td>331</td>
</tr>
<tr>
<td>Index to Acts</td>
<td>Sec.</td>
<td>Page</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------------------------------------------------------------------</td>
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<td>Director of the state fair</td>
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<td>436</td>
<td></td>
<td></td>
</tr>
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<td>Member state planning board</td>
<td>2</td>
<td>359</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>COMMISSIONER OF HEALTH:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>Member Potomac river basin commission</td>
<td>1</td>
<td>365</td>
<td></td>
<td></td>
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<td>2</td>
<td>359</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>COMMISSIONER OF LABOR:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appointment, qualifications, term, salary</td>
<td>2</td>
<td>362</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CONSERVATION COMMISSIONER:</strong></td>
<td></td>
<td></td>
<td></td>
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<td>(See County Clerks, Additional Bonds)</td>
<td></td>
<td></td>
<td></td>
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<td>2</td>
<td>359</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CONSTITUTION, STATE:</strong></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Proposed amendment</td>
<td>1</td>
<td>89</td>
<td></td>
<td></td>
</tr>
<tr>
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<td>3</td>
<td>90</td>
<td></td>
<td></td>
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<tr>
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<td>4</td>
<td>91</td>
<td></td>
<td></td>
</tr>
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<td>5</td>
<td>92</td>
<td></td>
<td></td>
</tr>
<tr>
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<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>name</td>
<td>2</td>
<td>90</td>
<td></td>
<td></td>
</tr>
<tr>
<td>publication</td>
<td>6</td>
<td>92</td>
<td></td>
<td></td>
</tr>
<tr>
<td>submitted to voters</td>
<td>1</td>
<td>89</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CONSUMERS SALES TAX:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sales exempt from tax</td>
<td>9</td>
<td>510</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CONVICTS:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sentence for offenses committed in penitentiary</td>
<td>16</td>
<td>125</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CORRUPT PRACTICES IN ELECTIONS:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(See Elections)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>COUNTY AND HOME DEMONSTRATION AGENTS:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employment by county court</td>
<td>1</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries and expenses, payment</td>
<td>1</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Selection by farm bureau</td>
<td>1</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>COUNTY CLERKS:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additional bond required</td>
<td>10-a</td>
<td>93</td>
<td></td>
<td></td>
</tr>
<tr>
<td>amount</td>
<td>10-a</td>
<td>94</td>
<td></td>
<td></td>
</tr>
<tr>
<td>by auditor and conservation commissioner</td>
<td>10-a</td>
<td>93</td>
<td></td>
<td></td>
</tr>
<tr>
<td>corporate surety</td>
<td>10-a</td>
<td>94</td>
<td></td>
<td></td>
</tr>
<tr>
<td>payment of premiums</td>
<td>10-a</td>
<td>94</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>COUNTY COURTS:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(See under names of particular counties)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appointment of assistant prosecutors, etc.</td>
<td>6</td>
<td>103</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction of sewers, water works, etc.</td>
<td>3-a</td>
<td>102</td>
<td></td>
<td></td>
</tr>
<tr>
<td>County Courts (Continued):</td>
<td>Sec.</td>
<td>Page</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---------------------------</td>
<td>------</td>
<td>------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contracts with municipalities</td>
<td>3-a</td>
<td>102</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Duties</td>
<td>5</td>
<td>97</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries</td>
<td>5-(1)-5(54)</td>
<td>98-101</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>County Superintendent of Schools:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistants</td>
<td></td>
</tr>
<tr>
<td>employment by board</td>
<td>32</td>
</tr>
<tr>
<td>negro assistant, when appointed</td>
<td>32</td>
</tr>
<tr>
<td>number</td>
<td>32</td>
</tr>
<tr>
<td>qualifications</td>
<td>32</td>
</tr>
<tr>
<td>term</td>
<td>32</td>
</tr>
<tr>
<td>traveling expenses</td>
<td>32</td>
</tr>
<tr>
<td>Duties</td>
<td>10</td>
</tr>
<tr>
<td>Election by board of education</td>
<td>1</td>
</tr>
<tr>
<td>certification to state superintendent</td>
<td>1</td>
</tr>
<tr>
<td>date</td>
<td>1</td>
</tr>
<tr>
<td>Health certificate</td>
<td>2</td>
</tr>
<tr>
<td>Qualifications</td>
<td>2</td>
</tr>
<tr>
<td>Traveling expenses</td>
<td></td>
</tr>
<tr>
<td>reimbursement, amount</td>
<td>9</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>County Treasury:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Orders on, signing</td>
<td>4, 3</td>
</tr>
<tr>
<td>mechanical or electrical device</td>
<td>4, 3</td>
</tr>
<tr>
<td>safe keeping of</td>
<td>4, 3</td>
</tr>
<tr>
<td>unauthorized use of, penalty</td>
<td>4, 3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Court of Claims:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney general to represent state</td>
<td>11</td>
</tr>
<tr>
<td>Awards by</td>
<td></td>
</tr>
<tr>
<td>inclusion in budget</td>
<td>23</td>
</tr>
<tr>
<td>Claims</td>
<td></td>
</tr>
<tr>
<td>fraudulent, penalty</td>
<td>26</td>
</tr>
<tr>
<td>limitation of time</td>
<td>21</td>
</tr>
<tr>
<td>under existing appropriation</td>
<td>19</td>
</tr>
<tr>
<td>under special appropriation</td>
<td>20</td>
</tr>
<tr>
<td>Clerk</td>
<td></td>
</tr>
<tr>
<td>duties</td>
<td>5, 25</td>
</tr>
<tr>
<td>Created</td>
<td>4</td>
</tr>
<tr>
<td>Definitions</td>
<td>2</td>
</tr>
<tr>
<td>Judges of</td>
<td></td>
</tr>
<tr>
<td>alternates</td>
<td></td>
</tr>
<tr>
<td>number, services, terms</td>
<td>4</td>
</tr>
<tr>
<td>appointment</td>
<td>4</td>
</tr>
<tr>
<td>vacancies</td>
<td>4</td>
</tr>
<tr>
<td>compensation</td>
<td>8</td>
</tr>
<tr>
<td>oath</td>
<td>9</td>
</tr>
<tr>
<td>presiding</td>
<td>4</td>
</tr>
</tbody>
</table>
### INDEX TO ACTS

**COURT OF CLAIMS (Continued):**

<table>
<thead>
<tr>
<th>Topic</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>qualifications</td>
<td>4, 10</td>
<td>114, 116</td>
</tr>
<tr>
<td>terms</td>
<td>4</td>
<td>114</td>
</tr>
<tr>
<td>Jurisdiction</td>
<td>13</td>
<td>117</td>
</tr>
<tr>
<td>Limitation on powers</td>
<td>3, 4, 14</td>
<td>113, 114, 117</td>
</tr>
<tr>
<td>Meeting place</td>
<td>7</td>
<td>115</td>
</tr>
<tr>
<td>Powers</td>
<td>12</td>
<td>116</td>
</tr>
<tr>
<td>Procedure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>advisory determination</td>
<td>18</td>
<td>120</td>
</tr>
<tr>
<td>regular</td>
<td>16</td>
<td>118</td>
</tr>
<tr>
<td>rules of</td>
<td>15</td>
<td>118</td>
</tr>
<tr>
<td>shortened</td>
<td>17</td>
<td>119</td>
</tr>
<tr>
<td>Process</td>
<td>22</td>
<td>122</td>
</tr>
<tr>
<td>aid of circuit court</td>
<td>22</td>
<td>122</td>
</tr>
<tr>
<td>Purpose</td>
<td>1, 4</td>
<td>113, 114</td>
</tr>
<tr>
<td>Records</td>
<td>24</td>
<td>123</td>
</tr>
<tr>
<td>Terms</td>
<td>6</td>
<td>115</td>
</tr>
</tbody>
</table>

**CRONIG, PETE:**
Reopening compensation case of 1 433

**DACIEK, LEO:**
Reopening compensation case of 1 426

**DANGEROUS WEAPONS:**
(See Bonds) 130

**DEAN, A. T.:**
Reopening compensation case of 1 415

**DEBT LEVIES NOT REQUIRED:**
Increase of current expense levies 7 519

**DECLARATORY JUDGMENTS:**
Act
<table>
<thead>
<tr>
<th>Topic</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>citation</td>
<td>16</td>
<td>135</td>
</tr>
<tr>
<td>construction</td>
<td>12, 15</td>
<td>134, 135</td>
</tr>
<tr>
<td>provisions severable</td>
<td>14</td>
<td>134</td>
</tr>
<tr>
<td>Attorney general</td>
<td></td>
<td></td>
</tr>
<tr>
<td>when entitled to be heard</td>
<td>11</td>
<td>134</td>
</tr>
<tr>
<td>Costs</td>
<td>10</td>
<td>134</td>
</tr>
<tr>
<td>Declaration of right or status</td>
<td></td>
<td></td>
</tr>
<tr>
<td>concerning deeds and wills</td>
<td>2</td>
<td>132</td>
</tr>
<tr>
<td>contracts, before or after breach</td>
<td>2, 3</td>
<td>132, 133</td>
</tr>
<tr>
<td>trusts and estates</td>
<td>4</td>
<td>133</td>
</tr>
<tr>
<td>further relief on petition</td>
<td>8</td>
<td>133</td>
</tr>
<tr>
<td>parties to action</td>
<td>11</td>
<td>134</td>
</tr>
<tr>
<td>municipalities</td>
<td>11</td>
<td>134</td>
</tr>
<tr>
<td>powers of court to render</td>
<td>1</td>
<td>132</td>
</tr>
<tr>
<td>when not restricted</td>
<td>5</td>
<td>133</td>
</tr>
<tr>
<td>Declaratory Judgments (Continued):</td>
<td>Sec.</td>
<td>Page</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>refusal to render</td>
<td>6</td>
<td>133</td>
</tr>
<tr>
<td>Review of decrees, etc.</td>
<td>7</td>
<td>133</td>
</tr>
<tr>
<td>Definition</td>
<td>13</td>
<td>134</td>
</tr>
<tr>
<td>Issue of fact, determination</td>
<td>9</td>
<td>134</td>
</tr>
</tbody>
</table>

**Defense:**

(See Housing Authorities) ........................................ 268
(See Military Service) ........................................... 292
(See State Guard) .................................................. 287
(See State Council of Defense) ................. 294

**Department of Public Safety (State Police):**

Civilian employees ........................................... 2 387
Members
- bonds .......................................................... 3 389
- companies or platoons .................................... 3 388
- personnel .................................................... 3 388
- headquarters and supply sergeants .................. 2 387
- inspector .................................................... 2 387
- salaries .................................................... 3 388
  - basic and advanced .................................... 3 388
Members at capital .................................................. 1 390
Pension fund
- accounting system .......................................... 28(h) 386
- board of ...................................................... 28 384
- awards by ..................................................... 28 384
- payments from .............................................. 28(b-g) 384
Superintendent
- age .............................................................. 1 390
- appointments by ........................................... 2 387
- appointment of ............................................ 1 390
- authorized to settle claim of
  Velma Jane Valentine ........................................ 1 382
  Trooper M. C. Yoak .......................................... 1 381
- bond ........................................................... 1 390
- oath ............................................................ 1 390

**Dingess, Norwood:**

Road commission to settle claim of ...................... 1 374

**Director of Instrumental Music:**

County boards of education may appoint .................. 1 142

**Director of the Budget:**

(See Court of Claims) ........................................... 23 122

**Dunning, M. W.:**

Reopening compensation case of ......................... 1 428
<table>
<thead>
<tr>
<th>EDUCATION:</th>
<th>Sec.</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>(See Boards of Education)</td>
<td></td>
<td>187</td>
</tr>
<tr>
<td>(See County Superintendents)</td>
<td></td>
<td>149</td>
</tr>
<tr>
<td>Schools</td>
<td></td>
<td></td>
</tr>
<tr>
<td>attendance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>adjustments in schedules</td>
<td>11-a</td>
<td>159</td>
</tr>
<tr>
<td>when pupil unlawfully absent</td>
<td>5-a</td>
<td>148</td>
</tr>
<tr>
<td>prosecution</td>
<td>5-a</td>
<td>149</td>
</tr>
<tr>
<td>courses of study</td>
<td>9</td>
<td>176</td>
</tr>
<tr>
<td>Americanism and temperance</td>
<td>9</td>
<td>176</td>
</tr>
<tr>
<td>state board of education</td>
<td>9</td>
<td>177</td>
</tr>
<tr>
<td>to prescribe</td>
<td>9</td>
<td>177</td>
</tr>
<tr>
<td>violation, penalty</td>
<td>9</td>
<td>177</td>
</tr>
<tr>
<td>free textbooks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>appropriation for</td>
<td>21-c</td>
<td>154</td>
</tr>
<tr>
<td>county board may supplement</td>
<td>21-d</td>
<td>156</td>
</tr>
<tr>
<td>distribution by state superintendent</td>
<td>21-c</td>
<td>154</td>
</tr>
<tr>
<td>separate account</td>
<td>21-d</td>
<td>155</td>
</tr>
<tr>
<td>use of, by county board of education</td>
<td>21-d</td>
<td>155, 156</td>
</tr>
<tr>
<td>withholding</td>
<td>21-e</td>
<td>157</td>
</tr>
<tr>
<td>delivery to and return by teachers</td>
<td>21</td>
<td>153</td>
</tr>
<tr>
<td>duties of county superintendent</td>
<td>21</td>
<td>153</td>
</tr>
<tr>
<td>purchase by county board of education</td>
<td>21</td>
<td>153</td>
</tr>
<tr>
<td>grade and subject preference</td>
<td>21-d</td>
<td>155</td>
</tr>
<tr>
<td>used books</td>
<td>21-d</td>
<td>156</td>
</tr>
<tr>
<td>replacement by pupil</td>
<td>21</td>
<td>154</td>
</tr>
<tr>
<td>rules for care and use</td>
<td></td>
<td></td>
</tr>
<tr>
<td>prescribed by state board of education</td>
<td>21-e</td>
<td>157</td>
</tr>
<tr>
<td>to whom furnished</td>
<td>21-a, 21-b</td>
<td>154</td>
</tr>
<tr>
<td>state aid to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>allocation to counties by board of finance</td>
<td>11</td>
<td>141</td>
</tr>
<tr>
<td>foundation program, computation</td>
<td>5</td>
<td>158</td>
</tr>
<tr>
<td>teachers certificates</td>
<td></td>
<td></td>
</tr>
<tr>
<td>administrative</td>
<td>27</td>
<td>145</td>
</tr>
<tr>
<td>approval of state board</td>
<td>27-a</td>
<td>145</td>
</tr>
<tr>
<td>elementary, classes</td>
<td>24</td>
<td>143</td>
</tr>
<tr>
<td>fees</td>
<td>31</td>
<td>147</td>
</tr>
<tr>
<td>high school, classes</td>
<td>25</td>
<td>144</td>
</tr>
<tr>
<td>issuance by state superintendent</td>
<td>23</td>
<td>143</td>
</tr>
<tr>
<td>renewals, conditions</td>
<td>30</td>
<td>146</td>
</tr>
<tr>
<td>repeal of conflicting acts</td>
<td>32</td>
<td>147</td>
</tr>
<tr>
<td>revocation, causes</td>
<td>32</td>
<td>147</td>
</tr>
<tr>
<td>valid in both elementary and high schools</td>
<td>26</td>
<td>145</td>
</tr>
<tr>
<td>retirement system</td>
<td></td>
<td></td>
</tr>
<tr>
<td>accumulated contributions, disposition</td>
<td>24</td>
<td>170</td>
</tr>
<tr>
<td>Term</td>
<td>Sec.</td>
<td>Page</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>constitutionality</td>
<td>33</td>
<td>173</td>
</tr>
<tr>
<td>definitions</td>
<td>3</td>
<td>160</td>
</tr>
<tr>
<td>established</td>
<td>1</td>
<td>160</td>
</tr>
<tr>
<td>fraudulent statements, penalty</td>
<td>29</td>
<td>172</td>
</tr>
<tr>
<td>funds created, defined</td>
<td>18</td>
<td>167</td>
</tr>
<tr>
<td>benefit, transfers to</td>
<td>18(c)</td>
<td>168</td>
</tr>
<tr>
<td>custodian, bond</td>
<td>19</td>
<td>168</td>
</tr>
<tr>
<td>disbursements, manner</td>
<td>19</td>
<td>168</td>
</tr>
<tr>
<td>employers' accumulation, payments</td>
<td>16, 18(b)</td>
<td>166, 168</td>
</tr>
<tr>
<td>exemption from taxation, etc.</td>
<td>30</td>
<td>172</td>
</tr>
<tr>
<td>expense</td>
<td>18(e)</td>
<td>168</td>
</tr>
<tr>
<td>investment of</td>
<td>20</td>
<td>169</td>
</tr>
<tr>
<td>misuse of, penalties</td>
<td>21</td>
<td>169</td>
</tr>
<tr>
<td>reserve</td>
<td>18(d)</td>
<td>168</td>
</tr>
<tr>
<td>teachers' accumulation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contributions to, collection</td>
<td>14, 15</td>
<td>165, 166</td>
</tr>
<tr>
<td>membership, eligibility</td>
<td>13</td>
<td>165</td>
</tr>
<tr>
<td>prior services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>allowance for</td>
<td>26(c)(1)</td>
<td>171</td>
</tr>
<tr>
<td>certificates</td>
<td>17</td>
<td>167</td>
</tr>
<tr>
<td>pensions, eligibility</td>
<td>22</td>
<td>170</td>
</tr>
<tr>
<td>retirement allowance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>amount</td>
<td>26</td>
<td>171</td>
</tr>
<tr>
<td>eligibility for</td>
<td>25</td>
<td>171</td>
</tr>
<tr>
<td>interest on</td>
<td>27</td>
<td>172</td>
</tr>
<tr>
<td>options to beneficiaries</td>
<td>28</td>
<td>172</td>
</tr>
<tr>
<td>request for</td>
<td>25</td>
<td>171</td>
</tr>
<tr>
<td>supplemental benefits</td>
<td>2</td>
<td>160</td>
</tr>
<tr>
<td>teachers' retirement board</td>
<td></td>
<td></td>
</tr>
<tr>
<td>attorney general legal adviser to</td>
<td>8</td>
<td>163</td>
</tr>
<tr>
<td>compensation</td>
<td>6</td>
<td>163</td>
</tr>
<tr>
<td>gifts and bequests to</td>
<td>18(d)</td>
<td>168</td>
</tr>
<tr>
<td>meetings</td>
<td>9</td>
<td>163</td>
</tr>
<tr>
<td>members</td>
<td>5</td>
<td>163</td>
</tr>
<tr>
<td>powers</td>
<td>4</td>
<td>162</td>
</tr>
<tr>
<td>quorum</td>
<td>7</td>
<td>163</td>
</tr>
<tr>
<td>records</td>
<td>11</td>
<td>164</td>
</tr>
<tr>
<td>reports by</td>
<td>12</td>
<td>164</td>
</tr>
<tr>
<td>secretary and other employees</td>
<td>10</td>
<td>164</td>
</tr>
<tr>
<td>terms</td>
<td>5</td>
<td>163</td>
</tr>
<tr>
<td>vacancies</td>
<td>5</td>
<td>163</td>
</tr>
<tr>
<td>withdrawal and death benefits</td>
<td>23</td>
<td>170</td>
</tr>
<tr>
<td>unexpended prior appropriations</td>
<td>31</td>
<td>172</td>
</tr>
<tr>
<td>salaries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>advanced</td>
<td>2(b)</td>
<td>174</td>
</tr>
<tr>
<td>credit for military service, etc.</td>
<td>2</td>
<td>175</td>
</tr>
<tr>
<td>basic</td>
<td>2(a)</td>
<td>174</td>
</tr>
</tbody>
</table>
### INDEX TO ACTS

<table>
<thead>
<tr>
<th>EDUCATION (Continued):</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>colored teachers</td>
<td>2</td>
<td>175</td>
</tr>
<tr>
<td>uniform</td>
<td>2</td>
<td>175</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EIGHTH JUDICIAL CIRCUIT:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Terms of court</td>
<td>1-h</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ELECTIONS:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(See Boards of Education)</td>
<td>187</td>
</tr>
<tr>
<td>(See Registration of voters)</td>
<td>195, 216</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Absentees, voting by</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>canvass of ballots</td>
<td>10</td>
</tr>
<tr>
<td>challenge</td>
<td>10</td>
</tr>
<tr>
<td>notice to voter</td>
<td>10</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Announcement of candidacy</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>certification and posting</td>
<td>8</td>
</tr>
<tr>
<td>form</td>
<td>8</td>
</tr>
<tr>
<td>time</td>
<td>8</td>
</tr>
<tr>
<td>filing, place and time</td>
<td>6</td>
</tr>
<tr>
<td>form</td>
<td>6</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Applicability of chapter</th>
<th>1</th>
<th>195</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Ballot boxes</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>examination</td>
<td>12</td>
</tr>
<tr>
<td>number</td>
<td>16</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ballots and supplies</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>clerk of county court to provide</td>
<td>12</td>
</tr>
<tr>
<td>delivery to commissioner</td>
<td>13</td>
</tr>
<tr>
<td>per diem and mileage</td>
<td>13</td>
</tr>
<tr>
<td>receipt for</td>
<td>13</td>
</tr>
<tr>
<td>unvoted, destruction</td>
<td>29</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Challenges at polls</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>by receiving board</td>
<td>17-a</td>
</tr>
<tr>
<td>malicious or frivolous</td>
<td>12-b</td>
</tr>
<tr>
<td>permitted to vote</td>
<td>25-a</td>
</tr>
<tr>
<td>counting ballot</td>
<td>31-a</td>
</tr>
<tr>
<td>record of</td>
<td>19-a</td>
</tr>
<tr>
<td>removal</td>
<td>19-a</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Corrupt practices in</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>campaign expenditures, limitation</td>
<td>16</td>
</tr>
<tr>
<td>exceeding, penalty</td>
<td>11-a, 16</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>contributions</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>by state contractors, penalty</td>
<td>17</td>
</tr>
<tr>
<td>limitations</td>
<td>16</td>
</tr>
<tr>
<td>exceeding, penalty</td>
<td>16</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>soliciting</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>by state contractors, penalty</td>
<td>17</td>
</tr>
<tr>
<td>non-elective state employees, penalty</td>
<td>14</td>
</tr>
</tbody>
</table>

