

ACTS
OF THE
FORTY-FIFTH
LEGISLATURE
OF
WEST VIRGINIA



REGULAR SESSION
1941



FOREWORD

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.

Copies of this volume, indexed and bound in buckram, may be purchased from the Supervisor of Printing in the State Department of Purchases for \$2.00 per volume.

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

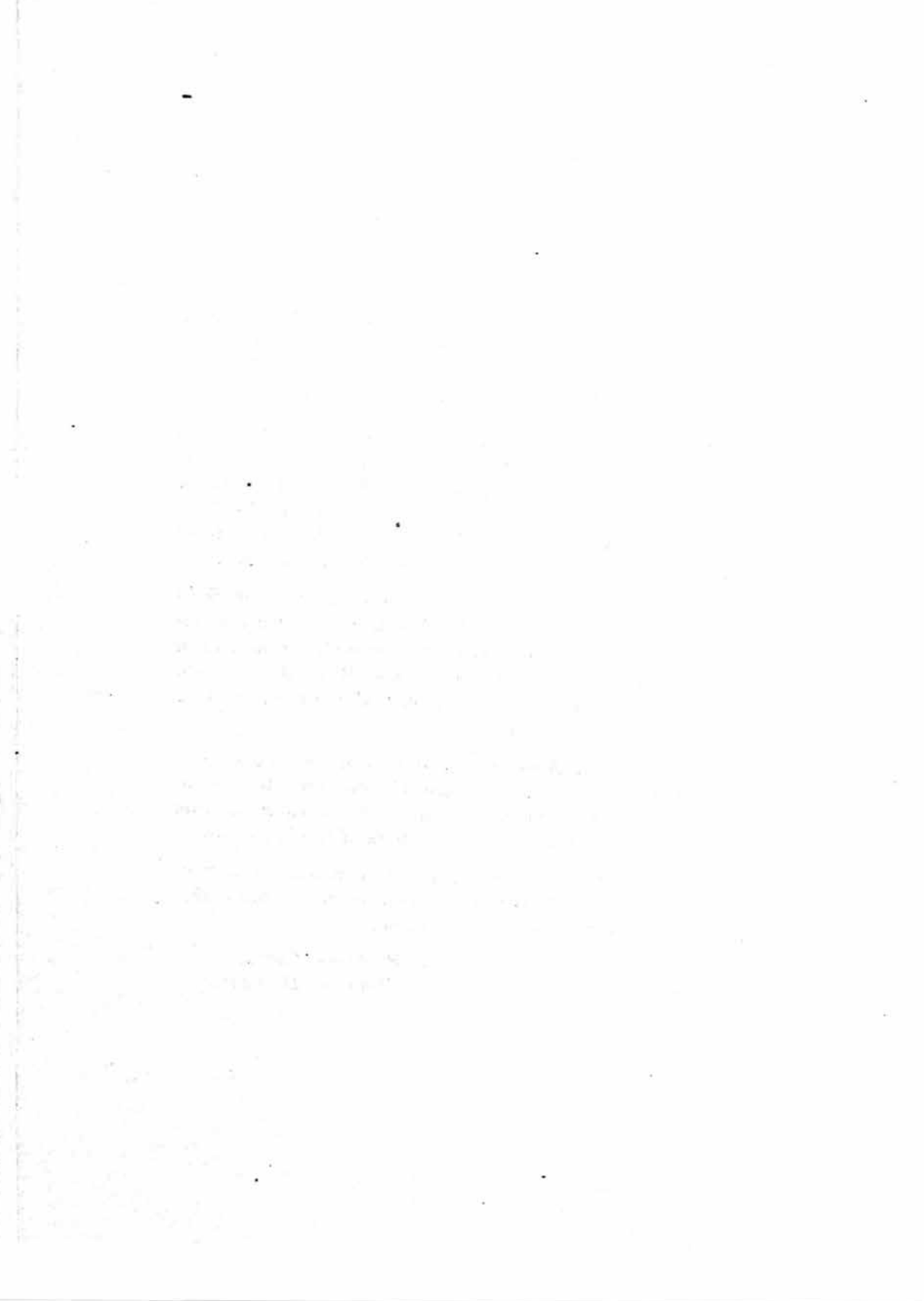


TABLE OF CONTENTS

ACTS AND RESOLUTIONS

Regular Session, 1941

GENERAL LAWS

AGRICULTURE

Chapter	Page
1. County farm bureaus; employment of county agricultural and home demonstration agents	1
2. Extension of liens to secure agricultural loans from federal agencies	3

AIRPORTS

3. Construction, operation and maintenance of airports in this state by municipalities of an adjoining state	4
--	---

APPROPRIATIONS

4. Appropriation for J. E. Murray for damages	5
5. Appropriation for memorial to Booker T. Washington	6
6. General appropriations (Budget Bill)	8

BONDS

7. Issuance and sale of ten million dollars of bonds for state road construction purposes	77
8. Purposes, including colleges, and amount of indebtedness for which bonds may be issued by political subdivisions	84

COLLEGES

9. Changing name of New River State College to that of West Virginia Institute of Technology	87
10. Use of funds realized from sale of certain properties held for the use of West Liberty State Teachers College for capital improvements	88

CONSTITUTIONAL AMENDMENT

Chapter	Page
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	89

COUNTY OFFICERS

12. Additional bonds required of county clerks for protection of general school fund and state conservation funds	93
13. Compensation of assessors and deputies	94
14. Duties and salaries of county commissioners	96
15. Powers of county courts with respect to construction of water-works, water mains, sewer lines and sewage disposal plants .	101
16. Salaries of assistants and stenographers or clerks to prosecuting attorneys	102
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	106
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	107

COURTS

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	109
20. State Court of Claims established	112

CRIMES AND PUNISHMENT

21. Indeterminate sentence for felony, except for offenses committed by convicts in the penitentiary	124
22. Selling pool tickets and chance vouchers in pool rooms	126
23. Unlawful sale of used, second-hand, rebuilt, repossessed, etc., watches and clocks	127

CRIMINAL PROCEDURE

24. Indictments for embezzlement, allegations and proof; description of United States currency in prosecutions for larceny....	128
--	-----

DANGEROUS WEAPONS

25. Who may carry dangerous weapons; bond required and liability thereon	130
--	-----

DECLARATORY JUDGMENTS

Chapter	Page
26. Uniform Declaratory Judgments Act	131

DOMESTIC RELATIONS

27. Adoption of minor child or adult	135
28. Marriage out of state to evade law	140

EDUCATION

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

ELECTIONS

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

EMBALMERS AND FUNERAL DIRECTORS

45. Examination, licensing and registration of embalmers and funeral directors	232
--	-----

FACE-AMOUNT CERTIFICATES	
Chapter	Page
46. Registration and sale of face-amount certificates	244
GAME, FISH AND FORESTRY	
47. Purchase or sale of game, birds, fish or frogs	248
HOUSING AUTHORITIES	
48. Aid of housing authorities by state public bodies	250
49. Amending housing authorities law	254
50. Housing authorities to undertake development of projects to provide proper dwellings for persons engaged in national defense activities	268
INSURANCE	
51. Deposit of securities with the state treasurer by life insurance companies for protection of policyholders	274
52. General powers of indemnity companies	275
53. Life insurance contracts by minors fifteen years of age, val- idated	276
54. Powers of automobile mutual insurance companies	277
55. Standard provisions of group family expense accident and health insurance policies	279
56. Taxable premiums, fees, dues and assessments of foreign auto- mobile mutual insurance companies	282
57. Valuation of life insurance policies by insurance commissioner	283
JURIES	
58. Record of allowance, and payment of compensation of jurors ...	285
MILITARY FORCES AND STATE DEFENSE	
59. Establishment of West Virginia State Guard	287
60. 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	292
61. State and local Councils of Defense	294
MINES AND MINING	
62. Certificates of competency and qualifications for coal miners; miners' examining boards	297
63. Mine inspection and rescue work	302

MONEY DUE THE STATE

Chapter	Page
64. Collection and deposit of money due the state	305

MUNICIPALITIES

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

PRISON-MADE GOODS

72. Sale of prison-made goods on open market unlawful; exception	330
--	-----

PUBLIC ASSISTANCE AND PUBLIC WELFARE

73. Amending child welfare law	331
74. Amending public assistance law	343
75. Proceedings against a child under child welfare law not evidence against child; effect of adjudication	352

**STATE BOARDS, COMMISSIONS, DEPARTMENTS
AND OFFICES****Adjutant General**

76. Adjutant General authorized to pay Ernest Hurt for injuries received while in the West Virginia National Guard	353
--	-----

Attorney General

77. Number and salaries of assistants to the Attorney General	354
---	-----

*Amended and reenacted by Chapter 66 of this volume.