<p>| voluntary, by state employees | 14 | 185 |
| definitions                  | 18   | 186  |</p>
<table>
<thead>
<tr>
<th>Topic</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>destruction of affidavits, etc.</td>
<td>39</td>
<td>228</td>
</tr>
<tr>
<td>intimidation of state employees, penalty</td>
<td>14</td>
<td>185</td>
</tr>
<tr>
<td>penalties, to whom apply</td>
<td>19</td>
<td>187</td>
</tr>
<tr>
<td>promise of employment or benefits, penalty</td>
<td>15</td>
<td>185</td>
</tr>
<tr>
<td>under existing laws</td>
<td>20</td>
<td>187</td>
</tr>
<tr>
<td><strong>Municipalities</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>home rule charter</td>
<td></td>
<td></td>
</tr>
<tr>
<td>elections</td>
<td>7</td>
<td>231</td>
</tr>
<tr>
<td>date</td>
<td>7</td>
<td>231</td>
</tr>
<tr>
<td>provisions for</td>
<td>7</td>
<td>231</td>
</tr>
<tr>
<td>ordinances concerning registration</td>
<td>14</td>
<td>231</td>
</tr>
<tr>
<td>registration record</td>
<td></td>
<td></td>
</tr>
<tr>
<td>delivery and return</td>
<td>13-a</td>
<td>223</td>
</tr>
<tr>
<td>in contested elections</td>
<td>13-a</td>
<td>223</td>
</tr>
<tr>
<td>receipts</td>
<td>13-a</td>
<td>223</td>
</tr>
<tr>
<td>replacement</td>
<td>13-a</td>
<td>223</td>
</tr>
<tr>
<td><strong>Nomination by certificate</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>canvassers for signatures</td>
<td></td>
<td></td>
</tr>
<tr>
<td>credentials, form</td>
<td>29(d)</td>
<td>182</td>
</tr>
<tr>
<td>record of</td>
<td>29(b)</td>
<td>181</td>
</tr>
<tr>
<td>qualifications</td>
<td>29(b)</td>
<td>181</td>
</tr>
<tr>
<td>certificates</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ascertaining validity</td>
<td>29(e)</td>
<td>183</td>
</tr>
<tr>
<td>form</td>
<td>29(d)</td>
<td>182</td>
</tr>
<tr>
<td>declaration of candidate</td>
<td>29</td>
<td>180</td>
</tr>
<tr>
<td>penalties</td>
<td>29(f)</td>
<td>183</td>
</tr>
<tr>
<td>signers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ineligible to vote in primary</td>
<td>29(c)</td>
<td>182</td>
</tr>
<tr>
<td>number and qualifications</td>
<td>29(c)</td>
<td>182</td>
</tr>
<tr>
<td><strong>Polls</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>challenges at</td>
<td>17-a</td>
<td>220</td>
</tr>
<tr>
<td>closing, manner and time</td>
<td>16</td>
<td>224</td>
</tr>
<tr>
<td>fraudulent conduct of officers</td>
<td>12-a</td>
<td>230</td>
</tr>
<tr>
<td>opening, manner and time</td>
<td>16</td>
<td>224</td>
</tr>
<tr>
<td><strong>Primary</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ballots and supplies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>delivery to commissioner</td>
<td>13</td>
<td>217</td>
</tr>
<tr>
<td>by messenger</td>
<td>13</td>
<td>218</td>
</tr>
<tr>
<td>per diem and mileage</td>
<td>13</td>
<td>219</td>
</tr>
<tr>
<td>number of ballots</td>
<td>13</td>
<td>218</td>
</tr>
<tr>
<td>challenges at polls</td>
<td></td>
<td></td>
</tr>
<tr>
<td>by receiving board</td>
<td>17-a</td>
<td>220</td>
</tr>
<tr>
<td>permitted to vote</td>
<td>17-b</td>
<td>221</td>
</tr>
<tr>
<td>counting ballots</td>
<td>18-a</td>
<td>221</td>
</tr>
<tr>
<td>record of</td>
<td>17-c</td>
<td>221</td>
</tr>
<tr>
<td>removal</td>
<td>17-c</td>
<td>221</td>
</tr>
</tbody>
</table>
**ELECTIONS (Continued):**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>municipalities</td>
<td></td>
</tr>
<tr>
<td>precinct registration record</td>
<td>13-a 219</td>
</tr>
<tr>
<td>delivery and return</td>
<td>13-a 219</td>
</tr>
<tr>
<td>in contested elections</td>
<td>13-a 219</td>
</tr>
<tr>
<td>receipts for replacement</td>
<td>13-a 219</td>
</tr>
<tr>
<td>poll books</td>
<td></td>
</tr>
<tr>
<td>delivery</td>
<td>13 218</td>
</tr>
<tr>
<td>form</td>
<td>13 218</td>
</tr>
<tr>
<td>number</td>
<td>13 218</td>
</tr>
<tr>
<td>recount procedure</td>
<td>20-a 221</td>
</tr>
<tr>
<td>voting</td>
<td></td>
</tr>
<tr>
<td>method</td>
<td>17 219</td>
</tr>
<tr>
<td>minors</td>
<td>1-a 196</td>
</tr>
<tr>
<td>record</td>
<td>17-c 221</td>
</tr>
<tr>
<td>Voters</td>
<td></td>
</tr>
<tr>
<td>assistance to</td>
<td>21 227</td>
</tr>
<tr>
<td>challenge</td>
<td>25, 25-a 227</td>
</tr>
<tr>
<td>qualifications</td>
<td>1-a 195</td>
</tr>
<tr>
<td>minors, in primary</td>
<td>1-a 196</td>
</tr>
<tr>
<td>signing poll book by</td>
<td>19 224</td>
</tr>
<tr>
<td>assistance to</td>
<td>19 224</td>
</tr>
<tr>
<td>Voting, method</td>
<td>19 224</td>
</tr>
<tr>
<td>marking ballot</td>
<td>19 225</td>
</tr>
<tr>
<td>record of</td>
<td>19-a 227</td>
</tr>
<tr>
<td>when challenged</td>
<td>25-a 227</td>
</tr>
</tbody>
</table>

**ELEVENTH JUDICIAL CIRCUIT:**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Terms of court</td>
<td>1-k 111</td>
</tr>
</tbody>
</table>

**EMBALMERS AND FUNERAL DIRECTORS:**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act</td>
<td></td>
</tr>
<tr>
<td>construction</td>
<td>8 243</td>
</tr>
<tr>
<td>violation, penalty</td>
<td>8 243</td>
</tr>
<tr>
<td>when does not apply</td>
<td>9 243</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Board of meetings</td>
<td></td>
</tr>
<tr>
<td>notice of</td>
<td>3 233</td>
</tr>
<tr>
<td>members</td>
<td></td>
</tr>
<tr>
<td>oath</td>
<td>3 233</td>
</tr>
<tr>
<td>per diem and expenses</td>
<td>3 233</td>
</tr>
<tr>
<td>officers</td>
<td></td>
</tr>
<tr>
<td>president</td>
<td>3 233</td>
</tr>
<tr>
<td>secretary, salary</td>
<td>3 233</td>
</tr>
<tr>
<td>treasurer, bond</td>
<td>3 233</td>
</tr>
<tr>
<td>powers</td>
<td>3, 8 234, 242</td>
</tr>
<tr>
<td>rules and regulations</td>
<td></td>
</tr>
<tr>
<td>publication</td>
<td>7(d) 241</td>
</tr>
<tr>
<td>Definitions</td>
<td>4 234</td>
</tr>
<tr>
<td>EMBALMERS AND FUNERAL DIRECTORS (Cont’d)</td>
<td>Sec.</td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Delivery of body of deceased</td>
<td></td>
</tr>
<tr>
<td>unauthorized, penalty</td>
<td>8</td>
</tr>
<tr>
<td>Funeral homes</td>
<td></td>
</tr>
<tr>
<td>branch establishments</td>
<td>5</td>
</tr>
<tr>
<td>name</td>
<td>5</td>
</tr>
<tr>
<td>Licenses</td>
<td></td>
</tr>
<tr>
<td>apprentices</td>
<td></td>
</tr>
<tr>
<td>certificate of registration</td>
<td>5</td>
</tr>
<tr>
<td>credit for compliance</td>
<td>5</td>
</tr>
<tr>
<td>fee</td>
<td>6</td>
</tr>
<tr>
<td>refusal, suspension or revocation</td>
<td></td>
</tr>
<tr>
<td>causes for</td>
<td>7</td>
</tr>
<tr>
<td>defined</td>
<td>4</td>
</tr>
<tr>
<td>qualifications</td>
<td>5</td>
</tr>
<tr>
<td>assistant funeral directors</td>
<td>10</td>
</tr>
<tr>
<td>fee</td>
<td>10</td>
</tr>
<tr>
<td>qualifications</td>
<td>10</td>
</tr>
<tr>
<td>renewal</td>
<td>10</td>
</tr>
<tr>
<td>fee</td>
<td>6</td>
</tr>
<tr>
<td>embalmers</td>
<td>5</td>
</tr>
<tr>
<td>qualifications</td>
<td>5</td>
</tr>
<tr>
<td>expiration date</td>
<td>6</td>
</tr>
<tr>
<td>fees</td>
<td></td>
</tr>
<tr>
<td>amounts</td>
<td>6</td>
</tr>
<tr>
<td>deposit and use</td>
<td>6</td>
</tr>
<tr>
<td>report of, to governor</td>
<td>6</td>
</tr>
<tr>
<td>unexpended</td>
<td>6</td>
</tr>
<tr>
<td>funeral directors</td>
<td></td>
</tr>
<tr>
<td>qualifications</td>
<td>5</td>
</tr>
<tr>
<td>lapsed for one year</td>
<td>6</td>
</tr>
<tr>
<td>non-assignable</td>
<td>5</td>
</tr>
<tr>
<td>reciprocal</td>
<td>5</td>
</tr>
<tr>
<td>renewal</td>
<td>5</td>
</tr>
<tr>
<td>renewal failure, penalty</td>
<td>6</td>
</tr>
<tr>
<td>fees</td>
<td>6</td>
</tr>
<tr>
<td>refusal, revocation or suspension</td>
<td></td>
</tr>
<tr>
<td>appeals from</td>
<td>8</td>
</tr>
<tr>
<td>causes for</td>
<td>7</td>
</tr>
<tr>
<td>hearings on</td>
<td>8</td>
</tr>
<tr>
<td>notice of</td>
<td>8</td>
</tr>
<tr>
<td>required</td>
<td>5</td>
</tr>
<tr>
<td>separate</td>
<td>5</td>
</tr>
<tr>
<td>School of instruction</td>
<td></td>
</tr>
<tr>
<td>board to conduct</td>
<td>3</td>
</tr>
<tr>
<td>duty to attend</td>
<td>3</td>
</tr>
<tr>
<td>notice of</td>
<td>3</td>
</tr>
<tr>
<td>purpose</td>
<td>3</td>
</tr>
<tr>
<td>Term</td>
<td>Sec.</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>EMBEZZLEMENT:</td>
<td></td>
</tr>
<tr>
<td>Indictment</td>
<td></td>
</tr>
<tr>
<td>acts included</td>
<td>5</td>
</tr>
<tr>
<td>proof under</td>
<td>5</td>
</tr>
<tr>
<td>ENGEBRECHT, MRS. W. P.:</td>
<td></td>
</tr>
<tr>
<td>Jefferson county board of education to settle claim</td>
<td>1</td>
</tr>
<tr>
<td>ESCHATED LANDS:</td>
<td></td>
</tr>
<tr>
<td>(See Property Tax)</td>
<td></td>
</tr>
<tr>
<td>EVASION OF MARRIAGE LAW:</td>
<td></td>
</tr>
<tr>
<td>(See Marriage)</td>
<td></td>
</tr>
<tr>
<td>FACE-AMOUNT CERTIFICATES:</td>
<td></td>
</tr>
<tr>
<td>Act</td>
<td></td>
</tr>
<tr>
<td>applicability</td>
<td>10</td>
</tr>
<tr>
<td>provisions severable</td>
<td>11</td>
</tr>
<tr>
<td>violations, penalty</td>
<td>9</td>
</tr>
<tr>
<td>Definitions</td>
<td>1</td>
</tr>
<tr>
<td>Registration</td>
<td>4</td>
</tr>
<tr>
<td>application for</td>
<td>4</td>
</tr>
<tr>
<td>additional data</td>
<td>4</td>
</tr>
<tr>
<td>auditor attorney in fact for nonresident issuer</td>
<td>7</td>
</tr>
<tr>
<td>service of process on</td>
<td>7</td>
</tr>
<tr>
<td>conditions</td>
<td>4</td>
</tr>
<tr>
<td>exempt from, when</td>
<td>2</td>
</tr>
<tr>
<td>expiration date</td>
<td>6</td>
</tr>
<tr>
<td>fee</td>
<td>5</td>
</tr>
<tr>
<td>renewal</td>
<td></td>
</tr>
<tr>
<td>application</td>
<td>6</td>
</tr>
<tr>
<td>time of filing</td>
<td>6</td>
</tr>
<tr>
<td>fee</td>
<td>6</td>
</tr>
<tr>
<td>Sale</td>
<td></td>
</tr>
<tr>
<td>after registration</td>
<td>3</td>
</tr>
<tr>
<td>by registered dealers and salesmen</td>
<td>8</td>
</tr>
<tr>
<td>FAIR, STATE:</td>
<td></td>
</tr>
<tr>
<td>(See State Fair)</td>
<td></td>
</tr>
<tr>
<td>FARM BUREAU:</td>
<td></td>
</tr>
<tr>
<td>(See County Agents)</td>
<td></td>
</tr>
<tr>
<td>FAYETTE COUNTY COURT:</td>
<td></td>
</tr>
<tr>
<td>Authorized to employ stenographer</td>
<td>1</td>
</tr>
<tr>
<td>FAYETTEVILLE, CITY OF:</td>
<td></td>
</tr>
<tr>
<td>Transfer of funds</td>
<td>1</td>
</tr>
<tr>
<td>amount</td>
<td>1</td>
</tr>
<tr>
<td>FEDERAL AGENCIES:</td>
<td></td>
</tr>
<tr>
<td>Lien of chattel deed of trust</td>
<td>8</td>
</tr>
<tr>
<td>extension for ten years</td>
<td>8</td>
</tr>
</tbody>
</table>
INDEX TO ACTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>FELONY:</td>
<td>106, 107</td>
</tr>
<tr>
<td>(See County Treasury)</td>
<td></td>
</tr>
<tr>
<td>Sentence</td>
<td></td>
</tr>
<tr>
<td>committed by convicts in penitentiary</td>
<td>16</td>
</tr>
<tr>
<td>indeterminate</td>
<td>16</td>
</tr>
<tr>
<td>FORFEITED AND DELINQUENT LANDS:</td>
<td>443, 476</td>
</tr>
<tr>
<td>(See Taxes and Taxation)</td>
<td></td>
</tr>
<tr>
<td>FORGERY:</td>
<td>106, 107</td>
</tr>
<tr>
<td>Orders on county treasury</td>
<td></td>
</tr>
<tr>
<td>FORMAN, J. N.:</td>
<td>524</td>
</tr>
<tr>
<td>Reimbursement by Barbour county court</td>
<td>1</td>
</tr>
<tr>
<td>FOUR-H CAMPS:</td>
<td>545</td>
</tr>
<tr>
<td>(See Mercer County)</td>
<td></td>
</tr>
<tr>
<td>(See Summers County)</td>
<td>569</td>
</tr>
<tr>
<td>(See Wetzel County)</td>
<td>571</td>
</tr>
<tr>
<td>FREE TEXTBOOKS:</td>
<td>152</td>
</tr>
<tr>
<td>(See Education)</td>
<td></td>
</tr>
<tr>
<td>FROGS:</td>
<td>249</td>
</tr>
<tr>
<td>Unlawful sale of</td>
<td>10</td>
</tr>
<tr>
<td>FULWIDER, MABEL:</td>
<td>535</td>
</tr>
<tr>
<td>Greenbrier county board of education to settle claim</td>
<td>1</td>
</tr>
<tr>
<td>GAME, BIRDS, FISH AND FROGS:</td>
<td>249</td>
</tr>
<tr>
<td>Unlawful sale or transportation</td>
<td>10</td>
</tr>
<tr>
<td>GASOLINE TAX:</td>
<td>517</td>
</tr>
<tr>
<td>Accrual</td>
<td>3</td>
</tr>
<tr>
<td>Additional to other taxes</td>
<td>3</td>
</tr>
<tr>
<td>Amount</td>
<td>3</td>
</tr>
<tr>
<td>reduction after July 1, 1943</td>
<td>3</td>
</tr>
<tr>
<td>Discontinuance of business</td>
<td>3</td>
</tr>
<tr>
<td>accrual of tax</td>
<td>3</td>
</tr>
<tr>
<td>notice to tax commissioner</td>
<td>3</td>
</tr>
<tr>
<td>form</td>
<td>3</td>
</tr>
<tr>
<td>liability when not given</td>
<td>3</td>
</tr>
<tr>
<td>Lien of</td>
<td>3</td>
</tr>
<tr>
<td>Measure of</td>
<td>3</td>
</tr>
<tr>
<td>gallonage used but once</td>
<td>3</td>
</tr>
<tr>
<td>Payment by whom</td>
<td>3</td>
</tr>
<tr>
<td>Penalties</td>
<td>517</td>
</tr>
<tr>
<td>accrual</td>
<td>3</td>
</tr>
<tr>
<td>lien of</td>
<td>3</td>
</tr>
<tr>
<td>Refund to Osborne Brothers' Mill</td>
<td>1</td>
</tr>
<tr>
<td>Restricted use (proposed constitutional amendment)</td>
<td>89, 589</td>
</tr>
</tbody>
</table>
## INDEX TO ACTS

### GILMER COUNTY BOARD OF EDUCATION:
- To settle claim of Rolla Yerkey
  - Section: 1
  - Page: 535

### GOVERNOR:
- (See Appropriations, State Department of Education) 58
- (See Assistant to Attorney General) 355
- (See Constitutional Amendment) 89
- (See State Road Bonds) 77
- (See West Virginia State Guard) 287

#### Appointments by
- commissioner of labor 2 363
- election commission 6 199
- miners' examining boards (approval) 2 299
- Potomac river basin commission 1 364
- state council of defense 294
- state court of claims 4 114
- state planning board 1 359
  - approval of master plan 8 361
  - report by, to 11 362
- teachers' retirement board 5 163
  - ex officio chairman 5 163
- Director the state fair 9 436
- President board of the school fund 5 357

### GREENBRIER COUNTY BOARD OF EDUCATION:
- To settle claim of Mabel Fulwider
  - Section: 1
  - Page: 535

### GREENBRIER VALLEY FAIR:
- Designated as "The State Fair of West Virginia"
  - Section: 1
  - Page: 435

### GUARD, STATE:
- (See West Virginia State Guard) 287

### HAMRICK, PORTIA:
- Road commission to settle claim
  - Section: 1
  - Page: 375

### HIGH SCHOOLS:
- Certain, continued
  - Advisory authority
  - Levy
  - Expenditure from
  - Section: 3
  - Page: 109

### HILL, LEE, ADMINISTRATOR:
- Road commission to settle claim
  - Section: 1
  - Page: 376

### HOME DEMONSTRATION AGENTS:
- Employment by county court
  - Section: 1
  - Page: 1

### HOUSING:
- (See Housing Cooperative Law) 250
- (See Housing, National Defense) 268
- (See Housing Law, State) 254
- (See Municipalities) 324
### HOUSING COOPERATIVE LAW:

<table>
<thead>
<tr>
<th>Act</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>citation</td>
<td>1</td>
<td>250</td>
</tr>
<tr>
<td>provisions severable</td>
<td>29</td>
<td>267</td>
</tr>
<tr>
<td>purpose and necessity</td>
<td>2</td>
<td>250</td>
</tr>
<tr>
<td>Definitions</td>
<td>3</td>
<td>251</td>
</tr>
<tr>
<td>Loans or donations to housing authority</td>
<td>5</td>
<td>253</td>
</tr>
<tr>
<td>by city or county</td>
<td>5</td>
<td>253</td>
</tr>
<tr>
<td>reimbursement of loans</td>
<td>5</td>
<td>253</td>
</tr>
<tr>
<td>State public bodies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>powers</td>
<td>4</td>
<td>252</td>
</tr>
<tr>
<td>additional to existing</td>
<td>8</td>
<td>253</td>
</tr>
<tr>
<td>how exercised</td>
<td>6</td>
<td>253</td>
</tr>
<tr>
<td><strong>HOUSING LAW, STATE:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Definitions</td>
<td>1-a</td>
<td>255</td>
</tr>
<tr>
<td>Housing authority</td>
<td></td>
<td></td>
</tr>
<tr>
<td>bonds of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>authority may issue</td>
<td>22</td>
<td>262</td>
</tr>
<tr>
<td>forms</td>
<td>23</td>
<td>262</td>
</tr>
<tr>
<td>how payable</td>
<td>23</td>
<td>262</td>
</tr>
<tr>
<td>how secured</td>
<td>22, 24</td>
<td>262</td>
</tr>
<tr>
<td>additional security</td>
<td>22</td>
<td>262</td>
</tr>
<tr>
<td>interest rate</td>
<td>23</td>
<td>262</td>
</tr>
<tr>
<td>refunding</td>
<td>22</td>
<td>262</td>
</tr>
<tr>
<td>resolution authorizing</td>
<td>23</td>
<td>262</td>
</tr>
<tr>
<td>sale of</td>
<td>23</td>
<td>262</td>
</tr>
<tr>
<td>published notice</td>
<td>23</td>
<td>262</td>
</tr>
<tr>
<td>to federal government</td>
<td>23</td>
<td>263</td>
</tr>
<tr>
<td>signatures to</td>
<td>23</td>
<td>263</td>
</tr>
<tr>
<td>term</td>
<td>23</td>
<td>262</td>
</tr>
<tr>
<td>validity</td>
<td>23</td>
<td>263</td>
</tr>
<tr>
<td>city and county, created</td>
<td>3</td>
<td>256</td>
</tr>
<tr>
<td>commissioners</td>
<td></td>
<td></td>
</tr>
<tr>
<td>appointment</td>
<td>3</td>
<td>258</td>
</tr>
<tr>
<td>certificate of compensation</td>
<td>3</td>
<td>258</td>
</tr>
<tr>
<td>compensation</td>
<td>3</td>
<td>259</td>
</tr>
<tr>
<td>qualifications</td>
<td>3</td>
<td>258</td>
</tr>
<tr>
<td>removal</td>
<td>3</td>
<td>259</td>
</tr>
<tr>
<td>terms</td>
<td>3</td>
<td>258</td>
</tr>
<tr>
<td>if no existing authority</td>
<td>3</td>
<td>257</td>
</tr>
<tr>
<td>contracts of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>compliance with federal provisions</td>
<td>7-a</td>
<td>260</td>
</tr>
<tr>
<td>wages and hours</td>
<td>7-a</td>
<td>259</td>
</tr>
<tr>
<td>default by</td>
<td></td>
<td></td>
</tr>
<tr>
<td>rights of obligee</td>
<td>20</td>
<td>261</td>
</tr>
<tr>
<td>farmers, application for project</td>
<td>28</td>
<td>267</td>
</tr>
<tr>
<td>housing for</td>
<td>27</td>
<td>267</td>
</tr>
<tr>
<td>HOUSING LAW, STATE (Continued):</td>
<td>Sec.</td>
<td>Page</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>joint undertakings by authorities</td>
<td>7-b</td>
<td>260</td>
</tr>
<tr>
<td>obligations of, how secured</td>
<td>24</td>
<td>263</td>
</tr>
<tr>
<td>obligees of actions by</td>
<td></td>
<td></td>
</tr>
<tr>
<td>to appoint receiver</td>
<td>26</td>
<td>266</td>
</tr>
<tr>
<td>to enforce contracts</td>
<td>25</td>
<td>265</td>
</tr>
<tr>
<td>to enjoin unlawful acts</td>
<td>25</td>
<td>265</td>
</tr>
<tr>
<td>possession of project, on default</td>
<td>21, 26 261, 266</td>
<td>266</td>
</tr>
<tr>
<td>receivership</td>
<td>26</td>
<td>266</td>
</tr>
<tr>
<td>organization and employees</td>
<td>5</td>
<td>259</td>
</tr>
<tr>
<td>duties and compensation</td>
<td>5</td>
<td>259</td>
</tr>
<tr>
<td>projects</td>
<td></td>
<td></td>
</tr>
<tr>
<td>possession by obligees</td>
<td>21</td>
<td>261</td>
</tr>
<tr>
<td>receiver for</td>
<td>21</td>
<td>261</td>
</tr>
<tr>
<td>quorum</td>
<td>5</td>
<td>259</td>
</tr>
<tr>
<td>rentals and tenants</td>
<td></td>
<td></td>
</tr>
<tr>
<td>duties of authority</td>
<td>21</td>
<td>261</td>
</tr>
<tr>
<td>policy as to rentals</td>
<td>20</td>
<td>260</td>
</tr>
<tr>
<td>rates</td>
<td>20</td>
<td>260</td>
</tr>
<tr>
<td>selection of tenants</td>
<td>21</td>
<td>261</td>
</tr>
<tr>
<td>reports by</td>
<td>12</td>
<td>260</td>
</tr>
<tr>
<td>resolution to function</td>
<td>3</td>
<td>257</td>
</tr>
<tr>
<td>copy as evidence</td>
<td>3</td>
<td>258</td>
</tr>
<tr>
<td>need, determination of</td>
<td>3</td>
<td>257</td>
</tr>
<tr>
<td>notice of, to mayor</td>
<td>3</td>
<td>258</td>
</tr>
<tr>
<td>on adoption, authority established</td>
<td>3</td>
<td>258</td>
</tr>
<tr>
<td>sufficiency</td>
<td>3</td>
<td>258</td>
</tr>
</tbody>
</table>

HOUSING, NATIONAL DEFENSE:

- Act
  - independent authorization 6 272
  - limitations, nonapplicable 6 272
  - provisions severable 9 274
  - purpose 1 268

- Definitions 7 272

- Housing authorities
  - cooperation of public bodies with 4 271
  - development and administration 2 269
  - by city, territorial extent 2 270
  - prior actions, bonds, etc., validated 5 272
  - rental and tenant limitation not applicable 2 270
  - rights and powers 2 269
  - additional and supplemental 8 273
  - cooperation with federal government 3, 6 271, 272
  - sale to 3 271

HUNTINGTON, CITY OF:

(See Cabell County Court, Public Facilities) 529
<table>
<thead>
<tr>
<th>ACT</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>HURT, ERNEST: Adjutant General to settle claim of...</td>
<td>1</td>
<td>353</td>
</tr>
<tr>
<td>INCOME TAX, PERSONAL:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Payment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>corrected return</td>
<td>44(b)</td>
<td>513</td>
</tr>
<tr>
<td>date due</td>
<td>44</td>
<td>513</td>
</tr>
<tr>
<td>installments</td>
<td>44(b)</td>
<td>513</td>
</tr>
<tr>
<td>default, whole amount due</td>
<td>44(b)</td>
<td>514</td>
</tr>
<tr>
<td>uncertified check</td>
<td>44(b)</td>
<td>514</td>
</tr>
<tr>
<td>Rates of residents</td>
<td>3</td>
<td>515</td>
</tr>
<tr>
<td>INDETERMINATE SENTENCE:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(See Felony)</td>
<td></td>
<td>124</td>
</tr>
<tr>
<td>INDICTMENTS:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(See Embezzlement)</td>
<td></td>
<td>128</td>
</tr>
<tr>
<td>INHERITANCE AND TRANSFER TAXES:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exemption from</td>
<td>4</td>
<td>512</td>
</tr>
<tr>
<td>INSURANCE:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(See Automobile Mutual Insurance Companies)</td>
<td>278</td>
<td></td>
</tr>
<tr>
<td>Group policies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>standard provisions</td>
<td>4(1)</td>
<td>279</td>
</tr>
<tr>
<td>other provisions allowable</td>
<td>4(2)</td>
<td>279</td>
</tr>
<tr>
<td>Indemnity companies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>general powers</td>
<td>5</td>
<td>275</td>
</tr>
<tr>
<td>authority of insurance commissioner</td>
<td>5</td>
<td>276</td>
</tr>
<tr>
<td>Life insurance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>minor's contracts validated</td>
<td>35</td>
<td>277</td>
</tr>
<tr>
<td>age limit</td>
<td>35</td>
<td>277</td>
</tr>
<tr>
<td>beneficiary</td>
<td>35</td>
<td>277</td>
</tr>
<tr>
<td>securities, deposit with state treasurer</td>
<td>35</td>
<td>274</td>
</tr>
<tr>
<td>certificates for</td>
<td>35</td>
<td>275</td>
</tr>
<tr>
<td>interest or dividends</td>
<td>35</td>
<td>275</td>
</tr>
<tr>
<td>minimum amount</td>
<td>35</td>
<td>275</td>
</tr>
<tr>
<td>substitution or withdrawal</td>
<td>35</td>
<td>275</td>
</tr>
<tr>
<td>valuation of policies by commissioner</td>
<td>3</td>
<td>284</td>
</tr>
<tr>
<td>standard of</td>
<td>3</td>
<td>284</td>
</tr>
<tr>
<td>INSURANCE COMMISSIONER:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(See Insurance, Deposit of Securities)</td>
<td></td>
<td>275</td>
</tr>
<tr>
<td>(See Insurance, Group Policies)</td>
<td></td>
<td>282</td>
</tr>
<tr>
<td>(See Insurance, Indemnity Companies)</td>
<td></td>
<td>276</td>
</tr>
<tr>
<td>INTERSTATE COMMISSION ON POTOMAC RIVER BASIN:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compact executed by governor</td>
<td>1</td>
<td>364</td>
</tr>
<tr>
<td>when effective</td>
<td>1</td>
<td>368</td>
</tr>
<tr>
<td>withdrawal from</td>
<td>1</td>
<td>368</td>
</tr>
<tr>
<td>Expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>appropriation for</td>
<td>2</td>
<td>368</td>
</tr>
</tbody>
</table>
### INDEX TO ACTS

#### INTERSTATE COMMISSION ON POTOMAC RIVER BASIN (Cont’d):

<table>
<thead>
<tr>
<th>Members</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>appointment of two by governor</td>
<td>1</td>
<td>364</td>
</tr>
<tr>
<td>commissioner of health, ex officio</td>
<td>1</td>
<td>364</td>
</tr>
<tr>
<td>delegation of power</td>
<td>1</td>
<td>364</td>
</tr>
<tr>
<td>successor</td>
<td>1</td>
<td>365</td>
</tr>
<tr>
<td>reimbursement</td>
<td>2</td>
<td>363</td>
</tr>
<tr>
<td>removal by governor</td>
<td>1</td>
<td>364</td>
</tr>
<tr>
<td>terms</td>
<td>1</td>
<td>364</td>
</tr>
<tr>
<td>beginning date</td>
<td>1</td>
<td>365</td>
</tr>
<tr>
<td>Meetings</td>
<td>2</td>
<td>369</td>
</tr>
<tr>
<td>Organization</td>
<td>2</td>
<td>369</td>
</tr>
</tbody>
</table>

#### JEFFERSON COUNTY BOARD OF EDUCATION:

To settle claim of Mrs. W. P. Engbrecht | 1 | 536 |

#### JOHNSON, BOYD:

Compensation commissioner to reopen case of | 1 | 418 |

#### JUDICIAL CIRCUITS:

Division of state into | 1 | 109 |
Number of judges in each | 1 | 111 |
Terms of court in
- eighth circuit | 1-h | 111 |
- tenth circuit | 1-j | 111 |
- eleventh circuit | 1-k | 111 |
- twenty-fourth circuit | 1-x | 111 |

#### JURORS:

Compensation
- method of payment | 24 | 286 |
- failure by sheriff to pay | 24 | 286 |
- repayment from state treasury | 24 | 286 |
Record of allowance to | 23 | 286 |
certified copy to auditor | 23 | 286 |
failure of clerk, penalty | 23 | 286 |

#### KANAWHA COUNTY COURT:

Authorized to pay Salvation Army for hospital services | 1 | 536 |

#### KNIGHT, OKIE E.:

Compensation commissioner to reopen case of | 1 | 429 |

#### LARCENY:

Description of currency in prosecution for | 1 | 129 |

#### LEAVE OF ABSENCE:

(See Military Service of the United States) | 292 |
**INDEX TO ACTS**

<table>
<thead>
<tr>
<th>LEWIS COUNTY COURT:</th>
<th>Sec.</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorized to purchase fire-fighting equipment</td>
<td>1</td>
<td>537</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIENS:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(See Federal Agencies)</td>
<td></td>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LICENSE TAXES:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(See Taxes and Taxation)</td>
<td></td>
<td>509</td>
</tr>
<tr>
<td>Entertainments exempt</td>
<td>18</td>
<td>510</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIQUOR CONTROL COMMISSION:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Funds of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>operating, use of</td>
<td>18(1)</td>
<td>370</td>
</tr>
<tr>
<td>amount</td>
<td>19</td>
<td>329</td>
</tr>
<tr>
<td>reserve fund, use of</td>
<td>18(1)</td>
<td>370</td>
</tr>
<tr>
<td>amount</td>
<td>19</td>
<td>329</td>
</tr>
<tr>
<td>investment</td>
<td>18(1)</td>
<td>370</td>
</tr>
<tr>
<td>transfer to operating fund</td>
<td>18(1)</td>
<td>370</td>
</tr>
<tr>
<td>special</td>
<td>19</td>
<td>329</td>
</tr>
<tr>
<td>amount</td>
<td>19</td>
<td>329</td>
</tr>
<tr>
<td>apportioned among municipalities</td>
<td>19</td>
<td>329</td>
</tr>
<tr>
<td>on basis of population</td>
<td>19</td>
<td>329</td>
</tr>
<tr>
<td>distributed quarterly</td>
<td>19</td>
<td>329</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LOGAN COUNTY BOARD OF EDUCATION:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(See Logan County Court)</td>
<td></td>
<td>6</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LOGAN COUNTY COURT:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Parks and recreational centers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>authorized to create</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>bonds for</td>
<td></td>
<td>539</td>
</tr>
<tr>
<td>amount, maximum</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>election, after request by board</td>
<td></td>
<td>9</td>
</tr>
<tr>
<td>issuance and sale</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>levy estimate for</td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>contributions for, by</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Logan county board of education</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>municipalities</td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>annual levy estimate</td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>expenditures, made after approval by board</td>
<td></td>
<td>8,10</td>
</tr>
<tr>
<td>estimates by board</td>
<td></td>
<td>11</td>
</tr>
<tr>
<td>purposes</td>
<td></td>
<td>11</td>
</tr>
<tr>
<td>land for, acquired by</td>
<td></td>
<td></td>
</tr>
<tr>
<td>gift, lease, purchase or eminent domain</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>levies for</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>after request by board</td>
<td></td>
<td>9</td>
</tr>
<tr>
<td>estimate</td>
<td></td>
<td>543</td>
</tr>
<tr>
<td>by board</td>
<td></td>
<td>9</td>
</tr>
<tr>
<td>by county court</td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>location</td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## INDEX TO ACTS

### LOGAN COUNTY COURT (Continued):

<table>
<thead>
<tr>
<th>Description</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>park board</td>
<td></td>
<td></td>
</tr>
<tr>
<td>body corporate</td>
<td>7</td>
<td>540</td>
</tr>
<tr>
<td>charges collected by</td>
<td>13</td>
<td>544</td>
</tr>
<tr>
<td>bond of custodian</td>
<td>13</td>
<td>545</td>
</tr>
<tr>
<td>property of county court</td>
<td>13</td>
<td>544</td>
</tr>
<tr>
<td>limitation on expenditures by</td>
<td>12</td>
<td>544</td>
</tr>
<tr>
<td>members</td>
<td></td>
<td></td>
</tr>
<tr>
<td>appointment</td>
<td>7</td>
<td>540</td>
</tr>
<tr>
<td>meetings</td>
<td>7(e)</td>
<td>542</td>
</tr>
<tr>
<td>nominating committee</td>
<td>7(e)</td>
<td>541</td>
</tr>
<tr>
<td>number</td>
<td>7</td>
<td>540</td>
</tr>
<tr>
<td>oath</td>
<td>7(d)</td>
<td>542</td>
</tr>
<tr>
<td>qualifications</td>
<td>7(a)</td>
<td>541</td>
</tr>
<tr>
<td>terms</td>
<td>7(b)</td>
<td>541</td>
</tr>
<tr>
<td>name</td>
<td>7</td>
<td>540</td>
</tr>
<tr>
<td>organization</td>
<td>7(t)</td>
<td>542</td>
</tr>
<tr>
<td>duties of officers</td>
<td>7(t)</td>
<td>542</td>
</tr>
<tr>
<td>quorum</td>
<td>7(t)</td>
<td>542</td>
</tr>
<tr>
<td>records submitted to county court</td>
<td>8</td>
<td>542</td>
</tr>
<tr>
<td>supervisory authority</td>
<td>7(b)</td>
<td>541</td>
</tr>
<tr>
<td>vacancy</td>
<td>7(c)</td>
<td>542</td>
</tr>
<tr>
<td>nominations to fill</td>
<td></td>
<td></td>
</tr>
<tr>
<td>rentals from board of education</td>
<td>6</td>
<td>540</td>
</tr>
</tbody>
</table>

**LOVE, HARRY:**
- Road commission to settle claim of  1  373

**MARION COUNTY COURT:**
- Cooperation with WPA on historical projects  1  545

**MARRIAGE:**
- Out of state to evade law  17  140
  - state law governs  17  140

**MASON, F. M.:**
- Compensation commissioner to reopen case of  1  420

**McNEELY, M. L.:**
- Road commission to settle claim of  1  370

**MECHANICAL OR ELECTRICAL DEVICES:**
- Use of, in signing orders on county treasury  4, 3  106, 108

**MERCER COUNTY COURT:**
- Expenditure of funds for a Four-H camp  1  546
  - annual maximum amount  1  546

**MIDKIFF, JAMES:**
- Boone county board of education to settle claim  1  527

**MILITARY SERVICE OF THE UNITED STATES:**
- Article, provisions of construction of as to  3(b)  293
  - salary or wages  3(b)  293
### MILITARY SERVICE OF THE U. S. (Continued):

<table>
<thead>
<tr>
<th>Term</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>term of office</td>
<td>3(a)</td>
<td>293</td>
</tr>
<tr>
<td>retroactive to July 1, 1940</td>
<td>4</td>
<td>293</td>
</tr>
<tr>
<td>severable</td>
<td>5</td>
<td>293</td>
</tr>
<tr>
<td>Leave of absence to enter</td>
<td>1</td>
<td>292</td>
</tr>
<tr>
<td>by whom granted</td>
<td>1</td>
<td>293</td>
</tr>
<tr>
<td>persons entitled to</td>
<td>1</td>
<td>293</td>
</tr>
<tr>
<td>reassumption of office or position</td>
<td>1</td>
<td>292</td>
</tr>
<tr>
<td>without prejudice to prior status</td>
<td>1</td>
<td>293</td>
</tr>
<tr>
<td>replacement appointment</td>
<td>2</td>
<td>293</td>
</tr>
<tr>
<td>period of</td>
<td>2</td>
<td>293</td>
</tr>
</tbody>
</table>

### MINES AND MINING:

<table>
<thead>
<tr>
<th>Term</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Captive coal mine</td>
<td>1</td>
<td>299</td>
</tr>
<tr>
<td>term defined</td>
<td>1</td>
<td>299</td>
</tr>
<tr>
<td>Coal miner</td>
<td>1</td>
<td>298</td>
</tr>
<tr>
<td>certificate required</td>
<td>1</td>
<td>298</td>
</tr>
<tr>
<td>examination for</td>
<td>5</td>
<td>301</td>
</tr>
<tr>
<td>not transferable</td>
<td>5</td>
<td>301</td>
</tr>
<tr>
<td>without examination, time</td>
<td>1, 2</td>
<td>298, 299</td>
</tr>
<tr>
<td>term defined</td>
<td>1</td>
<td>299</td>
</tr>
<tr>
<td>Coal miners' examining board</td>
<td>7</td>
<td>302</td>
</tr>
<tr>
<td>act</td>
<td>8</td>
<td>302</td>
</tr>
<tr>
<td>rules and regulations under</td>
<td>2</td>
<td>299</td>
</tr>
<tr>
<td>violation, penalty</td>
<td>1, 5</td>
<td>298, 301</td>
</tr>
<tr>
<td>appointment</td>
<td>5</td>
<td>301</td>
</tr>
<tr>
<td>certificates issued by</td>
<td>5</td>
<td>301</td>
</tr>
<tr>
<td>effect of</td>
<td>5</td>
<td>301</td>
</tr>
<tr>
<td>experience required</td>
<td>6</td>
<td>301</td>
</tr>
<tr>
<td>refusal or granting</td>
<td>6</td>
<td>301</td>
</tr>
<tr>
<td>appeal to circuit court</td>
<td>5</td>
<td>301</td>
</tr>
<tr>
<td>signing and sealing</td>
<td>1</td>
<td>299</td>
</tr>
<tr>
<td>examinations by</td>
<td>5</td>
<td>301</td>
</tr>
<tr>
<td>applicant in person</td>
<td>5</td>
<td>301</td>
</tr>
<tr>
<td>oath</td>
<td>5</td>
<td>301</td>
</tr>
<tr>
<td>false, deemed perjury</td>
<td>5</td>
<td>301</td>
</tr>
<tr>
<td>character of</td>
<td>5</td>
<td>301</td>
</tr>
<tr>
<td>record of</td>
<td>3</td>
<td>300</td>
</tr>
<tr>
<td>inspection</td>
<td>3</td>
<td>300</td>
</tr>
<tr>
<td>members</td>
<td>2</td>
<td>300</td>
</tr>
<tr>
<td>compensation</td>
<td>2</td>
<td>299</td>
</tr>
<tr>
<td>qualifications</td>
<td>2</td>
<td>299</td>
</tr>
<tr>
<td>members</td>
<td>2</td>
<td>299</td>
</tr>
<tr>
<td>term</td>
<td>2</td>
<td>299</td>
</tr>
<tr>
<td>number</td>
<td>2</td>
<td>300</td>
</tr>
<tr>
<td>reduction in</td>
<td>2</td>
<td>299</td>
</tr>
<tr>
<td>organization</td>
<td>2</td>
<td>299</td>
</tr>
<tr>
<td>records</td>
<td>2</td>
<td>299</td>
</tr>
<tr>
<td>seal</td>
<td>2</td>
<td>299</td>
</tr>
</tbody>
</table>
## INDEX TO ACTS