STATE BOARDS, COMMISSIONS, ETC. (Continued)

Boards	
Chapter	Page
78. Board of the School Fund—Investment of fund; extension for payment of principal and interest; adjustments and compromises of loans	355
79. State Planning Board created	358
Commissioner of Labor	
80. Qualifications, appointment, term of office and salary of commissioner of labor	362
Commissions	
81. Interstate Commission on pollution of the waters of the Potomac River Drainage Basin	363
82. Liquor Control Commission—Use of operating and reserve fund; transfers to operating fund; investment of reserve fund	369
83. State Road Commission authorized to make settlement with M. L. McNeely for damages	370
84. 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	371
85. State Road Commission authorized to pay claim of Harry Love for damages	373
86. State Road Commission authorized to pay Clay County Board of Education for damages to a school bus	374
87. State Road Commission authorized to pay Norwood Dingess for damages to a truck caused by the collapse of a highway bridge	374
88. State Road Commission authorized to reimburse Portia Hamrick for repair of a car damaged by a state road truck	375
89. 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.	376
90. State Sinking Fund Commission—Investment of sinking funds; where bonds and interest payable; substitute paying agent ...	379
Department of Public Safety (State Police)	
91. 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	381

TABLE OF CONTENTS

xi

STATE BOARDS, COMMISSIONS, ETC. (Continued)

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

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 Ben- nie 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 Her- bert or Hobert Morris	423

STATE BOARDS, COMMISSIONS, ETC. (Continued)	
Chapter	Page
108. Compensation commissioner authorized to reopen case of Ivan Carson	425
109. Compensation commissioner authorized to reopen case of Leo Daciek	426
110. Compensation commissioner authorized to reopen case of Mose Adkins	427
111. Compensation commissioner authorized to reopen case of M. W. Dunning	428
112. Compensation commissioner authorized to reopen case of Okie E. Knight	429
113. Compensation commissioner authorized to reopen case of P. E. Scott	431
114. Compensation commissioner authorized to reopen case of Pete Cronig	433
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	433
STATE FAIR	
116. Greenbrier Valley Fair designated as "The State Fair of West Virginia"	435
TAXATION AND TAXES	
117. Collection and enforcement of property taxes	436
118. Entertainments exempt from state license taxes	509
119. Exemption of commodities under consumers sales tax	510
120. Exemptions from inheritance and transfer taxes	512
121. Payment of personal income tax	513
122. Rates of tax on net incomes of residents of state	514
123. Refund by tax commissioner of gasoline taxes improperly paid by Osborne Brothers Mill	515
124. Tax on gasoline	516
125. Use of debt levies for current expenses	518
TRADE-MARKS	
126. Repeal of act requiring trade-marks on jewelry, silverware, etc.	519

VETERANS

Chapter	Page
127. Commitment of veterans to Veterans Administration or other agency of the United States government	520
128. Preference rating of veterans on written examination on non-partisan merit basis	522

LOCAL LAWS

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

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

RESOLUTIONS

HOUSE CONCURRENT RESOLUTIONS

Number	Page
1. Raising a joint assembly to open and publish election returns..	573
2. Providing for a joint assembly to hear the biennial message of the Governor	573
3. Providing for a legislative recess	574
4. Inviting Mrs. Eleanor Roosevelt to address the Legislature.....	574

TABLE OF CONTENTS

XV

HOUSE CONCURRENT RESOLUTIONS (Continued)

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

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
--	-----

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

HOUSE RESOLUTIONS (Continued)

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

SENATE CONCURRENT RESOLUTIONS

1. Authorizing payment of legislative expense in advance of appropriation	625
2. Providing for a legislative recess	625

SENATE CONCURRENT RESOLUTIONS (Continued)

Number	Page
6. Reserving parking space on Capitol grounds for automobiles of members	626
9. Adopting joint rules of the Senate and House of Delegates	626
10. Concerning the death of the Honorable William M. LaFon	627
15. Requesting the Governor to appoint a committee to study the tax system of West Virginia	628
18. Requesting the State Board of Education to investigate methods for ascertaining aptitudes and talents of free school pupils ...	629
20. Authorizing the payment of 1939 printing bills	630
21. Requesting the State Road Commission to improve State Route No. 20	631
25. Authorizing payment of expenses of Legislature after close of session	632

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 OF CONTENTS

xix

SENATE RESOLUTIONS (Continued)

Number	Page
15. Expressing sympathy to Senator Hussion on death of his brother	642
16. Amending standing rules of the Senate	643
17. Concerning the death of the Honorable Morris P. Shawkey	645
19. Requesting the Budget Commission to submit an amendment and supplement to the budget bill for the Charleston Colored Children's Shelter	647
20. Concerning the illness of Senator Martin	647
24. Authorizing the Committee on Rules to arrange a special calendar	648
25. Concerning the illness of Senator Bibb	648
26. Relating to the privileges of the floor	649
27. Providing for janitor service after adjournment of session	649
28. Extending per diem of pages	650
29. Extending per diems of officers and attaches to complete work of session	650
30. Raising a committee to notify the House that the Senate was ready to adjourn <i>sine die</i>	652

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

District	Members	Address
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	² Harry Friedman (D)..... ³ 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.

¹ Appointed February 17, 1941, to fill the vacancy caused by the death of Senator William M. LaFon, on February 4, 1941.

² Appointed July 16, 1941, to fill the vacancy caused by the resignation of Senator William J. Hussion.

³ Appointed June 11, 1941, to fill the vacancy caused by the death of Senator Earl H. Smith, on May 28, 1941.

(D) Democrats	26
(R) Republicans	6
Total	32

Standing Committees of the Senate

RULES

Messrs. Randolph (Mr. President) (*Chairman ex officio*), Paull, Greene, Hussion 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. Hussion (*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, Hussion, 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.

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. Randolph (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

County	Name	Address
Barbour	William Janes (R)	Philippi
Berkeley	Leon Rice (D)	Hedgesville
Boone	Malcolm R. Arnold (D)	Bloomingrose
Braxton	Robert H. Kidd (D)	Burnsville
Brooke	B. O. Cresap (D)	Wellsburg
Cabell	Mike Casey (D)	Huntington
	Joe G. Gentry (D)	Huntington
	John G. Hudson (D)	Huntington
	Henry F. White (D)	Huntington
	Andrew R. Winters (D)	Huntington
Calhoun	Lewis E. Smith (D)	Grantsville
Clay	Ed. L. Boggs (D)	Big Otter
Doddridge	P. Douglass Farr (R)	West Union
Fayette	R. L. Matthews (D)	Montgomery
	Magee McClung (D)	Fayetteville
	Lacy Neely (D)	Cunard
	Mrs. Nell W. Walker (D)	Winona
Gilmer	Emmett J. Bush (D)	Glenville
Grant	Owen S. Schaeffer (R)	Petersburg
Greenbrier	J. E. Bass (D)	Lewisburg
	J. C. Shanklin (D)	Ronceverte
Hampshire	Wm. T. Milleson (D)	Springfield
Hancock	Clyde B. Cochran (D)	New Cumberland
Hardy	C. C. Heishman (D)	Wardensville
Harrison	Thomas Franklin Mills (D)	Clarksburg
	Edgar E. Righter (D)	Shinnston
	Fred L. Shinn (D)	Clarksburg
	E. L. Simpson (D)	Mt. Clare
Jackson	Harlan Staats (R)	Ripley
Jefferson	Wm. Fontaine Alexander (D)	Charles Town
Kanawha	John E. Amos (D)	Charleston
	D. Earl Brawley (D)	Charleston
	I. L. Cavender (D)	Charleston
	Frank A. Knight (D)	South Charleston
	Beverly L. Michie (D)	South Charleston
	K. L. McClung (D)	Charleston
	J. F. Perry (D)	Charleston
	James K. Thomas (D)	Charleston
Lewis	Kingsley R. Smith (R)	Weston
Lincoln	Chas. Jackson Marcum (D)	Hamlin
Logan	Glenn Jackson (D)	Logan
	Hugh Paul (D)	Logan
	Lester Perry (D)	Dehue
Marion	Haymond A. Alltop (D)	Fairmont
	John L. Gill (D)	Fairmont
	Russell D. Meredith (D)	Fairmont

HOUSE OF DELEGATES

XXV

County	Name	Address
Marshall	Everett F. Moore (R)	Moundsville
	Floyd R. Yoho (R)	Moundsville
Mason	George A. Bairden (R)	Leon
Mercer	O. H. Ballard (D)	Princeton
	A. A. Hopkins (D)	Bluefield
	Walter V. Ross (D)	Bluefield
Mineral	John I. Rogers (R)	Keyser
Mingo	Rush F. Farley (D)	Delbarton
	Glenn Taylor (D)	Matewan
Monongalia	Don J. Eddy (D)	Morgantown
	H. V. King (D)	Morgantown
Monroe	Sherman Ballard (R)	Peterstown
Morgan	Henry N. Gorrell (R)	Berkeley Springs
McDowell	William T. Blankenship (D)	Eckman
	J. M. Cyphers (D)	Gary
	George Evans (D)	Jaeger
	J. C. Hansbarger (D)	Welch
	Fleming A. Jones, Jr. (D)	Welch
Nicholas	Gordon G. Duff (D)	Summersville
Ohio	Jack R. Adams (D)	Wheeling
	Cuyler E. Ewing (R)	Wheeling
	James R. Ewing (D)	Wheeling
	Stephen J. Russek (D)	Wheeling
Pendleton	William McCoy (D)	Franklin
Pleasants	J. C. Powell (R)	St. Marys
Pocahontas	June McElwee (D)	Marlinton
Preston	A. L. Reed (R)	Newburg
Putnam	R. L. Gibson (D)	Bancroft
Raleigh	O. D. Hall (D)	Beckley
	J. LeRoy Huffman (D)	Beckley
	W. Londa Lilly (D)	Beckley
Randolph	N. T. Downs (D)	Mill Creek
Ritchie	*Homer B. Woods (R)	Harrisville
Roane	T. V. Foster (D)	Kyger
Summers	Irvin S. Maddy (D)	Hinton
Taylor	E. Otto Waugh (R)	Grafton
Tucker	Cleon W. Raese (R)	Davis
Tyler	Cecil L. Nichols (R)	Alma
Upshur	Perce J. Ross (R)	Buckhannon
Wayne	Epison A. Cole (D)	Ceredo
	Clifford D. Hatten (D)	Route 1, Kenova
Webster	H. Clay Mace (D)	Webster Springs
Wetzel	Herbert Schupbach (D)	New Martinsville
Wirt	Robert F. Hickman (R)	Elizabeth
Wood	C. E. Augustine (D)	Parkersburg
	Dorr Clayton Casto, II (D)	Parkersburg
	R. A. Johnston, Sr. (D)	Parkersburg
Wyoming	J. I. Harless (D)	Hanover

(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..