**MINES AND MINING (Continued):**

<table>
<thead>
<tr>
<th>Foremen and fire bosses</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>allowed apprentices</td>
<td>1</td>
<td>298</td>
</tr>
<tr>
<td>eligibility to work as miner</td>
<td>6</td>
<td>302</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>District and divisions</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>inspection</td>
<td>7</td>
<td>303</td>
</tr>
<tr>
<td>duties</td>
<td>9</td>
<td>304</td>
</tr>
<tr>
<td>number</td>
<td>7</td>
<td>303</td>
</tr>
<tr>
<td>reports by</td>
<td>9</td>
<td>304</td>
</tr>
<tr>
<td>temporary</td>
<td>7</td>
<td>303</td>
</tr>
<tr>
<td>term</td>
<td>7</td>
<td>303</td>
</tr>
<tr>
<td>number</td>
<td>9</td>
<td>304</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Mine rescue crews</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>compensation</td>
<td>11</td>
<td>305</td>
</tr>
<tr>
<td>removal</td>
<td>11</td>
<td>305</td>
</tr>
<tr>
<td>training</td>
<td>11</td>
<td>304</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>directors</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>assignment as</td>
<td>12</td>
<td>305</td>
</tr>
<tr>
<td>stations, equipment</td>
<td>10</td>
<td>304</td>
</tr>
</tbody>
</table>

**MINORS:**

(See Adoption) .................................................. 135
(See Insurance) ..................................... 276

**MONEY DUE THE STATE:**

<table>
<thead>
<tr>
<th>Daily itemized record</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2</td>
<td>306</td>
</tr>
<tr>
<td>Duty of depositaries</td>
<td>4</td>
<td>308</td>
</tr>
</tbody>
</table>

*PAYMENT TO TREASURER*

<table>
<thead>
<tr>
<th>deposit lists</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>by collector</td>
<td>2</td>
<td>307</td>
</tr>
<tr>
<td>by treasurer</td>
<td>3</td>
<td>307</td>
</tr>
<tr>
<td>exceptions</td>
<td>2</td>
<td>306</td>
</tr>
<tr>
<td>gross amount collected</td>
<td>2</td>
<td>307</td>
</tr>
<tr>
<td>separate accounts</td>
<td>2</td>
<td>307</td>
</tr>
</tbody>
</table>

**MONROE COUNTY BOARD OF EDUCATION:**

<table>
<thead>
<tr>
<th>Conveyances of real estate to</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
<td>557</td>
</tr>
</tbody>
</table>

**MORGANTOWN, CITY OF:**

<table>
<thead>
<tr>
<th>Consolidation of, with</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>certain named municipalities</td>
<td>1</td>
<td>547</td>
</tr>
<tr>
<td>contiguous unincorporated territory</td>
<td>1</td>
<td>547</td>
</tr>
<tr>
<td>effective date</td>
<td>9</td>
<td>549</td>
</tr>
</tbody>
</table>

*ELECTIONS*

<table>
<thead>
<tr>
<th>ballots, form</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>certificates of result</td>
<td>7</td>
<td>548</td>
</tr>
<tr>
<td>expenses</td>
<td>6</td>
<td>548</td>
</tr>
<tr>
<td>manner of holding</td>
<td>4, 7</td>
<td>548</td>
</tr>
<tr>
<td>order for, by county court</td>
<td>3(a)</td>
<td>547</td>
</tr>
</tbody>
</table>
INDEX TO ACTS

MORGANTOWN, CITY OF (Continued):

<table>
<thead>
<tr>
<th>Topic</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>election officials</td>
<td>3(b)</td>
<td>548</td>
</tr>
<tr>
<td>registration of voters</td>
<td>3(b)</td>
<td>548</td>
</tr>
<tr>
<td>voting places</td>
<td>3(b)</td>
<td>548</td>
</tr>
<tr>
<td>order for, by municipalities</td>
<td>2</td>
<td>547</td>
</tr>
<tr>
<td>results and effects</td>
<td>8</td>
<td>549</td>
</tr>
<tr>
<td>canvass</td>
<td>8</td>
<td>549</td>
</tr>
<tr>
<td>merged municipalities</td>
<td>18</td>
<td>554</td>
</tr>
<tr>
<td>legal proceedings pending</td>
<td>18</td>
<td>554</td>
</tr>
<tr>
<td>officers and employees</td>
<td>13</td>
<td>552</td>
</tr>
<tr>
<td>permits and licenses</td>
<td>17</td>
<td>552</td>
</tr>
<tr>
<td>rights and properties</td>
<td>14</td>
<td>553</td>
</tr>
<tr>
<td>taxes and obligations</td>
<td>15</td>
<td>553</td>
</tr>
<tr>
<td>transfer of funds and property</td>
<td>16</td>
<td>554</td>
</tr>
<tr>
<td>municipality after consolidation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>charter and ordinances</td>
<td>10</td>
<td>550</td>
</tr>
<tr>
<td>councilmen, election</td>
<td>12</td>
<td>552</td>
</tr>
<tr>
<td>name</td>
<td>10</td>
<td>550</td>
</tr>
<tr>
<td>succession to rights</td>
<td>14</td>
<td>553</td>
</tr>
<tr>
<td>wards and election districts</td>
<td>11</td>
<td>550</td>
</tr>
<tr>
<td>commission to determine</td>
<td>11</td>
<td>550</td>
</tr>
</tbody>
</table>

MORRIS, HERBERT (or HOBERT):

Compensation commissioner to reopen case of                       1  423

MUNICIPALITIES:

(See Names of Particular Municipalities)
(See Housing Cooperative Law)                                       250
(See Housing Law, State)                                             254

Airports

<table>
<thead>
<tr>
<th>Topic</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>erection in state by out of state municipality</td>
<td>14</td>
<td>5</td>
</tr>
<tr>
<td>distance from state line</td>
<td>14</td>
<td>5</td>
</tr>
<tr>
<td>exempt from taxation</td>
<td>14</td>
<td>5</td>
</tr>
<tr>
<td>nonprofit use</td>
<td>14</td>
<td>5</td>
</tr>
<tr>
<td>right of condemnation</td>
<td>14</td>
<td>5</td>
</tr>
</tbody>
</table>

Buildings in, unfit for human habitation

demolition or repair

<table>
<thead>
<tr>
<th>Topic</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>cost of</td>
<td>10-d</td>
<td>325</td>
</tr>
<tr>
<td>ordinances for</td>
<td>10-a</td>
<td>324</td>
</tr>
<tr>
<td>enforcement agency</td>
<td>10-b</td>
<td>224</td>
</tr>
<tr>
<td>serving and posting orders of</td>
<td>10-e</td>
<td>325</td>
</tr>
<tr>
<td>right of appeal</td>
<td>10-e</td>
<td>325</td>
</tr>
<tr>
<td>rules of procedure</td>
<td>10-c</td>
<td>325</td>
</tr>
</tbody>
</table>

Financial aid to, from liquor commission

<table>
<thead>
<tr>
<th>Topic</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>amount</td>
<td>19</td>
<td>329</td>
</tr>
<tr>
<td>distribution</td>
<td></td>
<td></td>
</tr>
<tr>
<td>based on population</td>
<td>19</td>
<td>329</td>
</tr>
<tr>
<td>quarterly by state treasurer</td>
<td>19</td>
<td>329</td>
</tr>
</tbody>
</table>
## Index to Acts

### Municipalities (Continued):

<table>
<thead>
<tr>
<th>General powers, extra-territorial operation</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home rule charter</td>
<td></td>
<td></td>
</tr>
<tr>
<td>independent boards for municipal public utilities</td>
<td>5-a</td>
<td>326</td>
</tr>
<tr>
<td>conferring of exclusive power to</td>
<td>5-a</td>
<td>327</td>
</tr>
<tr>
<td>park commissioners, powers</td>
<td>5-a</td>
<td>327</td>
</tr>
<tr>
<td>public library, board of directors</td>
<td></td>
<td></td>
</tr>
<tr>
<td>appointment and financial support</td>
<td>5-a</td>
<td>327</td>
</tr>
</tbody>
</table>

### Improvements

| new method not exclusive                  | 18   | 328  |
| proceedings for, liberally construed      | 18   | 328  |
| streets, sidewalks and sewers             |      |      |
| construction with governmental aid        | 2    | 318  |
| assessment of cost                        | 9    | 322  |
| contents                                  | 9    | 322  |
| hearing on                                | 9    | 322  |
| lien certificates                         | 8-d  | 321  |
| agreement of sale of, before work begun   | 2    | 319, 320 |
| installment payments                      | 8(a) | 320  |
| interest                                  | 8(b) | 320  |
| release                                   | 8(c) | 320  |
| signing                                   | 8(e) | 321  |
| statements in                             | 8(e) | 321  |
| publication and notice to property owners | 9    | 322  |
| to foreign corporation                    | 9    | 320  |
| recordation                               | 9    | 323  |
| when final                                | 9    | 323  |
| duration of act                           | 12   | 323  |

### Murray, J. E.

Appropriation to pay claim of

<table>
<thead>
<tr>
<th></th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
<td>5</td>
</tr>
</tbody>
</table>

### New River State College:

Name changed to West Virginia Institute of Technology

<table>
<thead>
<tr>
<th></th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
<td>87</td>
</tr>
</tbody>
</table>

### Nicholas County Court:

Authorized to erect a jail and addition to courthouse

<table>
<thead>
<tr>
<th></th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
<td>555</td>
</tr>
<tr>
<td>contract for, with federal agency</td>
<td>2</td>
<td>556</td>
</tr>
<tr>
<td>levy for</td>
<td>1</td>
<td>555</td>
</tr>
<tr>
<td>amount</td>
<td>1</td>
<td>556</td>
</tr>
<tr>
<td>approval by tax commissioner</td>
<td>1</td>
<td>556</td>
</tr>
<tr>
<td>life of</td>
<td>1</td>
<td>556</td>
</tr>
</tbody>
</table>

### Ohio County Board of Commissioners:

Reimbursement by, to Wheeling-Ohio county airport association

<table>
<thead>
<tr>
<th></th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
<td>556</td>
</tr>
</tbody>
</table>

### Osborne Brothers' Mill:

Refund of gasoline tax to

<table>
<thead>
<tr>
<th></th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
<td>515</td>
</tr>
<tr>
<td>PETERSTOWN, TOWN OF:</td>
<td>Sec.</td>
<td>Page</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>Conveyance of real estate by, to Monroe county board of education</td>
<td>1</td>
<td>557</td>
</tr>
<tr>
<td>PLANNING BOARD:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(See State Planning Board)</td>
<td></td>
<td>358</td>
</tr>
<tr>
<td>POCAHONTAS COUNTY COURT:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hospital, erection by board of directors</td>
<td></td>
<td></td>
</tr>
<tr>
<td>appointment</td>
<td>1</td>
<td>559</td>
</tr>
<tr>
<td>compensation</td>
<td>1</td>
<td>560</td>
</tr>
<tr>
<td>contracts of</td>
<td>1</td>
<td>560</td>
</tr>
<tr>
<td>approval by county court</td>
<td>1</td>
<td>560</td>
</tr>
<tr>
<td>organization</td>
<td>1</td>
<td>560</td>
</tr>
<tr>
<td>quorum</td>
<td>1</td>
<td>560</td>
</tr>
<tr>
<td>report by</td>
<td>1</td>
<td>561</td>
</tr>
<tr>
<td>requisitions on funds</td>
<td>1</td>
<td>560</td>
</tr>
<tr>
<td>rules and regulations</td>
<td>1</td>
<td>560</td>
</tr>
<tr>
<td>terms</td>
<td>1</td>
<td>559</td>
</tr>
<tr>
<td>vacancies</td>
<td>1</td>
<td>559</td>
</tr>
<tr>
<td>custodian and assistants</td>
<td>1</td>
<td>560</td>
</tr>
<tr>
<td>gifts and bequests for</td>
<td>1</td>
<td>561</td>
</tr>
<tr>
<td>levy for</td>
<td></td>
<td></td>
</tr>
<tr>
<td>amount</td>
<td>1</td>
<td>559</td>
</tr>
<tr>
<td>proceeds a separate fund</td>
<td>1</td>
<td>559</td>
</tr>
<tr>
<td>location</td>
<td>1</td>
<td>559</td>
</tr>
<tr>
<td>petition of voters for</td>
<td>1</td>
<td>559</td>
</tr>
<tr>
<td>title in county court</td>
<td>1</td>
<td>560</td>
</tr>
<tr>
<td>use of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>charges for</td>
<td>1</td>
<td>560</td>
</tr>
<tr>
<td>nonresidents</td>
<td>1</td>
<td>561</td>
</tr>
<tr>
<td>world war memorial</td>
<td>1</td>
<td>559</td>
</tr>
<tr>
<td>POOL TICKETS:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pool room defined</td>
<td>10</td>
<td>126</td>
</tr>
<tr>
<td>penalty for operating</td>
<td>10</td>
<td>126</td>
</tr>
<tr>
<td>Sale of, prohibited</td>
<td>10</td>
<td>126</td>
</tr>
<tr>
<td>POTOMAC RIVER:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(See Interstate Commission, etc.)</td>
<td></td>
<td>363</td>
</tr>
<tr>
<td>PRISON-MADE GOODS:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sale on open market prohibited</td>
<td>15</td>
<td>330</td>
</tr>
<tr>
<td>exception</td>
<td>15</td>
<td>330</td>
</tr>
<tr>
<td>penalty</td>
<td>15</td>
<td>331</td>
</tr>
<tr>
<td>PROSECUTING ATTORNEYS:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appointment of special</td>
<td>6</td>
<td>104</td>
</tr>
<tr>
<td>Assistants to</td>
<td>6</td>
<td>103</td>
</tr>
<tr>
<td>appointment</td>
<td>6</td>
<td>103</td>
</tr>
<tr>
<td>oath</td>
<td>6</td>
<td>103</td>
</tr>
</tbody>
</table>
INDEX TO ACTS

PROSECUTING ATTORNEYS (Continued):

<table>
<thead>
<tr>
<th>Item</th>
<th>Sec</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>removal</td>
<td>6</td>
<td>103</td>
</tr>
<tr>
<td>salary</td>
<td>6</td>
<td>103</td>
</tr>
<tr>
<td>Stenographers to salaries</td>
<td>6</td>
<td>104, 105</td>
</tr>
</tbody>
</table>

PUBLIC ASSISTANCE:

(See Child Welfare) ........................................... 329, 352

Aged persons

<table>
<thead>
<tr>
<th>Item</th>
<th>Sec</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>agreement by, to reimburse</td>
<td>29</td>
<td>349</td>
</tr>
<tr>
<td>lien of</td>
<td>29</td>
<td>349</td>
</tr>
<tr>
<td>assignment of life insurance policy</td>
<td>31</td>
<td>350</td>
</tr>
</tbody>
</table>

Amount of ...................................................... 17 | 349 |

Blind persons, eligibility for ................................ 4 | 348 |

County Council

<table>
<thead>
<tr>
<th>Item</th>
<th>Sec</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>assistants and employees</td>
<td>10</td>
<td>347</td>
</tr>
<tr>
<td>compensation and traveling expenses</td>
<td>10</td>
<td>347</td>
</tr>
<tr>
<td>definitions</td>
<td>5</td>
<td>344</td>
</tr>
<tr>
<td>director</td>
<td>9</td>
<td>347</td>
</tr>
<tr>
<td>appointment</td>
<td>9</td>
<td>347</td>
</tr>
<tr>
<td>compensation</td>
<td>9</td>
<td>347</td>
</tr>
<tr>
<td>negro assistant</td>
<td>10</td>
<td>347</td>
</tr>
<tr>
<td>powers and duties</td>
<td>12</td>
<td>348</td>
</tr>
<tr>
<td>traveling expenses</td>
<td>10</td>
<td>347</td>
</tr>
</tbody>
</table>

County funds

<table>
<thead>
<tr>
<th>Item</th>
<th>Sec</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>amount</td>
<td>5</td>
<td>350</td>
</tr>
<tr>
<td>determination of less</td>
<td>5</td>
<td>350</td>
</tr>
<tr>
<td>petition to tax commissioner</td>
<td>5</td>
<td>350</td>
</tr>
</tbody>
</table>

Dependent children, eligibility for ........................................... 5 | 349 |

Records, confidential ........................................... 16 | 351 |

State advisory board

<table>
<thead>
<tr>
<th>Item</th>
<th>Sec</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>powers and duties</td>
<td>12</td>
<td>345</td>
</tr>
</tbody>
</table>

State department of

<table>
<thead>
<tr>
<th>Item</th>
<th>Sec</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>assistants and employees</td>
<td>8</td>
<td>346</td>
</tr>
<tr>
<td>appointment</td>
<td>8</td>
<td>346</td>
</tr>
<tr>
<td>political activities</td>
<td>8</td>
<td>347</td>
</tr>
<tr>
<td>definitions</td>
<td>5</td>
<td>344</td>
</tr>
<tr>
<td>director</td>
<td>6</td>
<td>345</td>
</tr>
<tr>
<td>powers and duties</td>
<td>6</td>
<td>345</td>
</tr>
</tbody>
</table>

PUBLIC INDEBTEDNESS:

(See Bonds) ........................................... 84 |

PUBLIC SERVICE COMMISSION:

Chairman, member state planning board ................................ 2 | 359 |

RALEIGH COUNTY COURT:

<table>
<thead>
<tr>
<th>Item</th>
<th>Sec</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Park and recreational centers</td>
<td>1</td>
<td>562</td>
</tr>
<tr>
<td>authorized to create</td>
<td>1</td>
<td>562</td>
</tr>
</tbody>
</table>
## INDEX TO ACTS

### RALEIGH COUNTY COURT (Continued):

<table>
<thead>
<tr>
<th>Bonds for</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount, maximum</td>
<td>2</td>
<td>563</td>
</tr>
<tr>
<td>Election, after request by board</td>
<td>9</td>
<td>566</td>
</tr>
<tr>
<td>Issuance and sale</td>
<td>2</td>
<td>563</td>
</tr>
<tr>
<td>Levy estimate for</td>
<td>4</td>
<td>563</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contributions for, by</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Municipalities</td>
<td>5</td>
<td>563</td>
</tr>
<tr>
<td>Annual levy estimate</td>
<td>5</td>
<td>564</td>
</tr>
<tr>
<td>Raleigh county board of education</td>
<td>6</td>
<td>564</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Expenditures, made after approval by board</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimates by board</td>
<td>11</td>
<td>566</td>
</tr>
<tr>
<td>Purposes</td>
<td>11</td>
<td>567</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Land for, acquired by</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gift, lease, purchase or condemnation</td>
<td>1</td>
<td>562</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Levies for</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>After required by board</td>
<td>9</td>
<td>566</td>
</tr>
<tr>
<td>Estimate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>By board</td>
<td>9</td>
<td>566</td>
</tr>
<tr>
<td>By county court</td>
<td>3</td>
<td>563</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Location</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
<td>563</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Park Board</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Body corporate</td>
<td>7</td>
<td>564</td>
</tr>
<tr>
<td>Charges collected by</td>
<td>13</td>
<td>567</td>
</tr>
<tr>
<td>Bond of custodian</td>
<td>13</td>
<td>568</td>
</tr>
<tr>
<td>Property of county court</td>
<td>13</td>
<td>567</td>
</tr>
<tr>
<td>Limitation on expenditures by</td>
<td>12</td>
<td>567</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Members</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appointment</td>
<td>7</td>
<td>564</td>
</tr>
<tr>
<td>Meetings</td>
<td>7(d)</td>
<td>565</td>
</tr>
<tr>
<td>Number</td>
<td>7</td>
<td>564</td>
</tr>
<tr>
<td>Oath</td>
<td>7(c)</td>
<td>565</td>
</tr>
<tr>
<td>Qualifications</td>
<td>7(a)</td>
<td>564</td>
</tr>
<tr>
<td>Terms</td>
<td>7(b)</td>
<td>564</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7</td>
<td>564</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Organization</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Duties of officers</td>
<td>7(e)</td>
<td>565</td>
</tr>
<tr>
<td>Quorum</td>
<td>7(e)</td>
<td>565</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Records submitted to county court</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supervisory authority</td>
<td>8</td>
<td>565</td>
</tr>
<tr>
<td>Vacancy</td>
<td>7(b)</td>
<td>564</td>
</tr>
<tr>
<td>Rentals, from board of education</td>
<td>6</td>
<td>564</td>
</tr>
</tbody>
</table>