TEMPERANCE

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.

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1941

REGULAR SESSION

CHAPTER 1

(House Bill No. 239—By Mr. Milleson)

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-
4 ers, mortgagees, and other lienors, and encumbrancers
5 after the expiration of a period of ten years, reckoning
6 from the time of the docketing of said chattel deed of
7 trust, unless before the expiration of such term the
8 beneficiary or someone on behalf of the beneficiary shall
9 file a statement containing the names of the parties to
10 the deed of trust, the time and place where docketed,
11 and the amount then due thereon for principal and

12 interest, in which case the lien of the deed of trust shall
13 be extended for ten years from and after the date of
14 the filing of said statement. The officer filing the state-
15 ment shall enter the same in the "Federal Farm Credit
16 Lien Book" and shall be entitled to the same fee as in the
17 case of the docketing and entry of a chattel deed of trust
18 under this article.

19 This section shall be construed to be operative re-
20 troactively as of March ninth, one thousand nine hundred
21 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

6 APPROPRIATION FOR BOOKER T. WASHINGTON MEMORIAL [Ch. 5

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
2 from a statement of the revenues and appropriations for
3 the fiscal year one thousand nine hundred forty—one
4 thousand nine hundred forty-one, that there remains in
5 the treasury, state fund general revenue, revenue in excess
6 of the amount hereby appropriated, there is hereby appro-
7 priated from the state fund general revenue, the sum of
8 five thousand dollars to J. E. Murray, to repay him for
9 sums of money expended by him as a result of the death
10 of one daughter and the permanent injury of another
11 daughter, caused by the negligence of the state road
12 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

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

Title 1. General Provisions.

Section

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

Be it enacted by the Legislature of West Virginia:

Section 1. *General Policy.*—The purpose of this act is to
2 appropriate money necessary for economical and efficient
3 discharge of the duties and responsibilities of the state and
4 its agencies during the fiscal years one thousand nine hun-
5 dred forty-two and one thousand nine hundred forty-three.
6 To give effect to this purpose, the board of public works
7 shall supervise the fiscal policy, control the assumption of
8 obligations, and regulate the expenditures of the agencies
9 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
4 institution to which an appropriation is made;
- 5 The "fiscal year one thousand nine hundred forty-two"
6 shall mean the period from July first, one thousand nine
7 hundred forty-one, through June thirtieth, one thousand
8 nine hundred forty-two; and the "fiscal year one thousand

9 nine hundred forty-three" shall mean the period from July
10 first, one thousand nine hundred forty-two, through June
11 thirtieth, one thousand nine hundred forty-three.

12 "From collections" shall mean that part of the total ap-
13 propriation which must be collected by the spending unit to
14 be available for expenditure. If the authorized amount of
15 collections is not collected, the total appropriation for the
16 spending unit shall be reduced automatically by the amount
17 of the deficiency in the collection. If the amount collected
18 exceeds the amount designated "from collections" the excess
19 shall be set aside in a special surplus fund and may be ex-
20 pended for the purpose of the spending unit as provided by
21 chapter thirty-nine, acts of the Legislature, regular session,
22 one thousand nine hundred thirty-nine.

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

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

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

8 "Repairs and alterations" shall include all expenditures
9 for materials, supplies and labor used in repairing and alter-
10 ing buildings, grounds and equipment.

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

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

18 "Lands" shall be expended only for the purchase of land
19 or interests in lands.

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

Sec. 5. *Limitations on Expenditures.*—The expenditure of money appropriated by this act shall be limited to the specific amount appropriated to each item. There shall be no transfer of amounts between items of the appropriation of the spending unit without prior authorization by the board of public works, as provided by chapter thirty-nine, acts 7 of the Legislature, regular session, one thousand nine hundred thirty-nine.

Sec. 6. *Maximum Expenditures.*—No authority or requirement of law shall be interpreted as requiring or permitting an expenditure in excess of the appropriations set out in this act.

Title 2. Appropriations.

Section

1. Governmental appropriations.

AGRICULTURE		PAGE
Department of agriculture—Acct. No. 510	49	
Department of agriculture (soil conservation)—Acct. No. 510	49	
Fairs and association awards—Acct. No. 515	49	
BUSINESS AND INDUSTRIAL RELATIONS		
Board of aeronautics—Acct. No. 6086	47	
Bureau of labor and department of weights and measures—Acct. No. 450	43	
Commission on interstate cooperation—Acct. No. 4727	47	
Compensation commission—Acct. No. 900	45	
Compensation commission (silicosis)—Acct. No. 901	46	
Department of banking—Acct. No. 480	45	
Department of mines—Acct. No. 460	43	
Liquor control commission—Acct. No. 6676	46	
Public service commission (motor carrier division)—Acct. No. 6624	45	
Public service commission (salaries of members)—Acct. No. 470	44	
Public service commission—Acct. No. 6617	44	
Racing commission—Acct. No. 6082	47	
Unemployment compensation commission (reemployment service)—Acct. No. 6412	43	
West Virginia planning commission—Acct. No. 4729	47	
West Virginia publicity commission—Acct. No. 4728	47	
CHARITIES AND CORRECTION		
West Virginia children's home—Acct. No. 380	37	
West Virginia colored children's home—Acct. No. 381	37, 59	
West Virginia home for aged and infirm colored men and women—Acct. No. 382	37	
West Virginia industrial home for colored girls—Acct. No. 373	36	
West Virginia industrial home for girls—Acct. No. 372	35	
West Virginia industrial school for boys—Acct. No. 370	35	
West Virginia industrial school for colored boys—Acct. No. 371	35	
West Virginia penitentiary—Acct. No. 375	36	
West Virginia training school—Acct. No. 383	38	
West Virginia penitentiary (medium security prison)—Acct. No. 376	36	
CONSERVATION AND DEVELOPMENT		
Clarke McNary—Acct. No. 522	51	
Conservation commission (division of forestry)—Acct. No. 521	50	

CONSERVATION AND DEVELOPMENT—(Continued)

	PAGE
Conservation commission (game and fish)—Acct. No. 521	51
Conservation commission (general administration)—Acct. No. 6612	50
Conservation commission (state parks)—Acct. No. 522	51
Droop Mountain battlefield monument—Acct. No. 5609	52
Geological survey—Acct. No. 520	49
Grafton G. A. R. post—Acct. No. 5649	52
Morgan Morgan memorial—Acct. No. 5639	52
Point Pleasant battle monument commission—Acct. No. 5619	52
Rumseyan society—Acct. No. 5629	52

EDUCATIONAL

Archives and history—Acct. No. 340	34
Bluefield State Teachers college—Acct. No. 329	33
Concord State Teachers college—Acct. No. 325	32, 59
Department of education—Acct. No. 703	24, 58
Department of education (free textbooks)—Acct. No. 6408	26
Department of education (school fund)—Acct. No. 6407	25, 58
Department of education (state aid to supplement the general school fund)—Acct. No. 6405	26, 58
Department of education (teacher retirement)—Acct. No. 6409	27
Fairmont State Teachers college—Acct. No. 321	31
4-H camp for colored boys and girls—Acct. No. 3289	33
Glenville State Teachers college—Acct. No. 322	31
Marshall college—Acct. No. 320	30, 59
Shepherd State Teachers college—Acct. No. 324	32, 59
State board of education—Acct. No. 700	24
State board of education (rehabilitation)—Acct. No. 702	24
State board of education (vocational)—Acct. No. 701	24
Storer college—Acct. No. 330	33
West Virginia historical society—Acct. No. 351	34
West Virginia Institute of Technology—Acct. No. 327	32
West Liberty State Teachers college—Acct. No. 323	31
West Virginia library commission—Acct. No. 350	34
West Virginia schools for colored deaf and blind—Acct. No. 334	34
West Virginia schools for deaf and blind—Acct. No. 333	33
West Virginia State college—Acct. No. 328	33
West Virginia university—Acct. No. 300	27
West Virginia university (agricultural, etc.)—Acct. No. 302	28
West Virginia university (agricultural experiment station)—Acct. No. 310	28
West Virginia university (experiment farm)—Acct. No. 311	29
West Virginia university (extension division)—Acct. No. 305	28
West Virginia university (Inwood apple packing plant)—Acct. No. 313	29
West Virginia university (Jackson's Mill)—Acct. No. 303	28
West Virginia university (mining and industrial)—Acct. No. 301	27
West Virginia university (Oglebay institute)—Acct. No. 304	28
West Virginia university (Potomac State school)—Acct. No. 315	30, 59
West Virginia university (Reynolds memorial farm)—Acct. No. 312	29
West Virginia university (to increase agricultural program)—Acct. No. 314	29

EXECUTIVE

Governor's office—Acct. No. 120	18, 57
Parole and probation investigation and supervision—Acct. No. 123	19

CUSTODIAL AND SERVICE

Capitol building and grounds—Acct. No. 270	23
Central mailing office—Acct. No. 280	23
Purchasing department—Acct. No. 290	23

FISCAL

Auditor's office—Acct. No. 150	19
Auditor's office (land department)—Acct. No. 704	19
Board of control—Acct. No. 190	21
Director of the budget—Acct. No. 210	21
Sinking fund commission—Acct. No. 170	20
Tax commissioner—Acct. No. 180	20
Tax commissioner (gasoline department)—Acct. No. 671	21
Treasurer's office—Acct. No. 160	20

INCORPORATING AND RECORDING

Permanent registration—Acct. No. 255	22
Secretary of state—Acct. No. 250	22, 57

EXECUTIVE—(Continued)

PAGE

LEGAL

Attorney general—Acct. No. 240	21
Commission on uniform state laws—Acct. No. 245	22
Court of claims—Acct. No. 243	22

HEALTH AND WELFARE

Barbers and beauticians—Acct. No. 402	38
Berkeley Springs sanitarium—Acct. No. 436	43
Bureau of Negro welfare and statistics—Acct. No. 403	39
Denmar sanitarium—Acct. No. 432	42
Department of public assistance—Acct. No. 641	38
Fairmont emergency hospital—Acct. No. 425	41
Health department and public health council—Acct. No. 400	38, 59
Hopemont sanitarium—Acct. No. 430	42
Huntington state hospital—Acct. No. 422	40, 60
Lakin state hospital—Acct. No. 423	40
McKendree emergency hospital—Acct. No. 424	41, 60
Morris Memorial hospital—Acct. No. 434	43
Pinecrest sanitarium—Acct. No. 431	42
Spencer state hospital—Acct. No. 421	40
Tuberculosis field clinics—Acct. No. 435	42
Water commission—Acct. No. 401	38
Weich emergency hospital—Acct. No. 426	41
Weston state hospital—Acct. No. 420	40

HIGHWAYS

Road commission (administration and engineering)—Acct. No. 670	48
Road commission (secondary roads)—Acct. No. 6406	48

JUDICIAL

Circuit courts—Acct. No. 111	17, 57
Compensation of special judges—Acct. No. 113	17, 57
Criminal charges—Acct. No. 119	18
Judicial council—Acct. No. 118	18
State law library—Acct. No. 114	18
Supreme court of appeals—Acct. No. 110	17

LEGISLATIVE

House of Delegates—Acct. No. 102	15
Joint expenses—Acct. No. 103	16
Senate—Acct. No. 101	13

MISCELLANEOUS BOARDS

Athletic commission—Acct. No. 6017	55
Board of dental examiners—Acct. No. 6045	55
Board of embalmers and funeral directors—Acct. No. 6049	56
Board of examiners for architects—Acct. No. 6069	56
Board of examiners for veterinarians—Acct. No. 6076	57
Board of examiners of accountants—Acct. No. 6007	55
Board of examiners of registered nurses—Acct. No. 6044	55
Board of law examiners—Acct. No. 6005	55
Board of optometry—Acct. No. 6048	56
Board of osteopathy—Acct. No. 6047	56
Board of pharmacy—Acct. No. 6046	56
Board of registration for professional engineers—Acct. No. 6068	56

PROTECTION

Adjutant general; state militia—Acct. No. 580	53
Auditor's office—Fire Marshal—Acct. No. 6605	54
Department of public safety—Acct. No. 570	52, 60
Department of public safety (radio division)—Acct. No. 571	53
Department of public safety (traffic violations)—Acct. No. 6720	53
Fire insurance—Acct. No. 591	55

2. Claims against the state.

Claims to be paid from the state road fund—Acct. No. 6856	66
Refunding erroneous consumers sales tax payments—Acct. No. 6449	65
Refunding erroneous gross sales tax payments—Acct. No. 6449	61

	PAGE
Refunding erroneous inheritance, transfer and state tax payments— —Acct. No. 6449	61
Refunding erroneous payments to state for charter license tax— Acct. No. 6449	66
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.	
9. Appropriations for refunding erroneous payments.	
10. Contingent fund.	
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.	
14. Printing cost.	
15. Total appropriation.	
16. General school fund.	

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 sixty-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

		<i>Fiscal Years</i>	
		1941-42	1942-43
1	Salaries of members	\$ 16,000.00	\$ 16,000.00
2	To pay A. Hale Watkins for		
3	compiling and publishing the		
4	West Virginia Blue Book		
5	under the same provisions as		
6	to distribution as were adopted		
7	in the session of 1921, includ-		
8	ing all expenses incurred in		
9	the employment of contribu-		
10	tions, 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	10,000.00	8,000.00
19	To pay cost of printing 1941 ed-		
20	ition of Blue Book	32,000.00	
21		<i>Fiscal Year 1940-1941</i>	
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		

52 may, beginning September 5,
 53 1941, expend for stenographic
 54 services a sum not exceeding
 55 twenty-one hundred dollars
 56 per annum, payable monthly
 57 from the contingent fund of
 58 the Senate.

2—House of Delegates

Acct. No. 102

1	Salaries of members	\$ 47,000.00	\$ 47,000.00
		<i>Fiscal Year 1940-1941</i>	
2	Mileage of members	2,781.10	
3	Speaker of House of Delegates as		
4	presiding officer, 60 days	120.00	
5	Compensation of Clerk, 60 days	1,200.00	
6	Compensation of Sergeant-at-		
7	Arms, 60 days	600.00	
8	Compensation of Doorkeeper, 60		
9	days	600.00	
10	Services preliminary to opening		
11	of session	733.00	
12	Attaches and other employees ..	86,040.00	
13	Resolutions Nos. 10, 12, 20, 27	678.33	
14	Postage	1,537.37	
15	Contingent fund	65,000.00	
16	Supplies	5,517.15	
17	Georgia Kee Nash, stenographic		
18	services	160.00	
19	John S. Hall, services ..	120.00	
20	The Clerk of the House of Dele-		
21	gates, with the approval of the		
22	Speaker of the House, is au-		
23	thorized to draw his requis-		
24	tions upon the Auditor, pay-		
25	able out of the contingent		
26	fund, for any bills for supplies		
27	and services that may have		
28	been incurred by the House of		
29	Delegates and not included in		
30	this appropriation bill, for bills		

31 for supplies and services in-
32 curred after adjournment, the
33 requisition for same to be ac-
34 companied by a bill to be filed
35 with the Auditor, but no pay-
36 ment shall be made to attaches
37 under this paragraph.

38 For duties imposed by law and
39 by the House of Delegates, in-
40 cluding the salary allowed by
41 law as keeper of the rolls, be-
42 ginning March 9th, one thou-
43 sand nine hundred forty-one,
44 the Clerk of the House of Dele-
45 gates shall be paid a monthly
46 salary at the rate of five thou-
47 sand dollars per annum, pay-
48 able from the contingent fund
49 of the House of Delegates, and
50 the Clerk may employ a secre-
51 tary at a salary of not to ex-
52 ceed eighteen hundred dol-
53 lars per annum, payable
54 monthly from the same fund.
55 During the sessions of the
56 Legislature the Clerk of the
57 House of Delegates shall keep
58 his office open during such
59 hours as the House may direct.
60 When the Legislature is not in
61 session the office of the Clerk
62 of the House of Delegates shall
63 be kept open as other public
64 offices in the capitol are kept
65 open.