### RALEIGH COUNTY CRIMINAL COURT:

Terms | 10 | 568 |

### RALEIGH-WYOMING MINING COMPANY:

Refund to, of unemployment contribution | 1 | 411 |
### Index to Acts

<table>
<thead>
<tr>
<th>RATING OF VETERANS:</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>(See Veterans)</td>
<td></td>
<td>522</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>REGISTRATION OF VOTERS:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Absentees</td>
<td>24</td>
<td>206</td>
</tr>
<tr>
<td>Applicant unable to write</td>
<td>28</td>
<td>207</td>
</tr>
<tr>
<td>disability after registration</td>
<td>29</td>
<td>208</td>
</tr>
<tr>
<td>statement and affidavit</td>
<td>28</td>
<td>207</td>
</tr>
<tr>
<td>Article</td>
<td></td>
<td></td>
</tr>
<tr>
<td>constitutionality</td>
<td>51</td>
<td>215</td>
</tr>
<tr>
<td>definitions</td>
<td>2</td>
<td>197</td>
</tr>
<tr>
<td>how cited</td>
<td>1</td>
<td>197</td>
</tr>
<tr>
<td>purpose</td>
<td>1</td>
<td>197</td>
</tr>
<tr>
<td>cancellation of for non-voting</td>
<td>5</td>
<td>199</td>
</tr>
<tr>
<td>notice of</td>
<td>5</td>
<td>199</td>
</tr>
<tr>
<td>Change of name, re-registration</td>
<td>35</td>
<td>210</td>
</tr>
<tr>
<td>Challenge</td>
<td></td>
<td></td>
</tr>
<tr>
<td>by whom</td>
<td>32</td>
<td>209</td>
</tr>
<tr>
<td>form</td>
<td>32</td>
<td>209</td>
</tr>
<tr>
<td>notice to voter</td>
<td>32</td>
<td>209</td>
</tr>
<tr>
<td>failure to appear, effect</td>
<td>32</td>
<td>209</td>
</tr>
<tr>
<td>Chapter, scope of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clerical assistance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>county court may provide</td>
<td>18</td>
<td>204</td>
</tr>
<tr>
<td>Clerk of county court</td>
<td></td>
<td></td>
</tr>
<tr>
<td>appointment of registrars by</td>
<td>16</td>
<td>203</td>
</tr>
<tr>
<td>challenges by</td>
<td>32</td>
<td>209</td>
</tr>
<tr>
<td>neglect of duty, penalty</td>
<td>45</td>
<td>214</td>
</tr>
<tr>
<td>oaths administered by</td>
<td>23</td>
<td>206</td>
</tr>
<tr>
<td>precinct, lists, duties</td>
<td>36</td>
<td>210</td>
</tr>
<tr>
<td>registration by</td>
<td>26</td>
<td>206</td>
</tr>
<tr>
<td>applicant unable to write</td>
<td>28</td>
<td>207</td>
</tr>
<tr>
<td>disabled</td>
<td>29</td>
<td>208</td>
</tr>
<tr>
<td>cancellation or correction</td>
<td>26</td>
<td>207</td>
</tr>
<tr>
<td>unlawful, penalty</td>
<td>44</td>
<td>213</td>
</tr>
<tr>
<td>registration by</td>
<td>26</td>
<td>206</td>
</tr>
<tr>
<td>form and oath</td>
<td>33</td>
<td>209</td>
</tr>
<tr>
<td>time of</td>
<td>34</td>
<td>213</td>
</tr>
<tr>
<td>County court</td>
<td></td>
<td></td>
</tr>
<tr>
<td>appropriations by</td>
<td>42</td>
<td>213</td>
</tr>
<tr>
<td>transfer of existing</td>
<td>42</td>
<td>213</td>
</tr>
<tr>
<td>hearings by</td>
<td>37</td>
<td>211</td>
</tr>
<tr>
<td>appeals to courts</td>
<td>37</td>
<td>211</td>
</tr>
<tr>
<td>sessions for hearing</td>
<td>39</td>
<td>212</td>
</tr>
<tr>
<td>time of</td>
<td>38</td>
<td>212</td>
</tr>
<tr>
<td>selection of registrars</td>
<td>16</td>
<td>202</td>
</tr>
<tr>
<td>REGISTRATION OF VOTERS (Continued):</td>
<td>Sec.</td>
<td>Page</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>Election commission</td>
<td></td>
<td></td>
</tr>
<tr>
<td>appointment</td>
<td>6</td>
<td>199</td>
</tr>
<tr>
<td>meetings</td>
<td>11</td>
<td>200</td>
</tr>
<tr>
<td>place</td>
<td>10</td>
<td>200</td>
</tr>
<tr>
<td>members</td>
<td></td>
<td></td>
</tr>
<tr>
<td>number</td>
<td>6</td>
<td>199</td>
</tr>
<tr>
<td>powers, and duties</td>
<td>12</td>
<td>200</td>
</tr>
<tr>
<td>qualifications</td>
<td>8</td>
<td>200</td>
</tr>
<tr>
<td>terms</td>
<td>7</td>
<td>199</td>
</tr>
<tr>
<td>traveling expenses</td>
<td>9</td>
<td>200</td>
</tr>
<tr>
<td>office</td>
<td>10</td>
<td>200</td>
</tr>
<tr>
<td>vacation of office</td>
<td>8</td>
<td>200</td>
</tr>
<tr>
<td>Forms for</td>
<td>21</td>
<td>204</td>
</tr>
<tr>
<td>color</td>
<td>21</td>
<td>204</td>
</tr>
<tr>
<td>signing under oath</td>
<td>22</td>
<td>206</td>
</tr>
<tr>
<td>Initial registration</td>
<td></td>
<td></td>
</tr>
<tr>
<td>additions and corrections</td>
<td>27</td>
<td>207</td>
</tr>
<tr>
<td>notice of time and place</td>
<td>27</td>
<td>207</td>
</tr>
<tr>
<td>equipment, forms, etc.</td>
<td>41-a</td>
<td>212</td>
</tr>
<tr>
<td>appropriation for</td>
<td>41-b</td>
<td>213</td>
</tr>
<tr>
<td>purchase of</td>
<td>41-a</td>
<td>213</td>
</tr>
<tr>
<td>office hours for</td>
<td>26</td>
<td>207</td>
</tr>
<tr>
<td>Interference with, penalty</td>
<td>48</td>
<td>215</td>
</tr>
<tr>
<td>Municipalities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>obtaining registration lists</td>
<td>36</td>
<td>210</td>
</tr>
<tr>
<td>precincts of, to correspond with county's</td>
<td>10-a</td>
<td>196</td>
</tr>
<tr>
<td>records for elections in</td>
<td>19</td>
<td>204</td>
</tr>
<tr>
<td>arrangement</td>
<td>19</td>
<td>204</td>
</tr>
<tr>
<td>separate file</td>
<td>19</td>
<td>204</td>
</tr>
<tr>
<td>Naturalized applicant, method</td>
<td>30</td>
<td>208</td>
</tr>
<tr>
<td>child, wife or widow</td>
<td>30</td>
<td>208</td>
</tr>
<tr>
<td>Neglect of duty, penalty</td>
<td>45</td>
<td>214</td>
</tr>
<tr>
<td>Party affiliation</td>
<td>31</td>
<td>208</td>
</tr>
<tr>
<td>refusal to give</td>
<td>31</td>
<td>209</td>
</tr>
<tr>
<td>Permanent system of</td>
<td>5</td>
<td>199</td>
</tr>
<tr>
<td>cancellation for non-voting</td>
<td>5</td>
<td>199</td>
</tr>
<tr>
<td>notice of</td>
<td>5</td>
<td>199</td>
</tr>
<tr>
<td>re-registration</td>
<td>5</td>
<td>199</td>
</tr>
<tr>
<td>Precinct</td>
<td></td>
<td></td>
</tr>
<tr>
<td>boundaries</td>
<td>40</td>
<td>212</td>
</tr>
<tr>
<td>municipal</td>
<td>10-a</td>
<td>196</td>
</tr>
<tr>
<td>list of voters</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contents</td>
<td>36</td>
<td>210</td>
</tr>
<tr>
<td>furnishing by clerk</td>
<td>36</td>
<td>210</td>
</tr>
<tr>
<td>preparation and posting</td>
<td>36</td>
<td>210</td>
</tr>
<tr>
<td>re-registration in</td>
<td>41</td>
<td>212</td>
</tr>
<tr>
<td>Prerequisite for voting</td>
<td>3</td>
<td>199</td>
</tr>
<tr>
<td>Quadrennial check-up</td>
<td>25</td>
<td>206</td>
</tr>
<tr>
<td>Registration of Voters (Continued):</td>
<td>Sec.</td>
<td>Page</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>Correction of lists after</td>
<td>27</td>
<td>207</td>
</tr>
<tr>
<td>Purpose</td>
<td>25</td>
<td>206</td>
</tr>
<tr>
<td>Time</td>
<td>25</td>
<td>206</td>
</tr>
<tr>
<td>Qualification for</td>
<td>4</td>
<td>199</td>
</tr>
<tr>
<td>Records</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alphabet file</td>
<td>19</td>
<td>204</td>
</tr>
<tr>
<td>Inspection</td>
<td>20</td>
<td>204</td>
</tr>
<tr>
<td>Alteration or removal</td>
<td>46, 19, 214, 204</td>
<td></td>
</tr>
<tr>
<td>Penalty</td>
<td>46, 214</td>
<td></td>
</tr>
<tr>
<td>Corrections</td>
<td>26</td>
<td>207</td>
</tr>
<tr>
<td>Custody</td>
<td>20</td>
<td>204</td>
</tr>
<tr>
<td>Destruction, penalty</td>
<td>46, 49, 214, 215</td>
<td></td>
</tr>
<tr>
<td>Disposition of prior</td>
<td>43</td>
<td>213</td>
</tr>
<tr>
<td>Files</td>
<td>19</td>
<td>204</td>
</tr>
<tr>
<td>Municipal elections</td>
<td>19</td>
<td>204</td>
</tr>
<tr>
<td>Registrars</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appointment by county court</td>
<td>16</td>
<td>202</td>
</tr>
<tr>
<td>From another precinct</td>
<td>16</td>
<td>202</td>
</tr>
<tr>
<td>Number</td>
<td>16</td>
<td>202</td>
</tr>
<tr>
<td>Request of county chairmen</td>
<td>16</td>
<td>202</td>
</tr>
<tr>
<td>Preservation</td>
<td>16</td>
<td>203</td>
</tr>
<tr>
<td>Time</td>
<td>16</td>
<td>202</td>
</tr>
<tr>
<td>Challenges by</td>
<td>32</td>
<td>209</td>
</tr>
<tr>
<td>Form and filing</td>
<td>32</td>
<td>209</td>
</tr>
<tr>
<td>Notice to applicant</td>
<td>32</td>
<td>209</td>
</tr>
<tr>
<td>Failure to appear, effect</td>
<td>32</td>
<td>209</td>
</tr>
<tr>
<td>Duties</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial registration</td>
<td>17, 27, 203, 207</td>
<td></td>
</tr>
<tr>
<td>Neglect of, penalty</td>
<td>45</td>
<td>214</td>
</tr>
<tr>
<td>Quadrennial check-up</td>
<td>17, 27, 203, 207</td>
<td></td>
</tr>
<tr>
<td>Oath, filing</td>
<td>16</td>
<td>203</td>
</tr>
<tr>
<td>Power to administer</td>
<td>23</td>
<td>206</td>
</tr>
<tr>
<td>Qualifications</td>
<td>16</td>
<td>203</td>
</tr>
<tr>
<td>Salaries</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial registration</td>
<td>17</td>
<td>203</td>
</tr>
<tr>
<td>Quadrennial check-up</td>
<td>17</td>
<td>203</td>
</tr>
<tr>
<td>Withholding</td>
<td>17</td>
<td>203</td>
</tr>
<tr>
<td>Unlawful registration or rejection</td>
<td>44</td>
<td>213</td>
</tr>
<tr>
<td>Penalty</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vacancy, filling</td>
<td>16</td>
<td>203</td>
</tr>
<tr>
<td>Registration receipts</td>
<td>23-a</td>
<td>206</td>
</tr>
<tr>
<td>Re-registration in any precinct</td>
<td>41</td>
<td>212</td>
</tr>
<tr>
<td>Rules and regulations</td>
<td>13</td>
<td>201</td>
</tr>
<tr>
<td>Secretary of state</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Powers and duties</td>
<td>13, 21, 201, 204</td>
<td></td>
</tr>
<tr>
<td>Delegation of</td>
<td>14</td>
<td>202</td>
</tr>
<tr>
<td>Transfers</td>
<td>33</td>
<td>209</td>
</tr>
</tbody>
</table>
# INDEX TO ACTS

## REGISTRATION OF VOTERS (Continued):

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>34</td>
<td>210</td>
</tr>
</tbody>
</table>
| Unlawful registration  
by applicant, penalty  | 44  | 214 |
| by registration official, penalty  | 44  | 213 |
| Unlawful refusal to register  | 44  | 213 |
| Withholding information, penalty  | 47  | 215 |

## RESOLUTIONS:

<table>
<thead>
<tr>
<th>House</th>
<th>Page</th>
</tr>
</thead>
</table>
| No. 1. Election of Clerk, Sergeant at Arms and  
Doorkeeper  | 590 |
| No. 2. Adopting rules for the House of Delegates  | 590 |
| No. 3. To inform Senate that the House of Delegates had organized  | 591 |
| No. 4. To notify governor that Legislature had organized  | 591 |
| No. 5. Authorizing the Clerk to compile and publish a legislative manual  | 591 |
| No. 6. Authorizing the Speaker to appoint designated attaches  | 592 |
| No. 7. Relating to assistant janitors  | 595 |
| No. 8. Extending sympathy to Delegate E. O. Waugh in the death of his mother  | 596 |
| No. 9. Providing for a mailing list for House Journals  | 596 |
| No. 10. Appointment of delegation to the fifth general assembly of the council of state governments  | 597 |
| No. 12. Expenses of delegate to meeting of Interstate Commission on Crime  | 598 |
| No. 14. Payment of janitors for work prior to session  | 599 |
| No. 15. Extending condolences to Delegate Gordon G. Duff in the death of his son  | 600 |
| No. 16. Reservation of gallery for families and friends of delegates  | 600 |
| No. 17. Payment for services incident to organization of House  | 601 |
| No. 18. Authorizing appointment of additional attaches  | 601 |
| No. 19. Authorizing publication in House Journal of history of Dr. Harriet B. Jones, a former member of the House  | 602 |
| No. 20. Expenses of delegate to meeting of Interstate Commission on Crime  | 603 |
| No. 21. Providing for furnishing and use of room 200-G  | 603 |
| No. 22. Declaring William Janes elected as the delegate from Barbour county  | 604 |
| No. 23. Payment of mileage to members of House  | 605 |
| No. 25. Concerning the death of the Honorable John W. Blizzard, a former member of the House  | 608 |
| No. 26. Commemorating the birthday of Mrs. Neill W. Walker, the only woman member of the House  | 609 |
**INDEX TO ACTS**

RESOLUTIONS (Continued):

<table>
<thead>
<tr>
<th>No.</th>
<th>Resolution</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>27.</td>
<td>Payment of expenses of House Committee on the Penitentiary</td>
<td>609</td>
</tr>
<tr>
<td>28.</td>
<td>Investigation of conditions at Lakin State Hospital and the Industrial School for Boys</td>
<td>610</td>
</tr>
<tr>
<td>29.</td>
<td>Congratulating Delegate Cresap on his thirty-fifth wedding anniversary</td>
<td>611</td>
</tr>
<tr>
<td>30.</td>
<td>Raising committee to investigate the Charleston Police Department</td>
<td>612</td>
</tr>
<tr>
<td>31.</td>
<td>Relating to the teaching of industrial arts</td>
<td>613</td>
</tr>
<tr>
<td>32.</td>
<td>Relating to an appropriation for the Charleston Colored Children's Shelter</td>
<td>614</td>
</tr>
<tr>
<td>33.</td>
<td>Concerning the birthday of Delegate Righter</td>
<td>615</td>
</tr>
<tr>
<td>34.</td>
<td>Thanking Inwood Fruit Growers Club for gift of apples</td>
<td>616</td>
</tr>
<tr>
<td>35.</td>
<td>Requesting legislative correspondents to arrange a Third House</td>
<td>617</td>
</tr>
<tr>
<td>37.</td>
<td>Providing for a special calendar</td>
<td>618</td>
</tr>
<tr>
<td>38.</td>
<td>Memorializing Congress on Coal Stabilization Act</td>
<td>618</td>
</tr>
<tr>
<td>39.</td>
<td>Memorializing Congress to provide for federal inspection of coal mines</td>
<td>619</td>
</tr>
<tr>
<td>40.</td>
<td>Regarding legislative furniture and equipment</td>
<td>620</td>
</tr>
<tr>
<td>41.</td>
<td>Concerning the illness to P. G. Cutlip</td>
<td>621</td>
</tr>
<tr>
<td>42.</td>
<td>Providing for printing of corrected Journals and Bills of the House and the completion of the work of the session</td>
<td>622</td>
</tr>
<tr>
<td>43.</td>
<td>Payment of expenses of delegation to meetings of Council of State Governments</td>
<td>623</td>
</tr>
<tr>
<td>44.</td>
<td>Concerning the death of the Honorable Carney M. Layne</td>
<td>623</td>
</tr>
<tr>
<td>45.</td>
<td>Purchase of presents for members of the press and others</td>
<td>624</td>
</tr>
<tr>
<td>46.</td>
<td>Notifying the Senate that House is ready to adjourn sine die</td>
<td>625</td>
</tr>
</tbody>
</table>

**HOUSE CONCURRENT:**

<table>
<thead>
<tr>
<th>No.</th>
<th>Resolution</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Raising a joint assembly to open and publish election returns</td>
<td>573</td>
</tr>
<tr>
<td>2.</td>
<td>Providing a joint assembly to hear the biennial message of the Governor</td>
<td>573</td>
</tr>
<tr>
<td>3.</td>
<td>Providing for a legislative recess</td>
<td>574</td>
</tr>
<tr>
<td>4.</td>
<td>Inviting Mrs. Eleanor Roosevelt to address a joint assembly</td>
<td>574</td>
</tr>
<tr>
<td>5.</td>
<td>Distribution of the Blue Book to public and private schools and to the Boys' state</td>
<td>575</td>
</tr>
<tr>
<td>6.</td>
<td>Providing for a joint assembly to hear an address by His Excellency, Governor Matthew M. Neely</td>
<td>576</td>
</tr>
<tr>
<td>13.</td>
<td>Concerning a memorial for Booker T. Washington</td>
<td>576</td>
</tr>
</tbody>
</table>
### RESOLUTIONS (Continued):

<table>
<thead>
<tr>
<th>No.</th>
<th>Resolution</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>Relating to the historical significance of American Legion Post No. 1</td>
<td></td>
<td>577</td>
</tr>
<tr>
<td>19</td>
<td>Authorizing Conservation Commission to survey and purchase certain lands</td>
<td></td>
<td>578</td>
</tr>
<tr>
<td>22</td>
<td>Granting permission to introduce a bill relating to town of Peterstown</td>
<td></td>
<td>579</td>
</tr>
<tr>
<td>23</td>
<td>Granting permission to introduce two bills relating to National Guard funds and exemptions from capitation taxes</td>
<td></td>
<td>579</td>
</tr>
<tr>
<td>24</td>
<td>Authorizing legislative study of damages on highways of state by financially irresponsible automobile owners and operators</td>
<td></td>
<td>580</td>
</tr>
<tr>
<td>25</td>
<td>Granting permission to introduce a bill relating to Nicholas county</td>
<td></td>
<td>581</td>
</tr>
<tr>
<td>26</td>
<td>Creating an interim legislative committee</td>
<td></td>
<td>581</td>
</tr>
<tr>
<td>27</td>
<td>Concerning the death of the Honorable Homer B. Woods</td>
<td></td>
<td>583</td>
</tr>
<tr>
<td>28</td>
<td>Granting permission to introduce two bills relating to funds of Liquor Commission and Workmen's Compensation</td>
<td></td>
<td>584</td>
</tr>
<tr>
<td>29</td>
<td>Granting permission to introduce a bill providing for submission of the Good Roads Amendment to the state constitution</td>
<td></td>
<td>585</td>
</tr>
<tr>
<td>30</td>
<td>Granting permission to introduce a bill relating to the compensation claim of Ben Ross</td>
<td></td>
<td>585</td>
</tr>
<tr>
<td>31</td>
<td>Granting permission to introduce a bill relating to state aid to schools</td>
<td></td>
<td>586</td>
</tr>
<tr>
<td>32</td>
<td>Authorizing the printing and distribution of the Acts of the 1941 session</td>
<td></td>
<td>586</td>
</tr>
<tr>
<td>33</td>
<td>Raising a joint committee to inform the Governor that the Legislature is ready to adjourn sine die</td>
<td></td>
<td>589</td>
</tr>
</tbody>
</table>

### HOUSE JOINT:

<table>
<thead>
<tr>
<th>No.</th>
<th>Resolution</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Proposing Good Roads Amendment to state constitution</td>
<td></td>
<td>589</td>
</tr>
</tbody>
</table>

### SENATE:

<table>
<thead>
<tr>
<th>No.</th>
<th>Resolution</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Appointment of Committee to inform House that Senate is organized</td>
<td></td>
<td>633</td>
</tr>
<tr>
<td>2</td>
<td>Raising committee to inform Governor that the Legislature is organized</td>
<td></td>
<td>633</td>
</tr>
<tr>
<td>3</td>
<td>Adopting rules of the Senate</td>
<td></td>
<td>634</td>
</tr>
<tr>
<td>4</td>
<td>Concerning illness of Senator Roy Jimison</td>
<td></td>
<td>634</td>
</tr>
<tr>
<td>5</td>
<td>Payment for janitor services preparatory to session</td>
<td></td>
<td>634</td>
</tr>
<tr>
<td>6</td>
<td>Concerning illness of Senator Earl H. Smith</td>
<td></td>
<td>635</td>
</tr>
<tr>
<td>7</td>
<td>Relating to mailing Senate journals and bills</td>
<td></td>
<td>635</td>
</tr>
</tbody>
</table>
**RESOLUTIONS (Continued):**