3—*Joint Expenses*

Acct. No. 103

- 1 To pay the cost of legislative
- 2 printing and stationery, the
- 3 appropriation to be available

4	for the year ending June thirty,	
5	one thousand nine hundred	
6	forty-one. If this work is not	
7	completed prior to June thirty,	
8	one thousand nine hundred	
9	forty-one, then the appropria-	
10	tion shall continue in full until	
11	completed	\$ 65,000.00
12	To pay the public printer the	
13	balance owed on Blue Books	
14	prior to the 1940 edition, ad-	
15	vance copies of the 1939 Acts,	
16	and 1939 House Journal, as	
17	provided by Senate Concur-	
18	rent Resolution No. 20, and to	
19	be available in the Fiscal Year	
20	ending June 30, 1941	35,229.92

JUDICIAL

6—*Supreme Court of Appeals*

Acct. No. 110

1	Salaries of Judges	\$ 50,000.00	\$ 50,000.00
2	Other Personal Services	41,930.00	41,930.00
3	Current Expenses	10,800.00	10,000.00
4	Total	\$ 102,730.00	\$ 101,930.00

7—*Circuit Courts*

Acct. No. 111

1	Salaries of Judges of the Circuit		
2	Courts	\$ 171,500.00	\$ 171,500.00
3	Current Expenses	25,000.00	25,000.00
4	Total	\$ 196,500.00	\$ 196,500.00

8—*Compensation of Special Judges*

Acct. No. 113

1	To pay Salaries of Special		
2	Judges		
3	Total	\$ 10,500.00	\$ 10,500.00

9—*State Law Library*

Acct. No. 114

1	Personal Services, including Sal-			
2	aries of Librarian and Assist-			
3	ants	\$ 5,600.00	\$	5,600.00
4	Current Expenses	700.00		700.00
5	Equipment	5,000.00		5,000.00
6	Total	\$ 11,300.00	\$	11,300.00

10—*Criminal Charges*

Acct. No. 119

1	Total	\$ 125,000.00	\$	100,000.00
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11—*The Judicial Council*

Acct. No. 118

1	To pay the per diem of Members			
2	and other General Expenses..			
3	Total	\$ 1,455.00	\$	1,455.00

EXECUTIVE

120—*Governor's Office*

Acct. No. 120

1	Salary of Governor	\$ 10,000.00	\$	10,000.00
2	Other Personal Services, includ-			
3	ing Salaries of Secretaries,			
4	Stenographers and Assistants..	15,000.00		15,000.00
5	Civil Contingent and Current			
6	Expenses	20,000.00		20,000.00
7	To be expended upon the order			
8	of the Governor. One hundred			
9	dollars annual dues to the Gov-			
10	ernors' Conference shall be in-			
11	cluded in this item.			
12	Emergency Fund	100,000.00		100,000.00
13	To be expended upon the order			
14	of the Governor, of which \$25,-			
15	000 may be expended each			
16	year for such research and			

17 technical services as the Gov-
18 ernor may require.

19 Any unexpended balance remain-
20 ing in the Emergency Fund at
21 the close of the fiscal year
22 1941-42 is hereby reappropri-
23 ated for expenditure during
24 the fiscal year 1942-43.

25 Custodial	13,500.00	13,500.00
26 To be used for Current General		
27 Expenses including official		
28 functions, and any additional		
29 household expenses thereby		
30 incurred.		

31 Total	\$ 158,500.00	\$ 158,500.00
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123—*Parole and Probation Investigation and Supervision*
Acct. No. 123

1 Personal Services, including Sal-		
2 ary of Director	\$ 34,080.00	\$ 35,280.00
3 Current Expenses	21,520.00	21,020.00
4 Equipment	1,000.00	1,000.00
5 Total	\$ 56,600.00	\$ 57,330.00

FISCAL

150—*Auditor's Office*
Acct. No. 150

1 Salary of State Auditor	\$ 6,000.00	\$ 6,000.00
2 Other Personal Services	74,320.00	74,320.00
3 Current Expenses	14,060.00	14,060.00
4 Equipment	5,950.00	5,950.00
5 Total	\$ 100,330.00	\$ 100,330.00
6 From Collections	6,500.00	6,500.00

151—*Auditor's Office—Land Department*
Acct. No. 704

TO BE PAID FROM THE GENERAL SCHOOL FUND:

1 Personal Services	\$ 44,000.00	\$ 44,000.00
2 Current Expenses	2,000.00	2,000.00

3	Equipment	500.00	500.00
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4	Total	\$ 46,500.00	\$ 46,500.00
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5 In addition to the total appropri-
 6 ation for the Auditor's Office:
 7 Land Department, there is
 8 hereby appropriated a sum
 9 sufficient to pay the costs of
 10 publication required by sec-
 11 tion eight, article three, chap-
 12 ter thirty-seven of the code of
 13 West Virginia, one thousand
 14 nine hundred thirty-one, as
 15 amended.

16—Treasurer's Office

Acct. No. 160

1	Salary of State Treasurer	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services	30,620.00	30,620.00
3	Current Expenses	5,238.00	6,314.00
4	Equipment	3,760.00	5,624.00
5	To equip vault with additional		
6	safety deposit boxes	4,000.00	
7	Total	\$ 49,618.00	\$ 48,558.00

17—Sinking Fund Commission

Acct. No. 170

1	Personal Services	\$ 9,432.00	\$ 9,432.00
2	Current Expenses	500.00	500.00
3	Total	\$ 9,932.00	\$ 9,932.00

180—Tax Commissioner

Acct. No. 180

1	Salary of Tax Commissioner	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services	262,000.00	262,000.00
3	Current Expenses	125,000.00	125,000.00
4	Equipment	7,500.00	7,500.00
5	Total	\$ 400,500.00	\$ 400,500.00

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

TO BE PAID FROM THE STATE ROAD FUND:

1	Personal Services	\$	12,120.00	\$	12,120.00
2	Current Expenses		6,132.00		6,132.00
3	Equipment		2,000.00		2,000.00
4	Total	\$	20,252.00	\$	20,252.00

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

1	Salaries of the Three Members of				
2	the Board of Control	\$	15,000.00	\$	15,000.00
3	Other Personal Services		23,500.00		23,500.00
4	Current Expenses		10,000.00		10,000.00
5	Equipment		900.00		900.00
6	Total	\$	49,400.00	\$	49,400.00

21—Director of the Budget
Acct. No. 210

1	Personal Services, including Sal-				
2	ary of the Director of the Bud-				
3	get	\$	24,000.00	\$	24,000.00
4	Current Expenses		1,800.00		3,500.00
5	Equipment		500.00		500.00
6	Total	\$	26,300.00	\$	28,000.00

LEGAL

26—Attorney General
Acct. No. 240

1	Salary of Attorney General	\$	6,000.00	\$	6,000.00
2	Other Personal Services		37,500.00		37,500.00
3	Current Expenses		4,000.00		4,000.00
4	Equipment		1,250.00		1,250.00
5	Contingent Fund		500.00		500.00
6	To protect the resources or tax				
7	structure of the state in con-				
8	troversies or legal proceedings				

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
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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

Acct. No. 270

1	Personal Services	\$	68,000.00	\$	68,000.00
2	Current Expenses		36,000.00		36,000.00
3	Repairs and Alterations		10,000.00		10,000.00
4	Equipment		1,000.00		1,000.00
5	Total	\$	115,000.00	\$	115,000.00

32—Central Mailing Office

Acct. No. 280

1	Personal Services	\$	8,740.00	\$	8,740.00
2	Current Expenses		70,755.00		60,755.00
3	Equipment		200.00		200.00
4	Total	\$	79,695.00	\$	69,695.00

33—Department of Purchases

Acct. No. 290

1	Salary of Director of Purchases \$	6,000.00	\$	6,000.00	
2	Other Personal Services	34,000.00		34,000.00	
3	Current Expenses	6,000.00		6,000.00	
4	Equipment	1,000.00		1,000.00	
5	Total	\$	47,000.00	\$	47,000.00

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

360—State Board of Education

Acct. No. 700

TO BE PAID FROM THE GENERAL SCHOOL FUND:

1	Salaries of Members of the State			
2	Board of Education	\$	4,800.00	\$ 4,800.00
3	Other Personal Services		7,500.00	7,500.00
4	Current Expenses		2,000.00	4,000.00
5	Equipment		300.00	300.00
6	Out-of-State Aid to Negroes ..		10,000.00	11,000.00
7	Total	\$	24,600.00	\$ 27,600.00

361—State Board of Education—Vocational Division

Acct. No. 701

TO BE PAID FROM THE GENERAL SCHOOL FUND:

1	Personal Services	\$	14,390.00	\$ 15,195.00
2	Current Expenses		8,380.00	8,467.00
3	Equipment		300.00	300.00
4	Vocational Aid		46,930.00	56,038.00
5	Total	\$	70,000.00	\$ 80,000.00

362—State Board of Education—Rehabilitation Division

Acct. No. 702

TO BE PAID FROM THE GENERAL SCHOOL FUND:

1	Personal Services	\$	8,530.00	\$ 8,530.00
2	Current Expenses		20,939.00	20,939.00
3	Total	\$	29,469.00	\$ 29,469.00

370—Department of Education

Acct. No. 703

TO BE PAID FROM THE GENERAL SCHOOL FUND:

1	Salary of Superintendent of Free			
2	Schools	\$	6,000.00	\$ 6,000.00
3	Other Personal Services		65,180.00	65,180.00
4	Current Expenses		45,041.00	45,041.00
5	Equipment		1,685.00	1,595.00

6	Salaries of County Superintend-		
7	ents _____	62,400.00	62,400.00
8	Total _____	\$ 180,306.00	\$ 180,216.00
9	Out of the above appropriation		
10	an amount not to exceed \$10,-		
11	000 each year from the person-		
12	al service account and \$5,000		
13	each year from the current ex-		
14	pense account shall be avail-		
15	able for expenditure at the di-		
16	rection of the Board of School		
17	Finance in the performance of		
18	its duties as prescribed by law.		

371—Department of Education

Acct. No. 6407

1	State aid to supplement the Gen-		
2	eral School Fund _____	\$14,975,000.00	\$15,125,000.00
3	To be transferred to the General		
4	School Fund upon the requis-		
5	ition of the Governor.		
6	To be distributed according to		
7	chapter forty-six, acts of the		
8	Legislature, regular session,		
9	1939, as amended, except an		
10	amount not to exceed \$25,-		
11	000.00 for each year of the bi-		
12	ennium, which sum shall be		
13	available to the State Board of		
14	School Finance to aid counties		
15	in providing instruction for		
16	crippled children under such		
17	rules and regulations for in-		
18	struction of crippled children		
19	as may be adopted by the		
20	State Board of Education as		
21	provided by section five, ar-		
22	ticle two of the West Virginia		

- 23 Code, one thousand nine hun-
24 dred 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 for distribution to marginal counties by the State Board of School Finance in addition to the State Aid Allocated in accordance with chapter forty-six, acts of the Legislature, regular session, 1939, as amended: *Provided, however,* That the State Board of School Finance shall determine at the time the budget is approved that additional aid is needed to complete a nine months' term of school, or such part thereof as the above appropriations will permit.
23 Any balance remaining in the
24 above appropriations after the
25 allocating of aid to marginal
26 counties may be transferred,
27 at the request of the State
28 Board of School Finance, and
29 upon the order of the Board
30 of Public Works, to Acct. No.
31 6407, to be used as State Aid
32 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
 3 or Senate Bill No. 120\$ 600,000.00 \$ 600,000.00

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 | | | |
| 7 Building | 35,000.00 | | |
| 8 To equip Health Service Build- | | | |
| 9 ing | 14,000.00 | | |
| 10 To equip new Armory Building | 15,000.00 | | |
| 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 | \$ 1,318,275.00 | \$ | 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 | \$ 40,245.00 | \$ | 41,010.00 |

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

Acct. No. 302

1	Personal Services	\$ 46,645.00	\$ 46,645.00
2	Current Expenses	5,200.00	5,200.00
3	Repairs and Alterations	500.00	500.00
4	Equipment	800.00	800.00
5	Total	\$ 53,145.00	\$ 53,145.00

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

Acct. No. 303

1	Personal Services	\$ 13,278.00	\$ 13,278.00
2	Current Expenses	9,195.00	9,195.00
3	Repairs and Alterations	4,100.00	4,500.00
4	Equipment	3,000.00	3,000.00
5	Total	\$ 29,573.00	\$ 29,973.00

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

Acct. No. 304

1	Total	\$ 2,730.00	\$ 2,730.00
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394—*West Virginia University—Extension Division*

Acct. No. 305

1	To pay salaries and traveling ex-		
2	penses of County Agricultural		
3	Agents, Total	\$ 63,600.00	\$ 63,600.00

395—*West Virginia University—Agricultural
Experiment Station*

Acct. No. 310

1	Personal Services	\$ 35,310.00	\$ 35,310.00
2	Current Expenses	8,500.00	8,500.00
3	Repairs and Alterations	1,600.00	1,600.00
4	Equipment	1,700.00	1,700.00
5	Total	\$ 47,110.00	\$ 47,110.00

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

1 Total\$ 1,500.00 \$ 1,500.00

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

1 Total\$ 1,500.00 \$ 1,500.00

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

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

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

1	Cooperative Extension Service:		
2	Salaries and expenses of Coun-		
3	ty Home Demonstration		
4	Agents	\$ 25,000.00	\$ 30,000.00
5	Current Expenses	2,000.00	
6	Equipment	5,200.00	
7	Salaries and expenses of Coun-		
8	ty Agricultural Agents	3,000.00	3,500.00
9	College of Agriculture, Forestry		
10	and Home Economics:		
11	Personal Services	9,000.00	9,000.00
12	Current Expenses and Equip-		
13	ment	3,000.00	2,000.00
14	To pay expenses in connection		
15	with Farm and Home Week	2,000.00	
16	Building Livestock Pavilion...	12,500.00	
17	Building Home Economics		
18	Practice House	12,500.00	
19	Purchase of Real Estate (An-		
20	draws Farm)	3,500.00	
21	Purchase of Real Estate		
22	(Athens Building & Loan) ..	3,000.00	

23	Addition to Dairy Barn		8,500.00
24	Agricultural Experiment Station:		
25	Personal Services	7,000.00	9,000.00
26	Current Expenses	5,000.00	5,000.00
27	Hardening Room for Cream-		
28	ery	700.00	
29	Building Poultry Plant	15,000.00	
30	Equipment	5,000.00	
31	Storage Shed	1,000.00	
32	Repair and Improvements to		
33	Farm Buildings	500.00	500.00
34	Purchase of Coal (Reed Mine)		
35	under Horticultural Farm ..	900.00	
36	Experiment Farm — Kearneys-		
37	ville:		
38	Total	3,000.00	4,000.00
39	Reymann Memorial Farm:		
40	Purchase of 52 acres		1,500.00
41	Total	\$ 118,800.00	\$ 73,000.00

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

1	Personal Services, including Sal-		
2	ary of President	\$ 60,599.00	\$ 60,599.00
3	Current Expenses	11,500.00	11,500.00
4	Repairs and Alterations	4,000.00	4,000.00
5	Equipment	3,000.00	3,000.00
6	Total	\$ 79,099.00	\$ 79,099.00
7	From Collections	20,000.00	20,000.00

401—Marshall College
Acct. No. 320

1	Personal Services, including Sal-		
2	ary of President	\$ 320,500.00	\$ 320,500.00
3	Current Expenses	37,500.00	37,500.00
4	Repairs and Alterations	21,500.00	21,500.00
5	Equipment	17,500.00	17,500.00
6	Building—Payment to Fairfield		
7	Stadium Corporation	5,000.00	5,000.00

8 Flood Wall Assessment	1,800.00	1,800.00
9 Total	\$ 403,800.00	\$ 403,800.00
10 From Collections	150,000.00	150,000.00

402—Fairmont State Teachers College

Acct. No. 321

1 Personal Services, including Sal-		
2 ary of President	\$ 144,000.00	\$ 144,000.00
3 Current Expenses	15,000.00	15,000.00
4 Repairs and Alterations	4,000.00	4,000.00
5 Equipment	4,000.00	4,000.00
6 To complete and equip Physical		
7 Education Building	40,000.00	
8 To purchase mineral rights to		
9 protect buildings and campus..	16,500.00	
10 Total	\$ 223,500.00	\$ 167,000.00
11 From Collections	45,000.00	45,000.00

403—Glenville State Teachers College

Acct. No. 322

1 Personal Services, including Sal-		
2 ary of President	\$ 74,250.00	\$ 75,750.00
3 Current Expenses	11,250.00	11,250.00
4 Repairs and Alterations	4,000.00	4,000.00
5 Equipment	4,000.00	4,000.00
6 To equip Science Building	20,000.00	
7 Total	\$ 113,500.00	\$ 95,000.00
8 From Collections	27,500.00	27,500.00

404—West Liberty State Teachers College

Acct. No. 323

1 Personal Services, including Sal-		
2 ary of President	\$ 66,250.00	\$ 66,250.00
3 Current Expenses	10,000.00	10,000.00
4 Repairs and Alterations	2,750.00	2,750.00

5	Equipment	2,750.00	2,750.00
6	Total	\$ 81,750.00	\$ 81,750.00
7	From Collections	18,000.00	18,000.00

405—Shepherd State Teachers College

Acct. No. 324

1	Personal Services, including Sal-		
2	ary of President	\$ 61,500.00	\$ 61,500.00
3	Current Expenses	10,000.00	10,000.00
4	Repairs and Alterations	2,500.00	2,500.00
5	Equipment	2,500.00	2,500.00
6	To equip Science Building	20,000.00	
7	Total	\$ 96,500.00	\$ 76,500.00
8	From Collections	16,500.00	16,500.00

406—Concord State Teachers College

Acct. No. 325

1	Personal Services, including Sal-		
2	ary of President	\$ 101,000.00	\$ 101,000.00
3	Current Expenses	15,000.00	15,000.00
4	Repairs and Alterations	4,000.00	4,000.00
5	Equipment	4,000.00	4,000.00
6	Total	\$ 124,000.00	\$ 124,000.00
7	From Collections	42,500.00	42,500.00

407—West Virginia Institute of Technology
(Formerly New River State College)

Acct. No. 327

1	Personal Services, including Sal-		
2	ary of President	\$ 104,500.00	\$ 104,500.00
3	Current Expenses	16,000.00	16,000.00
4	Repairs and Alterations	4,000.00	4,000.00
5	Equipment	8,000.00	8,000.00
6	To equip Industrial Arts Build-		
7	ing	50,000.00	
8	Total	\$ 182,500.00	\$ 132,500.00
9	From Collections	30,000.00	30,000.00

408—*West Virginia State College*

Acct. No. 328

1	Personal Services, including Sal-			
2	ary of President	\$	158,500.00	\$ 158,500.00
3	Current Expenses		42,000.00	42,000.00
4	Repairs and Alterations		13,000.00	13,000.00
5	Equipment		10,000.00	10,000.00
6	Extension Service		15,000.00	15,000.00
7	To equip Physical Education			
8	Building		18,000.00	
9	Total	\$	256,500.00	\$ 238,500.00
10	From Collections		60,000.00	60,000.00