<table>
<thead>
<tr>
<th>No.</th>
<th>Resolution</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Raising a delegation to attend Fifth Interstate Assembly</td>
<td></td>
<td>636</td>
</tr>
<tr>
<td>9</td>
<td>Authorizing the appointment of attaches</td>
<td></td>
<td>637</td>
</tr>
<tr>
<td>10</td>
<td>Concerning the illness of the Honorable C. Frank Millender</td>
<td></td>
<td>639</td>
</tr>
<tr>
<td>11</td>
<td>Relating to appointment of assistant janitors</td>
<td></td>
<td>639</td>
</tr>
<tr>
<td>12</td>
<td>Authorizing the appointment of pages</td>
<td></td>
<td>640</td>
</tr>
<tr>
<td>13</td>
<td>Payment of salaries of officers and attaches for services preliminary to session</td>
<td></td>
<td>640</td>
</tr>
<tr>
<td>14</td>
<td>Concerning the illness of Senator William M. LaFon</td>
<td></td>
<td>642</td>
</tr>
<tr>
<td>15</td>
<td>Concerning the death of Frank Hussion</td>
<td></td>
<td>642</td>
</tr>
<tr>
<td>16</td>
<td>Amending standing rules of the Senate</td>
<td></td>
<td>643</td>
</tr>
<tr>
<td>17</td>
<td>Concerning the death of the Honorable Morris P. Shawkey</td>
<td></td>
<td>645</td>
</tr>
<tr>
<td>19</td>
<td>Concerning an appropriation for Charleston Colored Children's Shelter</td>
<td></td>
<td>647</td>
</tr>
<tr>
<td>20</td>
<td>Concerning the illness of Senator A. M. Martin</td>
<td></td>
<td>647</td>
</tr>
<tr>
<td>24</td>
<td>Authorizing a special calendar</td>
<td></td>
<td>648</td>
</tr>
<tr>
<td>25</td>
<td>Concerning the illness of Senator T. E. Bibb</td>
<td></td>
<td>648</td>
</tr>
<tr>
<td>26</td>
<td>Relating to the privilege of the floor</td>
<td></td>
<td>649</td>
</tr>
<tr>
<td>27</td>
<td>Providing for janitor service after adjournment</td>
<td></td>
<td>649</td>
</tr>
<tr>
<td>28</td>
<td>Relating to payment of pages</td>
<td></td>
<td>650</td>
</tr>
<tr>
<td>29</td>
<td>Printing of the Journal and completing work of session</td>
<td></td>
<td>650</td>
</tr>
<tr>
<td>30</td>
<td>Notifying House that Senate is ready to adjourn sine die</td>
<td></td>
<td>652</td>
</tr>
</tbody>
</table>

**SENATE CONCURRENT:**

<table>
<thead>
<tr>
<th>No.</th>
<th>Resolution</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Payment of mileage and contingent expenses of session</td>
<td></td>
<td>625</td>
</tr>
<tr>
<td>2</td>
<td>Relating to a legislative recess</td>
<td></td>
<td>625</td>
</tr>
<tr>
<td>6</td>
<td>Parking space on Capitol grounds for automobiles of members</td>
<td></td>
<td>626</td>
</tr>
<tr>
<td>9</td>
<td>Adopting joint rules of Senate and House</td>
<td></td>
<td>626</td>
</tr>
<tr>
<td>10</td>
<td>Concerning the death of Senator William M. LaFon</td>
<td></td>
<td>627</td>
</tr>
<tr>
<td>15</td>
<td>Requesting the Governor to create a committee to study the state's tax system</td>
<td></td>
<td>628</td>
</tr>
<tr>
<td>18</td>
<td>Requesting the state board of education to investigate methods for ascertaining aptitudes and talents of free school pupils</td>
<td></td>
<td>629</td>
</tr>
<tr>
<td>20</td>
<td>Authorizing payment of 1939 printing bills</td>
<td></td>
<td>630</td>
</tr>
<tr>
<td>21</td>
<td>Relating to state route No. 20 in Wetzel county</td>
<td></td>
<td>631</td>
</tr>
<tr>
<td>25</td>
<td>Payment for services and supplies after close of session</td>
<td></td>
<td>632</td>
</tr>
</tbody>
</table>

**ROBINSON, E. R.:**

Compensation commissioner to reopen case of 1 419
### Index to Acts

#### Saint Albans, City of:

<table>
<thead>
<tr>
<th>Compromise by, of unpaid sewer and paving assessments</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
<td>569</td>
</tr>
</tbody>
</table>

#### Salaries:

- (See Assessors) .................................................. 94
- (See Commissioner of Labor) .................................. 362
- (See County Agents) ......................................... 1
- (See County Commissioners) .................................. 96
- (See Members Department of Public Safety) ............... 387
- (See Superintendent Department of Public Safety) ........ 389

#### Salvation Army:

- Payment to, by Kanawha county court for hospital services .................................................. 1 536

#### School Fund, The:

- Amount .................................................................. 5 356
- Board of .................................................................. 5 356
  - compromise and settlements by 
    - prior loans and investments .................................. 5(e) 358
  - corporations ...................................................... 5 356
  - numbers .................................................................. 5 356
  - officers ............................................................. 5 357
  - powers and duties ............................................... 5 356
  - quorum .................................................................. 5 357
  - real estate holdings ........................................... 5 357
  - disposal ............................................................. 5 357
- Investment of .......................................................... 5 357
  - prior, extension of time of payment ....................... 5(d) 357
- Sources .................................................................. 5 356

#### School Funds:

- (See County Clerks) .............................................. 93
- (See Sale of Land for Taxes) .................................. 449

#### Scott, P. E.:

- Compensation commissioner to reopen case of .................. 1 431

#### Secretary of State:

- (See Child Welfare) .............................................. 2 340
- (See Elections) ..................................................... 179-180, 191-192
- (See Registration of Voters) ................................... 13 201
- (See State Court of Claims) .................................... 113

#### Securities:

- (See Face-Amount Certificates) ................................ 244
- (See Insurance) ..................................................... 274
- State Treasurer custodian of .................................... 2 391
  - charges for custody, exchange, etc. ......................... 2 391
  - exception .......................................................... 1 391
- transfer to, by state departments and agents ................ 2 391
# INDEX TO ACTS

<table>
<thead>
<tr>
<th>SHERIFF:</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Collecting and disbursement of school moneys</td>
<td>3</td>
<td>108</td>
</tr>
<tr>
<td>Payment of money from county treasury</td>
<td>4, 3</td>
<td>106, 108</td>
</tr>
<tr>
<td>signing orders by mechanical device</td>
<td>4, 3</td>
<td>106, 108</td>
</tr>
</tbody>
</table>

| STATE AID TO MUNICIPALITIES:                                                                 |       |      |
| (See Municipalities)                                                                           |       | 329  |

| STATE AID TO PUBLIC SCHOOLS:                                                                  |       |      |
| Allocation                                                                                     | 11    | 141  |
| Computation                                                                                    | 5     | 158  |

| STATE BOARD OF EDUCATION:                                                                     |       |      |
| (See Certification of Teachers)                                                                | 27-a  | 145  |
| (See Free Textbooks)                                                                           | 21-a  | 157  |
| (See Instruction in Schools)                                                                   | 9     | 176  |
| (See West Virginia Institute of Technology)                                                    | 1     | 87   |

| STATE COUNCIL OF DEFENSE:                                                                     |       |      |
| Cooperation with, of existing agencies                                                        | 4(b)  | 297  |
| District councils                                                                              |       |      |
| how created                                                                                    | 6     | 297  |
| powers                                                                                        | 6     | 297  |
| Governor                                                                                       |       |      |
| authorized to create and dissolve                                                             | 1     | 294  |
| chairman                                                                                       | 2     | 295  |
| designate vice chairman                                                                       | 2     | 295  |
| Local councils                                                                                 |       |      |
| duties                                                                                        | 3     | 295  |
| establishment by political subdivision                                                        | 5     | 297  |
| termination                                                                                   | 5     | 297  |
| Members                                                                                       |       |      |
| appointment                                                                                    | 2     | 295  |
| compensation                                                                                  | 2     | 295  |
| number                                                                                        | 2     | 295  |
| qualifications                                                                                | 2     | 295  |
| terms                                                                                         | 2     | 295  |
| traveling and other expenses                                                                  | 2     | 295  |
| Powers and duties                                                                             | 3     | 295  |
| Purpose                                                                                       | 1     | 294  |
| Utilization of existing facilities by                                                         | 4     | 296  |

| STATE CONSERVATION FUND:                                                                      |       |      |
| Additional bond by county clerk to protect                                                    | 12    | 93   |

| STATE COURT OF CLAIMS:                                                                        |       |      |
| (See Court of Claims)                                                                         |       | 112  |

| STATE FAIR OF WEST VIRGINIA:                                                                  |       |      |
| Greenbrier Valley Fair designated as                                                          | 1     | 435  |

<p>| STATE GEOLOGIST:                                                                               |       |      |
| Member state planning board                                                                   | 2     | 359  |</p>
<table>
<thead>
<tr>
<th>Index to Acts</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>STATE GUARD:</strong></td>
</tr>
<tr>
<td>(See West Virginia State Guard) ........................................ 287</td>
</tr>
<tr>
<td><strong>STATE INSURANCE COMMISSIONER:</strong></td>
</tr>
<tr>
<td>(See Face-Amount Certificates) ........................................ 245</td>
</tr>
<tr>
<td>(See Insurance) ...................................................... 275, 282, 284</td>
</tr>
<tr>
<td>Member teachers' retirement board .................................. 5, 163</td>
</tr>
<tr>
<td><strong>STATE MONEYS:</strong></td>
</tr>
<tr>
<td>(See Money Due the State) ............................................. 305</td>
</tr>
<tr>
<td><strong>STATE PLANNING BOARD:</strong></td>
</tr>
<tr>
<td>Agreements with counties and municipalities ...................... 9, 361</td>
</tr>
<tr>
<td>Assistance to, by state agencies .................................... 6, 360</td>
</tr>
<tr>
<td>Chairman designated by governor .................................... 4, 359</td>
</tr>
<tr>
<td>Created ........................................................................... 1, 359</td>
</tr>
<tr>
<td>Duties .............................................................................. 7, 360</td>
</tr>
<tr>
<td>Employees ......................................................................... 6, 360</td>
</tr>
<tr>
<td>compensation .............................................................. 6, 360</td>
</tr>
<tr>
<td>Expenditures ..................................................................... 10, 362</td>
</tr>
<tr>
<td>Hearing on plans ............................................................ 8, 361</td>
</tr>
<tr>
<td>Master plan ....................................................................... 7, 360</td>
</tr>
<tr>
<td>Meetings ............................................................................ 5, 360</td>
</tr>
<tr>
<td>Members</td>
</tr>
<tr>
<td>appointed ......................................................................... 1, 359</td>
</tr>
<tr>
<td>compensation and expenses ............................................ 4, 359</td>
</tr>
<tr>
<td>ex officio ......................................................................... 2, 359</td>
</tr>
<tr>
<td>number ............................................................................. 1, 359</td>
</tr>
<tr>
<td>qualifications ................................................................... 2, 359</td>
</tr>
<tr>
<td>terms ................................................................................. 3, 359</td>
</tr>
<tr>
<td>Offices ............................................................................... 5, 360</td>
</tr>
<tr>
<td>Quorum .............................................................................. 5, 360</td>
</tr>
<tr>
<td>Reports by .......................................................................... 11, 360</td>
</tr>
<tr>
<td>Rules of ............................................................................. 6, 360</td>
</tr>
<tr>
<td><strong>STATE POLICE:</strong></td>
</tr>
<tr>
<td>(See Department of Public Safety) ......................................</td>
</tr>
<tr>
<td><strong>STATE ROAD BONDS:</strong></td>
</tr>
<tr>
<td>Amount ............................................................................... 1, 77</td>
</tr>
<tr>
<td>Exchanged, cancellation and preservation ........................... 2, 78</td>
</tr>
<tr>
<td>Expenses, payment ............................................................ 13, 84</td>
</tr>
<tr>
<td>Form ................................................................................. 3, 79</td>
</tr>
<tr>
<td>coupon or registered ........................................................ 1, 78</td>
</tr>
<tr>
<td>Interest</td>
</tr>
<tr>
<td>coupon, form ...................................................................... 4, 80</td>
</tr>
<tr>
<td>cancellation ....................................................................... 8, 83</td>
</tr>
<tr>
<td>signature on ...................................................................... 4, 81</td>
</tr>
<tr>
<td>rate, maximum ................................................................... 2, 78</td>
</tr>
<tr>
<td>Interim certificates .......................................................... 12, 83</td>
</tr>
<tr>
<td>Issuance .............................................................................. 1, 78</td>
</tr>
</tbody>
</table>
INDEX TO ACTS

STATE ROAD BONDS (Continued):

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>78</td>
</tr>
<tr>
<td>1</td>
<td>78</td>
</tr>
<tr>
<td>5</td>
<td>81</td>
</tr>
<tr>
<td>10</td>
<td>83</td>
</tr>
<tr>
<td>9</td>
<td>83</td>
</tr>
<tr>
<td>1</td>
<td>78</td>
</tr>
<tr>
<td>8</td>
<td>83</td>
</tr>
<tr>
<td>8</td>
<td>83</td>
</tr>
<tr>
<td>6</td>
<td>82</td>
</tr>
<tr>
<td>6</td>
<td>82</td>
</tr>
<tr>
<td>6</td>
<td>82</td>
</tr>
<tr>
<td>6</td>
<td>81</td>
</tr>
<tr>
<td>2</td>
<td>79</td>
</tr>
<tr>
<td>7</td>
<td>82</td>
</tr>
<tr>
<td>1</td>
<td>78</td>
</tr>
<tr>
<td>2</td>
<td>78</td>
</tr>
<tr>
<td>11</td>
<td>83</td>
</tr>
<tr>
<td>2</td>
<td>78</td>
</tr>
</tbody>
</table>

STATE ROAD COMMISSION:

Authorized to settle claim of
Clay county board of education........... 1 374
Norwood Dingess ...................... 1 374
Portia Hamrick ...................... 1 375
Lee Hill, administrator.............. 1 376
Harry Love ...................... 1 373
M. L. McNeely ...................... 1 370
Ray Wildman, administrator........... 1 371

STATE ROAD COMMISSIONER:

Member state planning board ........... 2 359

STATE SINKING FUND COMMISSION:

Investment of sinking funds by

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>380</td>
</tr>
<tr>
<td>4</td>
<td>380</td>
</tr>
<tr>
<td>4</td>
<td>380</td>
</tr>
<tr>
<td>4</td>
<td>380</td>
</tr>
<tr>
<td>7</td>
<td>380</td>
</tr>
<tr>
<td>7</td>
<td>381</td>
</tr>
<tr>
<td>7</td>
<td>380</td>
</tr>
<tr>
<td>4</td>
<td>380</td>
</tr>
<tr>
<td>1</td>
<td>526</td>
</tr>
<tr>
<td>6</td>
<td>82</td>
</tr>
</tbody>
</table>
STATE SUPERINTENDENT OF FREE SCHOOLS:  
(See Certification of Teachers) ........................................ 143, 147  
(See Free Textbooks) .................................................. 21-c 154  
Member state planning board ........................................ 2 359  
Member teachers' retirement board ................................ 5 163  
Recommend members teachers' retirement board ................. 5 163  

STATE TAX COMMISSIONER:  
(See Gasoline Tax) ..................................................... 516, 517  
(See Income Tax) ..................................................... 513  
(See Nicholas County) ................................................. 556  

STATE TREASURER:  
(See Insurance) .......................................................... 274  
(See Money Due State) ................................................. 305  
(See State Road Bonds) ................................................ 77  
Custodian, of securities .............................................. 2 391  
funds, teachers' retirement system ................................ 5 163  
investments, board of school fund ................................ 5 357  
Member board of the school fund ................................ 5 356  

STREET PAVING:  
New method not exclusive ......................................... 18 328  

SUMMERS COUNTY COURT:  
Authorized to construct a Four-H camp ......................... 1 569  

SUPREME COURT OF APPEALS:  
(See Declaratory Judgments) ........................................ 7 133  
(See Embalmers and Funeral Directors) ............................ 8 243  
(See Registration of Voters) ....................................... 37 211  
(See Taxes and Taxation) ........................................... 20, 39 487, 500  

TAXES AND TAXATION:  
(See Consumers Sales Tax) ......................................... 510  
(See Debt Levies) ...................................................... 518  
(See Gasoline Tax) .................................................... 89, 516  
(See Income Tax) ...................................................... 513, 514  
(See Inheritance Tax) ................................................ 512  
License tax  
entertainments exempt from ....................................... 18 510  
Property tax  
accounts of sheriff .................................................. 13 441  
form ................................................................. 13 441  
inspection of ......................................................... 13 441  
current, collection of  
 after collection of delinquent .................................. 7 438  
by collector ........................................................... 5 438  
appointment ........................................................... 5 438  
bond ................................................................. 5 438  
duties and liabilities ................................................. 5 438
# INDEX TO ACTS