408A—*4-H Camp for Colored Boys and Girls*

Acct. No. 3289

1	For maintenance and operation			
2	of 4-H Camp	\$	10,000.00	\$ 10,000.00
3	Buildings and Equipment		8,000.00	
4	Total	\$	18,000.00	\$ 10,000.00

409—*Bluefield State Teachers College*

Acct. No. 329

1	Personal Services, including Sal-			
2	ary of President	\$	67,000.00	\$ 67,000.00
3	Current Expenses		13,000.00	13,000.00
4	Repairs and Alterations		5,000.00	5,000.00
5	Equipment		5,000.00	5,000.00
6	Total	\$	90,000.00	\$ 90,000.00
7	From Collections		16,000.00	16,000.00

410—*Storer College*

Acct. No. 330

1	Total	\$	10,000.00	\$ 10,000.00
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420—*West Virginia Schools for the Deaf and Blind*

Acct. No. 333

1	Personal Services, including Sal-			
2	ary of Superintendent	\$	113,650.00	\$ 113,650.00

3	Current Expenses	54,850.00	54,850.00
4	Repairs and Alterations	6,500.00	6,500.00
5	Equipment	5,000.00	5,000.00
6	Total	\$ 180,000.00	\$ 180,000.00

421—*West Virginia Schools for the Colored Deaf and Blind*
Acct. No. 334

1	Personal Services, including Sal-		
2	ary of Superintendent	\$ 17,500.00	\$ 17,500.00
3	Current Expenses	11,100.00	11,100.00
4	Repairs and Alterations	3,000.00	3,000.00
5	Equipment	1,500.00	1,500.00
6	Total	\$ 33,100.00	\$ 33,100.00

44—*Department of Archives and History*
Acct. No. 340

1	Personal Services, including Sal-		
2	ary of State Archivist and His-		
3	torian	\$ 12,070.00	\$ 12,370.00
4	Current Expenses	7,550.00	4,600.00
5	Equipment	5,800.00	1,600.00
6	Total	\$ 25,420.00	\$ 18,570.00

45—*West Virginia Library Commission*
Acct. No. 350

1	To be expended subject to the		
2	approval of the Board of Pub-		
3	lic Works, Total	\$ 10,000.00	\$ 10,000.00

450—*West Virginia Historical Society*
Acct. No. 351

1	To be expended subject to the		
2	approval of the Board of Pub-		
3	lic Works, Total	\$ 500.00	\$ 500.00

CHARITIES AND CORRECTION

460—*West Virginia Industrial School for Boys*

Acct. No. 370

1	Personal Services, including Sal-			
2	ary of Superintendent	\$	49,690.00	\$ 49,690.00
3	Current Expenses		46,500.00	46,500.00
4	Repairs and Alterations		5,000.00	5,000.00
5	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 Per-			
9	sonal Services, \$600.00 shall be			
10	paid each year in monthly in-			
11	stallments to each of the fol-			
12	lowing persons:			
13	Lelia Arnett, widow of U. G.			
14	Arnett, killed by an inmate			
15	while on duty.			
16	George A. Barnard, employee,			
17	permanently disabled by an			
18	inmate while on duty.			

461—*West Virginia Industrial School for Colored Boys*

Acct. No. 371

1	Personal Services, including Sal-			
2	ary of Superintendent	\$	10,790.00	\$ 10,790.00
3	Current Expenses		14,000.00	14,000.00
4	Repairs and Alterations		1,500.00	1,500.00
5	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 Sal-			
2	ary of Superintendent	\$	34,330.00	\$ 34,330.00
3	Current Expenses		32,670.00	32,670.00
4	Repairs and Alterations		3,500.00	3,500.00

5	Equipment	3,500.00	3,500.00
6	Total	\$ 74,000.00	\$ 74,000.00
7	From Collections	13,000.00	13,000.00

463—West Virginia Industrial Home for Colored Girls

Acct. No. 373

1	Personal Services, including Sal-		
2	ary of Superintendent	\$ 5,450.00	\$ 5,450.00
3	Current Expenses	6,000.00	6,000.00
4	Repairs and Alterations	650.00	650.00
5	Equipment	750.00	750.00
6	Total	\$ 12,850.00	\$ 12,850.00
7	From Collections	1,500.00	1,500.00

47—West Virginia Penitentiary

Acct. No. 375

1	Personal Services, including Sal-		
2	ary of Warden	\$ 153,980.00	\$ 153,980.00
3	Current Expenses	180,000.00	180,000.00
4	Repairs and Alterations	11,000.00	11,000.00
5	Equipment	16,400.00	8,400.00
6	Building—Continuation of New		
7	Cell Block Expansion	25,000.00	25,000.00
8	Easement and Street Assessment	1,292.00	
9	Total	\$ 387,672.00	\$ 378,380.00
10	Out of the appropriation for Per-		
11	sonal Services, \$600.00 shall be		
12	paid each year in monthly in-		
13	stallments to Ray Estep, per-		
14	manently injured while em-		
15	ployed in the penitentiary coal		
16	mine.		

470—West Virginia Penitentiary—Medium Security Prison

Acct. No. 376

1	Personal Services	\$ 35,580.00	\$ 39,420.00
2	Current Expenses	31,000.00	38,000.00
3	Repairs and Alterations	4,000.00	4,000.00

4	Equipment	4,000.00	4,000.00
5	To equip kitchen, dining room		
6	and laundry	23,000.00	
7	Total	\$ 97,580.00	\$ 85,420.00

49—*West Virginia Children's Home*
Acct. No. 380

1	Personal Services, including Sal-		
2	ary of Superintendent	\$ 11,140.00	\$ 11,140.00
3	Current Expenses	13,500.00	13,500.00
4	Repairs and Alterations	1,500.00	1,500.00
5	Equipment	1,300.00	1,300.00
6	Total	\$ 27,440.00	\$ 27,440.00
7	From Collections	4,000.00	4,000.00

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

1	Personal Services, including Sal-		
2	ary of Superintendent	\$ 6,247.00	\$ 6,247.00
3	Current Expenses	8,000.00	8,000.00
4	Repairs and Alterations	1,000.00	1,000.00
5	Equipment	1,000.00	1,000.00
6	Total	\$ 16,247.00	\$ 16,247.00

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

Acct. No. 382

1	Personal Services, including Sal-		
2	ary of Superintendent	\$ 7,264.00	\$ 7,264.00
3	Current Expenses	11,500.00	11,500.00
4	Repairs and Alterations	500.00	500.00
5	Equipment	500.00	500.00
6	Total	\$ 19,764.00	\$ 19,764.00
7	From Collections	11,500.00	11,500.00

493—*West Virginia Training School*

Acct. No. 383

1	Personal Services, including Sal-			
2	ary of Superintendent	\$	15,500.00	\$ 15,500.00
3	Current Expenses		15,000.00	15,000.00
4	Repairs and Alterations		2,000.00	2,000.00
5	Equipment		1,750.00	1,750.00
6	Total	\$	34,250.00	\$ 34,250.00
7	From Collections		3,600.00	3,600.00

HEALTH AND WELFARE

520—*State Health Department and Public Health Council*

Acct. No. 400

1	Salary of Commissioner	\$	5,000.00	\$ 5,000.00
2	Other Personal Services		155,580.00	155,580.00
3	Current Expenses		40,000.00	40,000.00
4	Equipment		3,420.00	3,420.00
5	Total	\$	204,000.00	\$ 204,000.00
6	From Collections		22,000.00	22,000.00

521—*State Water Commission*

Acct. No. 401

1	For Current Operating Ex-			
2	penses, Total	\$	4,000.00	\$ 4,000.00

522—*State Committee of Barbers and Beauticians*

Acct. No. 402

1	Personal Services, including Sal-			
2	ary of Director	\$	16,700.00	\$ 16,700.00
3	Current Expenses		13,340.00	13,340.00
4	Total	\$	30,040.00	\$ 30,040.00
5	From Collections		30,040.00	30,040.00

530—*Department of Public Assistance*

Acct. No. 641

- 1 Public Assistance Grants and the
- 2 cost of administration thereof:

3	(Federal Program for Old-Age		
4	Assistance, Aid to the Blind,		
5	and Aid to Dependent Chil-		
6	dren)	\$ 4,150,000.00	\$ 4,150,000.00
7	General Relief Grants and other		
8	provisions of the Public Wel-		
9	fare Law of 1936, as amended,		
10	the cost of administration		
11	thereof	3,100,000.00	2,800,000.00
12	Children of World War veterans	1,800.00	1,800.00
13	Total	\$ 7,251,800.00	\$ 6,951,800.00
14	Out of the above appropriations,		
15	a sum not to exceed \$10,000.00		
16	may be expended each fiscal		
17	year to aid in providing hot		
18	lunches for school children.		
19	The unexpended balance, if any		
20	remaining in the appropriation		
21	for this department as of June		
22	30, 1941, is hereby re-appropri-		
23	ated for expenditure in the fis-		
24	cal years 1941-42, 1942-43.		
25	Upon request and recommenda-		
26	tion of the State Director and		
27	State Advisory Board, the		
28	Board of Public Works may		
29	make available for expendi-		
30	ture any amount of this appro-		
31	priation at any time during the		
32	biennium as the need may		
33	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