## TAXES AND TAXATION (Continued):

<table>
<thead>
<tr>
<th>Description</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>by sheriff</td>
<td>4</td>
<td>438</td>
</tr>
<tr>
<td>business hours</td>
<td>4</td>
<td>438</td>
</tr>
<tr>
<td>commencement</td>
<td>6</td>
<td>438</td>
</tr>
<tr>
<td>office at county seat</td>
<td>4</td>
<td>438</td>
</tr>
<tr>
<td>commissions</td>
<td>17</td>
<td>442</td>
</tr>
<tr>
<td>amount</td>
<td>17</td>
<td>442</td>
</tr>
<tr>
<td>discounts</td>
<td>3</td>
<td>438</td>
</tr>
<tr>
<td>definitions</td>
<td>1</td>
<td>437</td>
</tr>
<tr>
<td>delinquent collection</td>
<td></td>
<td></td>
</tr>
<tr>
<td>by distraint</td>
<td>3</td>
<td>443</td>
</tr>
<tr>
<td>abatement of distress</td>
<td>4</td>
<td>444</td>
</tr>
<tr>
<td>before delinquency</td>
<td>3</td>
<td>443</td>
</tr>
<tr>
<td>encumbered property</td>
<td>5</td>
<td>444</td>
</tr>
<tr>
<td>from share cropper</td>
<td>3</td>
<td>343</td>
</tr>
<tr>
<td>land in more than one county</td>
<td>6</td>
<td>444</td>
</tr>
<tr>
<td>by sale</td>
<td>10</td>
<td>446</td>
</tr>
<tr>
<td>by suit</td>
<td>2</td>
<td>443</td>
</tr>
<tr>
<td>time limitation</td>
<td>2</td>
<td>443</td>
</tr>
<tr>
<td>by summary proceedings against another</td>
<td>7</td>
<td>444</td>
</tr>
<tr>
<td>application by sheriff</td>
<td>7</td>
<td>444</td>
</tr>
<tr>
<td>notice by sheriff</td>
<td>7</td>
<td>445</td>
</tr>
<tr>
<td>payment by, credit for</td>
<td>7</td>
<td>445</td>
</tr>
<tr>
<td>enforcement of, by sheriff</td>
<td>1</td>
<td>443</td>
</tr>
<tr>
<td>dates</td>
<td>3</td>
<td>438</td>
</tr>
<tr>
<td>interest on</td>
<td>3</td>
<td>438</td>
</tr>
<tr>
<td>lists of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>certification to auditor</td>
<td>14</td>
<td>447</td>
</tr>
<tr>
<td>examination by</td>
<td>15</td>
<td>447</td>
</tr>
<tr>
<td>return by, for correction</td>
<td>15</td>
<td>447</td>
</tr>
<tr>
<td>correction, by county court</td>
<td>14, 15</td>
<td>447</td>
</tr>
<tr>
<td>date</td>
<td>11</td>
<td>446</td>
</tr>
<tr>
<td>filing with county court</td>
<td>14</td>
<td>447</td>
</tr>
<tr>
<td>form</td>
<td>11</td>
<td>446</td>
</tr>
<tr>
<td>inclusion in, of taxes paid</td>
<td>12</td>
<td>446</td>
</tr>
<tr>
<td>penalty</td>
<td>12</td>
<td>446</td>
</tr>
<tr>
<td>irregularities in, effect</td>
<td>16</td>
<td>447</td>
</tr>
<tr>
<td>oath to</td>
<td>11</td>
<td>446</td>
</tr>
<tr>
<td>omissions, presumption of payment</td>
<td>17</td>
<td>448</td>
</tr>
<tr>
<td>publication and posting</td>
<td>13</td>
<td>447</td>
</tr>
<tr>
<td>charges added</td>
<td>13</td>
<td>447</td>
</tr>
<tr>
<td>recordation by clerk</td>
<td>14</td>
<td>447</td>
</tr>
<tr>
<td>changes and notations</td>
<td>18</td>
<td>448</td>
</tr>
<tr>
<td>payment by sheriff before collection</td>
<td></td>
<td></td>
</tr>
<tr>
<td>remedies</td>
<td>9</td>
<td>445</td>
</tr>
<tr>
<td>subrogation, when right of, lost</td>
<td>9</td>
<td>445</td>
</tr>
<tr>
<td>redemption before sale</td>
<td>18</td>
<td>448</td>
</tr>
<tr>
<td>TAXES AND TAXATION (Continued):</td>
<td>SEC.</td>
<td>PAGE</td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>duplicate receipt</td>
<td>18</td>
<td>448</td>
</tr>
<tr>
<td>lien, redeemed for another</td>
<td>18</td>
<td>448</td>
</tr>
<tr>
<td>undivided interest</td>
<td>18</td>
<td>448</td>
</tr>
<tr>
<td>vendee in possession without deed</td>
<td>8</td>
<td>445</td>
</tr>
<tr>
<td>liability of, for taxes</td>
<td>8</td>
<td>445</td>
</tr>
<tr>
<td>levies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>sheriff charged with</td>
<td>16</td>
<td>442</td>
</tr>
<tr>
<td>yearly settlement</td>
<td>16</td>
<td>442</td>
</tr>
<tr>
<td>lien on real property</td>
<td>2</td>
<td>437</td>
</tr>
<tr>
<td>payment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>co-owner or other interested party</td>
<td>9</td>
<td>439</td>
</tr>
<tr>
<td>group assessment</td>
<td>9</td>
<td>440</td>
</tr>
<tr>
<td>separate assessment</td>
<td>9</td>
<td>440</td>
</tr>
<tr>
<td>subrogation to lien</td>
<td>9</td>
<td>440</td>
</tr>
<tr>
<td>how preserved</td>
<td>9</td>
<td>440</td>
</tr>
<tr>
<td>fiduciary, refund from estate</td>
<td>11</td>
<td>441</td>
</tr>
<tr>
<td>installments</td>
<td>3</td>
<td>438</td>
</tr>
<tr>
<td>notice of time and place</td>
<td>8</td>
<td>439</td>
</tr>
<tr>
<td>form</td>
<td>8</td>
<td>439</td>
</tr>
<tr>
<td>posting</td>
<td>8</td>
<td>439</td>
</tr>
<tr>
<td>failure, penalty</td>
<td>8</td>
<td>439</td>
</tr>
<tr>
<td>publication</td>
<td>8</td>
<td>439</td>
</tr>
<tr>
<td>failure, penalty</td>
<td>8</td>
<td>439</td>
</tr>
<tr>
<td>part owner, when assessed to another</td>
<td>10</td>
<td>440</td>
</tr>
<tr>
<td>assessment split</td>
<td>10</td>
<td>440</td>
</tr>
<tr>
<td>new tax bills</td>
<td>10</td>
<td>440</td>
</tr>
<tr>
<td>certificates from assessor and clerk</td>
<td>10</td>
<td>440</td>
</tr>
<tr>
<td>receipt for</td>
<td>12</td>
<td>441</td>
</tr>
<tr>
<td>form</td>
<td>12</td>
<td>441</td>
</tr>
<tr>
<td>personal signatures</td>
<td>12</td>
<td>441</td>
</tr>
<tr>
<td>sheriff to pay</td>
<td></td>
<td></td>
</tr>
<tr>
<td>municipal treasurer</td>
<td>15</td>
<td>442</td>
</tr>
<tr>
<td>bond</td>
<td>15</td>
<td>442</td>
</tr>
<tr>
<td>premium payment</td>
<td>15</td>
<td>442</td>
</tr>
<tr>
<td>dates</td>
<td>15</td>
<td>442</td>
</tr>
<tr>
<td>interest</td>
<td>15</td>
<td>442</td>
</tr>
<tr>
<td>state treasurer</td>
<td>14</td>
<td>441</td>
</tr>
<tr>
<td>dates</td>
<td>14</td>
<td>441</td>
</tr>
<tr>
<td>interest</td>
<td>14</td>
<td>441</td>
</tr>
<tr>
<td>sale of land for taxes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>by sheriff, date</td>
<td>4</td>
<td>451</td>
</tr>
<tr>
<td>deed for</td>
<td></td>
<td></td>
</tr>
<tr>
<td>commissioner</td>
<td>26</td>
<td>467, 468</td>
</tr>
<tr>
<td>costs</td>
<td>26</td>
<td>466</td>
</tr>
<tr>
<td>prerequisites to securing</td>
<td>20</td>
<td>461</td>
</tr>
<tr>
<td>survey or report</td>
<td>21</td>
<td>462</td>
</tr>
<tr>
<td>when part of tract purchased</td>
<td>22</td>
<td>462</td>
</tr>
<tr>
<td>failure to execute</td>
<td>26</td>
<td>466</td>
</tr>
<tr>
<td>TAXES AND TAXATION (Continued):</td>
<td>Sec.</td>
<td>Page</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>petition to circuit court</td>
<td>26</td>
<td>466</td>
</tr>
<tr>
<td>hearing on</td>
<td>26</td>
<td>466</td>
</tr>
<tr>
<td>order</td>
<td>26</td>
<td>466</td>
</tr>
<tr>
<td>parties</td>
<td>33</td>
<td>470</td>
</tr>
<tr>
<td>revesting title</td>
<td>33</td>
<td>470</td>
</tr>
<tr>
<td>fee</td>
<td>25</td>
<td>466</td>
</tr>
<tr>
<td>form</td>
<td>25</td>
<td>465</td>
</tr>
<tr>
<td>one or more</td>
<td>27</td>
<td>468</td>
</tr>
<tr>
<td>recordation</td>
<td>25</td>
<td>466</td>
</tr>
<tr>
<td>setting aside</td>
<td></td>
<td></td>
</tr>
<tr>
<td>improperly obtained</td>
<td>31</td>
<td>469</td>
</tr>
<tr>
<td>in part</td>
<td>30</td>
<td>469</td>
</tr>
<tr>
<td>lack of notice</td>
<td>32</td>
<td>470</td>
</tr>
<tr>
<td>taxes paid before sale</td>
<td>30</td>
<td>469</td>
</tr>
<tr>
<td>time of making</td>
<td>25</td>
<td>466</td>
</tr>
<tr>
<td>delinquent lists</td>
<td></td>
<td></td>
</tr>
<tr>
<td>publication and posting, second</td>
<td>2</td>
<td>450, 451</td>
</tr>
<tr>
<td>duties of officers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>failure to perform, penalty</td>
<td>42</td>
<td>475</td>
</tr>
<tr>
<td>legislative purpose and policy</td>
<td>1</td>
<td>449</td>
</tr>
<tr>
<td>lists of, by sheriff</td>
<td>36</td>
<td>472</td>
</tr>
<tr>
<td>amendment or correction</td>
<td>40</td>
<td>474</td>
</tr>
<tr>
<td>petition to county court</td>
<td>40</td>
<td>474</td>
</tr>
<tr>
<td>notice of</td>
<td>40</td>
<td>474</td>
</tr>
<tr>
<td>order on</td>
<td>40</td>
<td>474</td>
</tr>
<tr>
<td>substitution of amended list</td>
<td>40</td>
<td>474</td>
</tr>
<tr>
<td>copy to auditor</td>
<td>40</td>
<td>474</td>
</tr>
<tr>
<td>form</td>
<td>36</td>
<td>472</td>
</tr>
<tr>
<td>publication and posting</td>
<td>41</td>
<td>474</td>
</tr>
<tr>
<td>charges added</td>
<td>41</td>
<td>475</td>
</tr>
<tr>
<td>form</td>
<td>41</td>
<td>475</td>
</tr>
<tr>
<td>payment of costs</td>
<td>41</td>
<td>475</td>
</tr>
<tr>
<td>return to clerk</td>
<td>38</td>
<td>473</td>
</tr>
<tr>
<td>copy to auditor</td>
<td>38</td>
<td>473</td>
</tr>
<tr>
<td>duties of clerk</td>
<td>38</td>
<td>473</td>
</tr>
<tr>
<td>failure to make, penalty</td>
<td>39</td>
<td>474</td>
</tr>
<tr>
<td>mandamus</td>
<td>39</td>
<td>474</td>
</tr>
<tr>
<td>notice of</td>
<td>2</td>
<td>451</td>
</tr>
<tr>
<td>form</td>
<td>2</td>
<td>451</td>
</tr>
<tr>
<td>publication and posting</td>
<td>2</td>
<td>451</td>
</tr>
<tr>
<td>charges added</td>
<td>2</td>
<td>451</td>
</tr>
<tr>
<td>proceeds, accounting for</td>
<td>37</td>
<td>473</td>
</tr>
<tr>
<td>presumption of redemption</td>
<td>37</td>
<td>473</td>
</tr>
<tr>
<td>purchase by</td>
<td></td>
<td></td>
</tr>
<tr>
<td>co-owner, when</td>
<td>16</td>
<td>458</td>
</tr>
<tr>
<td>presumption against trust</td>
<td>16</td>
<td>458</td>
</tr>
<tr>
<td>individual</td>
<td></td>
<td></td>
</tr>
<tr>
<td>receipt</td>
<td>15</td>
<td>458</td>
</tr>
</tbody>
</table>
INDEX TO ACTS

TAXES AND TAXATION (Continued):

<table>
<thead>
<tr>
<th>Subsequent tax sales of land purchased</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>rights of purchaser</td>
<td>34</td>
<td>470</td>
</tr>
<tr>
<td>sheriff, clerk and deputies forbidden</td>
<td>16</td>
<td>458</td>
</tr>
<tr>
<td>penalty</td>
<td>16</td>
<td>458</td>
</tr>
<tr>
<td>voidable</td>
<td>16</td>
<td>458</td>
</tr>
<tr>
<td>state</td>
<td>6</td>
<td>452</td>
</tr>
<tr>
<td>title acquired</td>
<td>7</td>
<td>452</td>
</tr>
</tbody>
</table>

Redemption

| before sale | 3 | 451 |
| compulsory, election of auditor | 12 | 456 |
| disposition of money | 14 | 457 |
| individual purchaser | | |
| cancellation | 17 | 458 |
| contest of right | 19 | 460 |
| notice | 19 | 460 |
| failure to appear, effect | 19 | 460 |
| list of, to auditor | 17 | 458 |
| notice to redeem, by clerk | 23 | 463 |
| failure to give, remedy | 26 | 466 |
| fee | 23 | 464 |
| form | 23 | 463 |
| service | 24 | 464 |
| manner | 24 | 464 |
| parties | 24 | 464 |
| partial, from auditor | 13 | 456 |
| procedure | 13 | 456 |

Redemption money

| amount | 17 | 459 |
| duplicate receipts | 17 | 459 |
| filing with clerk, time | 17 | 459 |
| failure, effect | 17 | 459 |
| refusal to give, penalty | 17 | 459 |
| payment to clerk when made | 18 | 460 |
| contest of rights, notice | 19 | 460 |
| duplicate receipts | 18 | 460 |
| notation on record | 18 | 460 |
| sufficiency of, denied | 19 | 461 |
| return of money | 19 | 461 |

Redempotor under disability

<p>| conveyance to | 35 | 471 |
| by commissioner | 35 | 472 |
| improvements after purchase | 35 | 471 |
| payment for | 35 | 471 |
| election | 35 | 471 |
| value, ascertainment | 35 | 472 |
| payment to purchaser | 35 | 471 |
| time | 35 | 471 |</p>
<table>
<thead>
<tr>
<th>Topic</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>second sale</td>
<td>34</td>
<td>470</td>
</tr>
<tr>
<td>rights of purchaser</td>
<td>34</td>
<td>471</td>
</tr>
<tr>
<td>self protection, lien</td>
<td>17</td>
<td>459</td>
</tr>
<tr>
<td>docketing</td>
<td>17</td>
<td>460</td>
</tr>
<tr>
<td>preservation</td>
<td>17</td>
<td>460</td>
</tr>
<tr>
<td>title acquired</td>
<td>28</td>
<td>468</td>
</tr>
<tr>
<td>date</td>
<td>28</td>
<td>468</td>
</tr>
<tr>
<td>irregularity, effect</td>
<td>29</td>
<td>469</td>
</tr>
<tr>
<td>interest of another</td>
<td>10</td>
<td>454</td>
</tr>
<tr>
<td>lien and preservation</td>
<td>10</td>
<td>454</td>
</tr>
<tr>
<td>list of, by sheriff</td>
<td>36</td>
<td>472</td>
</tr>
<tr>
<td>form</td>
<td>36</td>
<td>472</td>
</tr>
<tr>
<td>publication and posting</td>
<td>41</td>
<td>474</td>
</tr>
<tr>
<td>charges added</td>
<td>41</td>
<td>475</td>
</tr>
<tr>
<td>form</td>
<td>41</td>
<td>475</td>
</tr>
<tr>
<td>payment of costs</td>
<td>41</td>
<td>475</td>
</tr>
<tr>
<td>return to clerk</td>
<td>38</td>
<td>473</td>
</tr>
<tr>
<td>copy to auditor</td>
<td>38</td>
<td>473</td>
</tr>
<tr>
<td>duties of clerk</td>
<td>38</td>
<td>473</td>
</tr>
<tr>
<td>failure to make, penalty</td>
<td>39</td>
<td>474</td>
</tr>
<tr>
<td>mandamus</td>
<td>39</td>
<td>474</td>
</tr>
<tr>
<td>report by auditor, to county officials</td>
<td>14</td>
<td>457</td>
</tr>
<tr>
<td>clerk to file and index</td>
<td>14</td>
<td>457</td>
</tr>
<tr>
<td>revaluation and reclassification</td>
<td>11</td>
<td>455</td>
</tr>
<tr>
<td>by assessor</td>
<td>11</td>
<td>455</td>
</tr>
<tr>
<td>certification to auditor</td>
<td>11</td>
<td>456</td>
</tr>
<tr>
<td>rule for</td>
<td>11</td>
<td>455</td>
</tr>
<tr>
<td>submitted to county court</td>
<td>11</td>
<td>455</td>
</tr>
<tr>
<td>state purchaser</td>
<td></td>
<td></td>
</tr>
<tr>
<td>amounts to be paid</td>
<td>8</td>
<td>452</td>
</tr>
<tr>
<td>computation of, by auditor</td>
<td>8</td>
<td>453</td>
</tr>
<tr>
<td>certificate from auditor</td>
<td>9</td>
<td>454</td>
</tr>
<tr>
<td>fees</td>
<td>9</td>
<td>454</td>
</tr>
<tr>
<td>disposition of</td>
<td>9</td>
<td>454</td>
</tr>
<tr>
<td>form</td>
<td>9</td>
<td>454</td>
</tr>
<tr>
<td>original and copies</td>
<td>9</td>
<td>454</td>
</tr>
<tr>
<td>recordation by county clerk</td>
<td>9</td>
<td>454</td>
</tr>
<tr>
<td>partial redemption</td>
<td>8</td>
<td>453</td>
</tr>
<tr>
<td>amount</td>
<td>8</td>
<td>453</td>
</tr>
<tr>
<td>who may redeem</td>
<td>8</td>
<td>452</td>
</tr>
<tr>
<td>suspensions from</td>
<td>5</td>
<td>452</td>
</tr>
<tr>
<td>list of, by sheriff</td>
<td>36</td>
<td>472</td>
</tr>
<tr>
<td>form</td>
<td>36</td>
<td>472</td>
</tr>
<tr>
<td>sale of land for school fund</td>
<td></td>
<td></td>
</tr>
<tr>
<td>account kept by sheriff</td>
<td></td>
<td></td>
</tr>
<tr>
<td>disbursements</td>
<td>51</td>
<td>507</td>
</tr>
<tr>
<td>separate</td>
<td>51</td>
<td>507</td>
</tr>
<tr>
<td>administration order, refusal</td>
<td>20</td>
<td>487</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
<td></td>
</tr>
<tr>
<td>procedure on&lt;br&gt;in circuit court</td>
<td>20 487</td>
<td></td>
</tr>
<tr>
<td>in supreme court</td>
<td>20 487</td>
<td></td>
</tr>
<tr>
<td>amount necessary for redemption&lt;br&gt;application for reduction</td>
<td>17 485</td>
<td></td>
</tr>
<tr>
<td>by deputy commissioner</td>
<td>17 485</td>
<td></td>
</tr>
<tr>
<td>by interested party</td>
<td>17 485</td>
<td></td>
</tr>
<tr>
<td>procedure on</td>
<td>19 486</td>
<td></td>
</tr>
<tr>
<td>computation of</td>
<td>54 509</td>
<td></td>
</tr>
<tr>
<td>auditor&lt;br&gt;duty to enforce act</td>
<td>4 478</td>
<td></td>
</tr>
<tr>
<td>land department, operating fund</td>
<td>7 479</td>
<td></td>
</tr>
<tr>
<td>disbursement</td>
<td>7 479</td>
<td></td>
</tr>
<tr>
<td>sources</td>
<td>7 479</td>
<td></td>
</tr>
<tr>
<td>record of delinquent lands</td>
<td>6 479</td>
<td></td>
</tr>
<tr>
<td>form</td>
<td>6 479</td>
<td></td>
</tr>
<tr>
<td>prima facie evidence</td>
<td>6 479</td>
<td></td>
</tr>
<tr>
<td>state commissioner of forfeited and delinquent lands</td>
<td>4 477</td>
<td></td>
</tr>
<tr>
<td>costs&lt;br&gt;circuit court</td>
<td>15 484</td>
<td></td>
</tr>
<tr>
<td>court order book, separate</td>
<td>15 484</td>
<td></td>
</tr>
<tr>
<td>deed to purchaser by deputy commissioner&lt;br&gt;conclusive evidence of title</td>
<td>43 504</td>
<td></td>
</tr>
<tr>
<td>costs paid</td>
<td>41 503</td>
<td></td>
</tr>
<tr>
<td>fee</td>
<td>41 503</td>
<td></td>
</tr>
<tr>
<td>form</td>
<td>41 502</td>
<td></td>
</tr>
<tr>
<td>public land corporation, no deed required</td>
<td>42 503</td>
<td></td>
</tr>
<tr>
<td>recordation</td>
<td>41 503</td>
<td></td>
</tr>
<tr>
<td>examination before</td>
<td>41 503</td>
<td></td>
</tr>
<tr>
<td>setting aside by suit&lt;br&gt;decrce</td>
<td>48 506</td>
<td></td>
</tr>
<tr>
<td>extent</td>
<td>45 505</td>
<td></td>
</tr>
<tr>
<td>grounds</td>
<td>45-47 504, 505</td>
<td></td>
</tr>
<tr>
<td>parties</td>
<td>45-48 504-506</td>
<td></td>
</tr>
<tr>
<td>payments required</td>
<td>46, 47 505, 506</td>
<td></td>
</tr>
<tr>
<td>revesting title</td>
<td>48 506</td>
<td></td>
</tr>
<tr>
<td>time limitation</td>
<td>46, 47 505, 506</td>
<td></td>
</tr>
<tr>
<td>deputy commissioners&lt;br&gt;annual report to auditor</td>
<td>50 507</td>
<td></td>
</tr>
<tr>
<td>corrections</td>
<td>50 507</td>
<td></td>
</tr>
<tr>
<td>failure to make, penalty</td>
<td>50 478</td>
<td></td>
</tr>
<tr>
<td>appointment by auditor</td>
<td>5 479</td>
<td></td>
</tr>
<tr>
<td>bonds, amount and premium payment</td>
<td>5 479</td>
<td></td>
</tr>
<tr>
<td>certificate of redemption issued&lt;br&gt;by</td>
<td>10, 11, 28, 481, 482, 491</td>
<td></td>
</tr>
<tr>
<td>compensation</td>
<td>5 479</td>
<td></td>
</tr>
</tbody>
</table>
**INDEX TO ACTS**

**TAXES AND TAXATION (Continued):**

<table>
<thead>
<tr>
<th>Item</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>county agent for auditor</td>
<td>5</td>
<td>478</td>
</tr>
<tr>
<td>deed from</td>
<td>41</td>
<td>502</td>
</tr>
<tr>
<td>notice to redeem</td>
<td>35</td>
<td>495</td>
</tr>
<tr>
<td>purchase by, forbidden</td>
<td>24</td>
<td>489</td>
</tr>
<tr>
<td>qualifications</td>
<td>5</td>
<td>478</td>
</tr>
<tr>
<td>redemption from</td>
<td>10</td>
<td>481</td>
</tr>
<tr>
<td>reports to, by county officials sent to auditor</td>
<td>8</td>
<td>480</td>
</tr>
<tr>
<td>sale by</td>
<td>21</td>
<td>488</td>
</tr>
<tr>
<td>application for order</td>
<td>14</td>
<td>483</td>
</tr>
<tr>
<td>notice of</td>
<td>21</td>
<td>488</td>
</tr>
<tr>
<td>purchase by, for public land corporation</td>
<td>23</td>
<td>489</td>
</tr>
<tr>
<td>report of</td>
<td>21</td>
<td>488</td>
</tr>
<tr>
<td>setting aside, notice to</td>
<td>30</td>
<td>500</td>
</tr>
<tr>
<td>tenure of office</td>
<td>5</td>
<td>478</td>
</tr>
<tr>
<td>duties of officers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>failure, penalty</td>
<td>53</td>
<td>508</td>
</tr>
<tr>
<td>escheated lands, surplus proceeds</td>
<td>26</td>
<td>490</td>
</tr>
<tr>
<td>to creditor of former owner</td>
<td></td>
<td></td>
</tr>
<tr>
<td>forfeiture for non-entry</td>
<td>2</td>
<td>477</td>
</tr>
<tr>
<td>after five years</td>
<td>2</td>
<td>477</td>
</tr>
<tr>
<td>former sales confirmed</td>
<td>52</td>
<td>508</td>
</tr>
<tr>
<td>lands subject to</td>
<td>3</td>
<td>477</td>
</tr>
<tr>
<td>list certified to circuit court by auditor</td>
<td>9</td>
<td>480</td>
</tr>
<tr>
<td>form</td>
<td>9</td>
<td>480</td>
</tr>
<tr>
<td>original and copies, disposition of</td>
<td>9</td>
<td>481</td>
</tr>
<tr>
<td>legislative purpose</td>
<td>1</td>
<td>477</td>
</tr>
<tr>
<td>operating fund for land department</td>
<td>7</td>
<td>479</td>
</tr>
<tr>
<td>pending suits dismissed</td>
<td>52</td>
<td>507</td>
</tr>
<tr>
<td>record of delinquent lands</td>
<td>6</td>
<td>479</td>
</tr>
<tr>
<td>redemption</td>
<td></td>
<td></td>
</tr>
<tr>
<td>after sale to individual</td>
<td>27</td>
<td>490</td>
</tr>
<tr>
<td>payment to purchaser, amount receipt</td>
<td>27</td>
<td>490</td>
</tr>
<tr>
<td>disposition</td>
<td>27</td>
<td>490</td>
</tr>
<tr>
<td>failure to give, penalty</td>
<td>27</td>
<td>491</td>
</tr>
<tr>
<td>after sale to public land corporation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>payment to sheriff, amount</td>
<td>28</td>
<td>491</td>
</tr>
<tr>
<td>certificate of redemption</td>
<td>28</td>
<td>491</td>
</tr>
<tr>
<td>report to clerk of circuit court</td>
<td>28</td>
<td>492</td>
</tr>
<tr>
<td>before sale</td>
<td></td>
<td></td>
</tr>
<tr>
<td>application to deputy commissioner</td>
<td>10</td>
<td>481</td>
</tr>
<tr>
<td>certificate of redemption and copies</td>
<td>11</td>
<td>482</td>
</tr>
<tr>
<td>computation of amount required</td>
<td>10</td>
<td>481</td>
</tr>
<tr>
<td>payment to sheriff</td>
<td>10</td>
<td>481</td>
</tr>
</tbody>
</table>
### Index to Acts

**Taxes and Taxation (Continued):**

<table>
<thead>
<tr>
<th>Description</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partial, not allowed</td>
<td>10</td>
<td>482</td>
</tr>
<tr>
<td>Revaluation and reclassification</td>
<td>13</td>
<td>483</td>
</tr>
<tr>
<td>Certified to deputy commissioner</td>
<td>13</td>
<td>483</td>
</tr>
<tr>
<td>By payment to clerk circuit court</td>
<td>30</td>
<td>492</td>
</tr>
<tr>
<td>Contest of right</td>
<td>31</td>
<td>492</td>
</tr>
<tr>
<td>Cancellation of redemption</td>
<td>31</td>
<td>492</td>
</tr>
<tr>
<td>Return of payment</td>
<td>31</td>
<td>492</td>
</tr>
<tr>
<td>Confirmation of redemption</td>
<td>31</td>
<td>493</td>
</tr>
<tr>
<td>Payment to purchaser</td>
<td>31</td>
<td>493</td>
</tr>
<tr>
<td>Notice of, service</td>
<td>31</td>
<td>493</td>
</tr>
<tr>
<td>Insufficient amount determination by court</td>
<td>31</td>
<td>493</td>
</tr>
<tr>
<td>Interest of another</td>
<td>12</td>
<td>482</td>
</tr>
<tr>
<td>Lien and preservation</td>
<td>12</td>
<td>482</td>
</tr>
<tr>
<td>Notice to redeem</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compelling clerk to prepare and serve</td>
<td>35</td>
<td>495</td>
</tr>
<tr>
<td>Hearing on application for order</td>
<td>35</td>
<td>496</td>
</tr>
<tr>
<td>Petition for review</td>
<td>35</td>
<td>496</td>
</tr>
<tr>
<td>To individual purchaser, form</td>
<td>36</td>
<td>496</td>
</tr>
<tr>
<td>Fee</td>
<td>36</td>
<td>497</td>
</tr>
<tr>
<td>To public land corporation, form</td>
<td>37</td>
<td>497</td>
</tr>
<tr>
<td>Fee</td>
<td>37</td>
<td>498</td>
</tr>
<tr>
<td>Service of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost</td>
<td>38</td>
<td>500</td>
</tr>
<tr>
<td>Manner</td>
<td>38</td>
<td>499</td>
</tr>
<tr>
<td>Parties</td>
<td>38</td>
<td>499</td>
</tr>
<tr>
<td>Persons under disability</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amount of payment</td>
<td>49</td>
<td>506</td>
</tr>
<tr>
<td>Payment of taxes, when required</td>
<td>49</td>
<td>506</td>
</tr>
<tr>
<td>Time limitation</td>
<td>49</td>
<td>506</td>
</tr>
<tr>
<td>Sale</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Confirmation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Application for</td>
<td>40</td>
<td>501</td>
</tr>
<tr>
<td>Failure to make, effect</td>
<td>40</td>
<td>501</td>
</tr>
<tr>
<td>Procedure</td>
<td>40</td>
<td>501</td>
</tr>
<tr>
<td>Refusal</td>
<td>40</td>
<td>501</td>
</tr>
<tr>
<td>Hearing on</td>
<td>40</td>
<td>501</td>
</tr>
<tr>
<td>Petition for review</td>
<td>40</td>
<td>501</td>
</tr>
<tr>
<td>Procedure</td>
<td>40</td>
<td>501</td>
</tr>
<tr>
<td>Terminates right to redeem</td>
<td>40</td>
<td>501</td>
</tr>
<tr>
<td>To individual purchaser or assignee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Escheated lands</td>
<td>32</td>
<td>494</td>
</tr>
<tr>
<td>Forfeited or delinquent lands</td>
<td>32</td>
<td>494</td>
</tr>
<tr>
<td>Description</td>
<td>Sec.</td>
<td>Page</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>to public land corporation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>escheated lands</td>
<td>33</td>
<td>495</td>
</tr>
<tr>
<td>fee of deputy commissioner</td>
<td>33</td>
<td>495</td>
</tr>
<tr>
<td>forfeited or delinquent lands</td>
<td>33</td>
<td>494</td>
</tr>
<tr>
<td>co-owner may purchase, when</td>
<td>24</td>
<td>489</td>
</tr>
<tr>
<td>date</td>
<td>14</td>
<td>483</td>
</tr>
<tr>
<td>how fixed</td>
<td>14</td>
<td>483</td>
</tr>
<tr>
<td>list of lands to be sold</td>
<td>16</td>
<td>484</td>
</tr>
<tr>
<td>form</td>
<td>16</td>
<td>484</td>
</tr>
<tr>
<td>publication and posting</td>
<td>16</td>
<td>485</td>
</tr>
<tr>
<td>cost</td>
<td>16</td>
<td>485</td>
</tr>
<tr>
<td>manner of</td>
<td>21</td>
<td>488</td>
</tr>
<tr>
<td>continued</td>
<td>21</td>
<td>488</td>
</tr>
<tr>
<td>notice of</td>
<td>16</td>
<td>484</td>
</tr>
<tr>
<td>form</td>
<td>16</td>
<td>484</td>
</tr>
<tr>
<td>publication and posting</td>
<td>16</td>
<td>485</td>
</tr>
<tr>
<td>cost</td>
<td>16</td>
<td>485</td>
</tr>
<tr>
<td>republication</td>
<td>19</td>
<td>487</td>
</tr>
<tr>
<td>order of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>application for by deputy commissioner</td>
<td>14</td>
<td>483</td>
</tr>
<tr>
<td>failure to make, penalty</td>
<td>14</td>
<td>483</td>
</tr>
<tr>
<td>contents</td>
<td>14</td>
<td>483</td>
</tr>
<tr>
<td>proceeds of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>disposition</td>
<td>51</td>
<td>507</td>
</tr>
<tr>
<td>separate account</td>
<td>51</td>
<td>507</td>
</tr>
<tr>
<td>surplus</td>
<td></td>
<td></td>
</tr>
<tr>
<td>to former owner</td>
<td>25</td>
<td>490</td>
</tr>
<tr>
<td>to creditors</td>
<td>26</td>
<td>490</td>
</tr>
<tr>
<td>to general receiver</td>
<td>25</td>
<td>489</td>
</tr>
<tr>
<td>purchase</td>
<td></td>
<td></td>
</tr>
<tr>
<td>by co-owner</td>
<td>24</td>
<td>489</td>
</tr>
<tr>
<td>by individual</td>
<td>22</td>
<td>488</td>
</tr>
<tr>
<td>receipt</td>
<td>22</td>
<td>488</td>
</tr>
<tr>
<td>by officers, forbidden</td>
<td>24</td>
<td>489</td>
</tr>
<tr>
<td>penalty</td>
<td>24</td>
<td>489</td>
</tr>
<tr>
<td>by public land corporation</td>
<td>23</td>
<td>489</td>
</tr>
<tr>
<td>survey or report of, by individual purchaser</td>
<td>34</td>
<td>495</td>
</tr>
<tr>
<td>filing</td>
<td>34</td>
<td>495</td>
</tr>
<tr>
<td>report of, to court</td>
<td>21</td>
<td>488</td>
</tr>
<tr>
<td>filing with circuit clerk</td>
<td>21</td>
<td>488</td>
</tr>
<tr>
<td>resale, individual purchaser</td>
<td>32</td>
<td>494</td>
</tr>
<tr>
<td>setting aside</td>
<td></td>
<td></td>
</tr>
<tr>
<td>proceeding for</td>
<td>39</td>
<td>500</td>
</tr>
<tr>
<td>notice of</td>
<td>39</td>
<td>500</td>
</tr>
<tr>
<td>sheriff to attend</td>
<td>21</td>
<td>488</td>
</tr>
</tbody>
</table>
**INDEX TO ACTS**

**TAXES AND TAXATION (Continued):**

<table>
<thead>
<tr>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>18</td>
<td>485</td>
</tr>
<tr>
<td>18</td>
<td>485</td>
</tr>
<tr>
<td>19</td>
<td>486</td>
</tr>
<tr>
<td>19</td>
<td>487</td>
</tr>
<tr>
<td>4</td>
<td>477</td>
</tr>
<tr>
<td>54</td>
<td>508</td>
</tr>
<tr>
<td>54</td>
<td>508</td>
</tr>
<tr>
<td>43</td>
<td>504</td>
</tr>
<tr>
<td>44</td>
<td>504</td>
</tr>
</tbody>
</table>

**TEACHERS:**

(See Education—certification) ........................................ 142
(See Education—free textbooks) ..................................... 152
(See Education—retirement system) .............................. 159
(See Education—salaries) ........................................... 173

**TEMPERANCE:**

Teaching in schools .................................................. 9 177

**TENTH JUDICIAL CIRCUIT:**

Terms of court ....................................................... 1-j 111

**TRADE-MARKS:**

Use on jewelry, law repealed ...................................... 1 520

**TUROCZY, ALEX:**

Compensation commissioner to reopen case of ............... 1 414

**TWENTY-FOURTH JUDICIAL CIRCUIT:**

Terms of court ....................................................... 1 111

**UNEMPLOYMENT COMPENSATION:**

Department of
administration fund ............................................... 1 410
expenditures ........................................................ 1 410
reimbursement from state ........................................... 8 410
board of review
administrative expense ............................................ 10 401
appeals
hearings ............................................................. 10 401
budget ................................................................. 10 401
personnel
appointment ......................................................... 10 401
compensation ...................................................... 10 401
qualifications ...................................................... 10 401
powers and duties .................................................. 9 400
criminal actions
complaints ........................................................... 13 411
concurrent jurisdiction of justice of the peace ........... 13 411
## INDEX TO ACTS

### UNEMPLOYMENT COMPENSATION (Continued):

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prosecution of, by whom</td>
<td>13</td>
</tr>
<tr>
<td>Definitions</td>
<td>3</td>
</tr>
<tr>
<td>Director of</td>
<td></td>
</tr>
<tr>
<td>Powers and duties</td>
<td>6</td>
</tr>
</tbody>
</table>

#### Employee eligible for benefits:

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Computation of wage credits</td>
<td>13</td>
</tr>
<tr>
<td>Disqualification</td>
<td>4</td>
</tr>
<tr>
<td>Maximum total amount</td>
<td>13</td>
</tr>
<tr>
<td>Qualifications</td>
<td>1</td>
</tr>
<tr>
<td>Rate</td>
<td></td>
</tr>
<tr>
<td>Partial unemployment</td>
<td>11</td>
</tr>
<tr>
<td>Total unemployment</td>
<td>10</td>
</tr>
</tbody>
</table>

#### Employer coverage and responsibility:

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounts</td>
<td></td>
</tr>
<tr>
<td>Joint</td>
<td>7(2)</td>
</tr>
<tr>
<td>Separate</td>
<td>7(1)</td>
</tr>
<tr>
<td>Benefits charged to base period employees</td>
<td>7(1)</td>
</tr>
<tr>
<td>Duration</td>
<td>2</td>
</tr>
<tr>
<td>Payments</td>
<td>4</td>
</tr>
<tr>
<td>Rate of contribution</td>
<td>5</td>
</tr>
<tr>
<td>Based on experience</td>
<td>7(3)</td>
</tr>
<tr>
<td>Decreased by merit rating</td>
<td>10</td>
</tr>
<tr>
<td>Refunds</td>
<td>19</td>
</tr>
<tr>
<td>Voluntary coverage</td>
<td>3</td>
</tr>
<tr>
<td>Waiting period construed</td>
<td>2</td>
</tr>
<tr>
<td>Limitation on contributions</td>
<td>1</td>
</tr>
<tr>
<td>Refund to Raleigh-Wyoming Mining company</td>
<td>1</td>
</tr>
</tbody>
</table>

### UNIFORM DECLARATORY JUDGMENT LAW:

(See Declaratory Judgment Law) 131

### VALENTINE, VELMA JANE:

Department of public safety to settle claim of 1 382

### VETERANS, WAR:

Commitment to federal facility

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>By county court, when</td>
<td>14</td>
</tr>
<tr>
<td>Notice to veteran</td>
<td>14</td>
</tr>
<tr>
<td>By court of another state, effect</td>
<td>14</td>
</tr>
<tr>
<td>By transfer from state institution by superintendent</td>
<td>14</td>
</tr>
<tr>
<td>Effect</td>
<td>14</td>
</tr>
<tr>
<td>Exception</td>
<td>14</td>
</tr>
<tr>
<td>Notice to committing court</td>
<td>14</td>
</tr>
<tr>
<td>Powers of chief officer of facility</td>
<td>14</td>
</tr>
<tr>
<td>Preference rating on examinations</td>
<td>1</td>
</tr>
<tr>
<td>Percentage</td>
<td>1</td>
</tr>
<tr>
<td>To whom applies</td>
<td>1</td>
</tr>
<tr>
<td>When effective</td>
<td>1</td>
</tr>
<tr>
<td>INDEX TO ACTS</td>
<td></td>
</tr>
<tr>
<td>---------------</td>
<td></td>
</tr>
<tr>
<td><strong>WASHINGTON, BOOKER T.:</strong></td>
<td></td>
</tr>
<tr>
<td>Memorial to acquisition</td>
<td>1</td>
</tr>
<tr>
<td>Memorial to location</td>
<td>1</td>
</tr>
<tr>
<td><strong>WATCHES AND CLOCKS:</strong></td>
<td></td>
</tr>
<tr>
<td>Sale of used or rebuilt</td>
<td>49-a</td>
</tr>
<tr>
<td>Sale of used or rebuilt label required</td>
<td>49-a</td>
</tr>
<tr>
<td>Sale of used or rebuilt penalty for nonuse of</td>
<td>49-a</td>
</tr>
<tr>
<td><strong>WEAPONS, DANGEROUS:</strong></td>
<td></td>
</tr>
<tr>
<td>(See Bonds)</td>
<td></td>
</tr>
<tr>
<td><strong>WELFARE LAW:</strong></td>
<td></td>
</tr>
<tr>
<td>(See Child Welfare)</td>
<td></td>
</tr>
<tr>
<td><strong>WEST LIBERTY STATE TEACHERS COLLEGE:</strong></td>
<td></td>
</tr>
<tr>
<td>Duration of act</td>
<td>2</td>
</tr>
<tr>
<td>Sale of real estate of</td>
<td>1</td>
</tr>
<tr>
<td>Sale of real estate of use of proceeds</td>
<td>1</td>
</tr>
<tr>
<td><strong>WEST UNION, TOWN OF:</strong></td>
<td></td>
</tr>
<tr>
<td>Transfer from sinking fund to general fund</td>
<td>1</td>
</tr>
<tr>
<td>Transfer from sinking fund to general fund use of</td>
<td>1</td>
</tr>
<tr>
<td><strong>WEST VIRGINIA BOARD OF CONTROL:</strong></td>
<td></td>
</tr>
<tr>
<td>(See West Liberty State Teachers College)</td>
<td></td>
</tr>
<tr>
<td><strong>WEST VIRGINIA INSTITUTE OF TECHNOLOGY:</strong></td>
<td></td>
</tr>
<tr>
<td>Control and supervision of educational affairs by state board of education</td>
<td>1</td>
</tr>
<tr>
<td>Control and supervision of financial affairs by state board of control</td>
<td>1</td>
</tr>
<tr>
<td>Control and supervision of instruction offered in</td>
<td>1</td>
</tr>
<tr>
<td>Control and supervision of rules and regulations, approval</td>
<td>1</td>
</tr>
<tr>
<td><strong>WEST VIRGINIA STATE GUARD:</strong></td>
<td></td>
</tr>
<tr>
<td>Act citation</td>
<td>15</td>
</tr>
<tr>
<td>Act inconsistent, repealed</td>
<td>14</td>
</tr>
<tr>
<td>Act provisions severable</td>
<td>13</td>
</tr>
<tr>
<td>Act Additional to national guard</td>
<td>1</td>
</tr>
<tr>
<td>Act Armories, use of state</td>
<td>4</td>
</tr>
<tr>
<td>Act Arms and equipment from secretary of war</td>
<td>4</td>
</tr>
<tr>
<td>Act Arms and equipment from state</td>
<td>4</td>
</tr>
<tr>
<td>Act Arrest, exemption from</td>
<td>12(b)</td>
</tr>
<tr>
<td>Act Arrest, exemption from</td>
<td>12(a)</td>
</tr>
<tr>
<td>Act Creation by governor</td>
<td>1</td>
</tr>
<tr>
<td>Act Creation by governor regulations of secretary of war</td>
<td>1</td>
</tr>
<tr>
<td>Act Enlistment disqualification</td>
<td>9</td>
</tr>
<tr>
<td>Act Enlistment civil organization as unit</td>
<td>8</td>
</tr>
</tbody>
</table>
INDEX TO ACTS

WEST VIRGINIA STATE GUARD (Continued):

<table>
<thead>
<tr>
<th>Term</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>oath</td>
<td>11</td>
<td>291</td>
</tr>
<tr>
<td>term</td>
<td>11</td>
<td>291</td>
</tr>
<tr>
<td>Federal service</td>
<td></td>
<td></td>
</tr>
<tr>
<td>individuals, non-exempt from</td>
<td>7</td>
<td>290</td>
</tr>
<tr>
<td>organization not subject to</td>
<td>7</td>
<td>290</td>
</tr>
<tr>
<td>Fresh pursuit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>by guard beyond state borders</td>
<td>5</td>
<td>289</td>
</tr>
<tr>
<td>within state by forces of other states</td>
<td>6</td>
<td>289</td>
</tr>
<tr>
<td>Gifts and donations to, prohibited</td>
<td>2</td>
<td>288</td>
</tr>
<tr>
<td>How constituted</td>
<td>1</td>
<td>288</td>
</tr>
<tr>
<td>Jury service or posse comitatus, exemption from</td>
<td>12(b)</td>
<td>291</td>
</tr>
<tr>
<td>Name</td>
<td>1</td>
<td>288</td>
</tr>
<tr>
<td>Officers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>disqualification</td>
<td>9</td>
<td>290</td>
</tr>
<tr>
<td>oath</td>
<td>10</td>
<td>290</td>
</tr>
<tr>
<td>Pay and allowances</td>
<td>3</td>
<td>288</td>
</tr>
<tr>
<td>Rules and regulations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>character</td>
<td>2</td>
<td>288</td>
</tr>
<tr>
<td>governor to prescribe</td>
<td>2</td>
<td>288</td>
</tr>
<tr>
<td>prohibition as to gifts and donations</td>
<td>2</td>
<td>288</td>
</tr>
<tr>
<td>Service limited to state</td>
<td>5</td>
<td>289</td>
</tr>
<tr>
<td>exception as to fresh pursuit</td>
<td>5</td>
<td>289</td>
</tr>
<tr>
<td>Uniformed</td>
<td>1</td>
<td>288</td>
</tr>
</tbody>
</table>

WETZEL COUNTY COURT:

- Authorized to construct Four-H camp          | 1    | 572  |
- Payment by, publication of delinquent tax lists | 1    | 571  |

WHEELING-OHIO COUNTY AIRPORT ASSOCIATION:
- Reimbursement of, by Ohio county board of commissioners | 1 | 556 |

WORKMEN’S COMPENSATION:
- Commissioner authorized to reopen cases of
  - Adkins, Mose                          | 1    | 427  |
  - Ayers, G. T.                         | 1    | 422  |
  - Bell, Bennie                        | 1    | 416  |
  - Carson, Ivan                        | 1    | 425  |
  - Cronig, Pete                        | 1    | 433  |
  - Daciek, Leo                         | 1    | 426  |
  - Dean, A. F.                         | 1    | 415  |
  - Dunning, M. W.                      | 1    | 428  |
  - Johnson, Boyd                       | 1    | 418  |
  - Knight, Okie E.                     | 1    | 429  |
  - Mason, F. M.                        | 1    | 420  |
  - Morris, Herbert (or Hobert)         | 1    | 423  |
  - Robinson, E. R.                     | 1    | 419  |
  - Scott, P. E.                        | 1    | 431  |
  - Turcozy, Alex                       | 1    | 414  |
- Artificial limbs and other appliances, payment for | 3(a)(b) | 434 |
### WORKMEN'S COMPENSATION (Continued):

<table>
<thead>
<tr>
<th>Service</th>
<th>Sec.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical and other services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contributions for by employee, when prohibited</td>
<td>3(c)</td>
<td>435</td>
</tr>
<tr>
<td>employer contracts for, when prohibited</td>
<td>3(c)</td>
<td>435</td>
</tr>
<tr>
<td>penalties</td>
<td>3(c)</td>
<td>435</td>
</tr>
<tr>
<td>payment for</td>
<td></td>
<td></td>
</tr>
<tr>
<td>filing claim, time</td>
<td>3(b)</td>
<td>434</td>
</tr>
<tr>
<td>maximum amount</td>
<td>3(a)</td>
<td>434</td>
</tr>
<tr>
<td>to whom made</td>
<td>3(b)</td>
<td>434</td>
</tr>
</tbody>
</table>

**YERKEY, ROLLA:**
- Gilmer county board of education to settle claim of
- Page 535

**YOAK, M. C.:**
- Department of public safety to settle claim of
- Page 381

**ZINN, CHARLES, ADMINISTRATOR:**
- Barbour county court to settle claim of
- Page 525