540—Weston State Hospital

Acct. No. 420

1	Personal Services, including Sal-			
2	ary of Superintendent	\$ 153,060.00	\$	160,590.00
3	Current Expenses	152,500.00		161,850.00
4	Repairs and Alterations	20,000.00		20,000.00
5	Equipment	15,477.00		12,000.00
6	To Equip Psychiatric Unit	68,500.00		
7	To Equip Fireproofed Units	24,200.00		
8	Total	\$ 433,737.00	\$	356,940.00
9	From Collections	28,000.00		30,000.00

541—Spencer State Hospital

Acct. No. 421

1	Personal Services, including Sal-			
2	ary of Superintendent	\$ 69,500.00	\$	69,500.00
3	Current Expenses	84,500.00		84,500.00
4	Repairs and Alterations	11,000.00		11,000.00
5	Equipment	5,000.00		5,000.00
6	To cooperate with City of Spen-			
7	cer in construction of a Sew-			
8	age Disposal Plant	10,000.00		
9	Total	\$ 180,000.00	\$	170,000.00
10	From Collections	23,000.00		23,000.00

542—Huntington State Hospital

Acct. No. 422

1	Personal Services, including Sal-			
2	ary of Superintendent	\$ 70,610.00	\$	70,610.00
3	Current Expenses	95,000.00		95,000.00
4	Repairs and Alterations	8,000.00		8,000.00
5	Equipment	8,290.00		8,290.00
6	Total	\$ 181,900.00	\$	181,900.00
7	From Collections	50,000.00		50,000.00

543—Lakin State Hospital

Acct. No. 423

1	Personal Services, including Sal-			
2	ary of Superintendent	\$ 31,000.00	\$	31,000.00

3	Current Expenses	39,500.00	39,500.00
4	Repairs and Alterations	4,000.00	4,000.00
5	Equipment	3,000.00	3,000.00
6	Total	\$ 77,500.00	\$ 77,500.00
7	From Collections	10,500.00	10,500.00

544—McKendree Emergency Hospital
Acct. No. 424

1	Personal Services, including Sal-		
2	ary of Superintendent	\$ 19,773.00	\$ 19,773.00
3	Current Expenses	21,660.00	21,660.00
4	Repairs and Alterations	2,000.00	2,000.00
5	Equipment	2,000.00	2,000.00
6	Total	\$ 45,433.00	\$ 45,433.00
7	From Collections	12,000.00	12,000.00

545—Fairmont Emergency Hospital
Acct. No. 425

1	Personal Services, including Sal-		
2	ary of Superintendent	\$ 21,000.00	\$ 21,000.00
3	Current Expenses	28,000.00	28,000.00
4	Repairs and Alterations	3,000.00	3,000.00
5	Equipment	3,000.00	3,000.00
6	Total	\$ 55,000.00	\$ 55,000.00
7	From Collection	20,000.00	20,000.00

546—Welch Emergency Hospital
Acct. No. 426

1	Personal Services, including Sal-		
2	ary of Superintendent	\$ 27,712.00	\$ 27,712.00
3	Current Expenses	25,000.00	25,000.00
4	Repairs and Alterations	4,000.00	4,000.00
5	Equipment	3,000.00	3,000.00
6	Total	\$ 59,712.00	\$ 59,712.00
7	From Collections	24,000.00	24,000.00

548—Hopemont Sanitarium

Acct. No. 430

1	Personal Services, including Sal-			
2	ary of Superintendent	\$ 151,582.00	\$	151,582.00
3	Current Expenses	170,000.00		170,000.00
4	Repairs and Alterations	12,000.00		12,000.00
5	Equipment	10,000.00		10,000.00
<hr/>				
6	Total	\$ 343,582.00	\$	343,582.00
7	From Collections	150,000.00		150,000.00

549—Pinecrest Sanitarium

Acct. No. 431

1	Personal Services, including Sal-			
2	ary of Superintendent	\$ 179,520.00	\$	205,200.00
3	Current Expenses	197,000.00		232,000.00
4	Repairs and Alterations	9,000.00		9,000.00
5	Equipment	6,000.00		6,000.00
6	To equip Patients' Unit and Doc-			
7	tors' Residences	66,000.00		
8	To equip Kitchen, Dining Room			
9	and Auditorium	27,000.00		
<hr/>				
10	Total	\$ 484,520.00	\$	452,200.00
11	From Collections	185,000.00		235,000.00

550—Denmar Sanitarium

Acct. No. 432

1	Personal Services, including Sal-			
2	ary of Superintendent	\$ 42,000.00	\$	42,000.00
3	Current Expenses	43,900.00		43,900.00
4	Repairs and Alterations	3,000.00		3,000.00
5	Equipment	6,000.00		6,000.00
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6	Total	\$ 94,900.00	\$	94,900.00
7	From Collections	34,000.00		34,000.00

551—Tuberculosis Field Clinic

Acct. No. 435

1	Total	\$ 10,000.00	\$	10,000.00
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552—*Morris Memorial Hospital*

Acct. No. 434

1	Buildings and Equipment, Total	\$	50,000.00	\$	50,000.00
2	To be expended under the rules				
3	and regulations adopted by the				
4	West Virginia Board of Con-				
5	trol.				

553—*Berkeley Springs Sanitarium*

Acct. No. 436

1	Personal Services, including Sal-				
2	ary of Superintendent	\$	5,990.00	\$	5,990.00
3	Current Expenses		3,500.00		3,500.00
4	Repairs and Alterations		1,000.00		1,000.00
5	Equipment		500.00		500.00
6	Total	\$	10,990.00	\$	10,990.00
7	From Collections		5,000.00		5,000.00

BUSINESS AND INDUSTRIAL RELATIONS

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

Acct. No. 450

1	Salary of Commissioner	\$	5,000.00	\$	5,000.00
2	Other Personal Services		43,420.00		43,420.00
3	Current Expenses		28,595.00		28,845.00
4	Equipment		1,500.00		1,500.00
5	Total	\$	78,515.00	\$	78,765.00

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

Acct. No. 6412

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

Acct. No. 460

1	Salary of Chief	\$	6,000.00	\$	6,000.00
2	Other Personal Services		227,700.00		227,700.00
3	Current Expenses		88,000.00		88,000.00

4	Repairs and Alterations	10,000.00	10,000.00
5	Equipment	15,000.00	15,000.00
6	Total	\$ 346,700.00	\$ 346,700.00

600—Public Service Commission

Acct. No. 470

1	Salaries of Three Members of the		
2	Public Service Commission.		
3	Total	\$ 18,000.00	\$ 18,000.00

601—Public Service Commission

Acct. No. 6617

1	Personal Services	\$ 165,000.00	\$ 165,000.00
2	Current Expenses	40,000.00	40,000.00
3	Equipment	5,000.00	5,000.00
4	Total	\$ 210,000.00	\$ 210,000.00

5 The total amount of this appro-
6 priation shall be paid from
7 Special Revenue Fund out of
8 collections for special license
9 fees from public service cor-
10 porations, as provided by law.
11 Out of the above appropriation,
12 not more than \$800.00 may be
13 expended annually for the
14 maintenance of the office of
15 the General Solicitor of the
16 National Association of Rail-
17 roads and Utilities Commis-
18 sioners, and for representation
19 in matters before the Inter-
20 state Commission and other
21 Federal Departments, at
22 Washington, D. C.
23 Out of the above appropriation,
24 \$1,800.00 may be expended an-
25 nually to cooperate with the
26 U. S. Geological Survey in
27 stream flow measurement.

602—*Public Service Commission—Motor Carrier Division*
Acct. No. 6624

1 All special license fees or other
2 receipts collected for or by the
3 Public Service Commission
4 pursuant to and in the exer-
5 cise of regulatory authority
6 over motor vehicle carriers, to
7 to be paid into the special fund
8 designated "Public Service
9 Commission Motor Carrier
10 Fund", as authorized by law,
11 are hereby appropriated for the
12 purpose of paying the expenses
13 of the Commission, salaries
14 of the commissioners and the
15 salaries, compensation, costs
16 and expenses of its employees
17 in administering such law, and
18 for the expenditures by the
19 Public Service Commission for
20 the administration of such reg-
21 ulation, as authorized and pro-
22 vided 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

3	Current Expenses	99,074.00	99,074.00
4	Repairs and Alterations	2,800.00	2,800.00
5	Equipment	13,900.00	13,900.00

6	Total	\$ 346,304.00	\$ 346,304.00
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7 There is hereby authorized to be
 8 paid out of the appropriation
 9 for Current Expenses the
 10 amount necessary for the
 11 premiums on bonds given by
 12 the State Treasurer and bond
 13 custodian for the protection of
 14 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
 2 Compensation Silicosis Fund
 3 as provided in chapter seven-
 4 ty-nine, acts of the Legisla-
 5 ture, regular session, 1935, and
 6 to pay premiums on bond
 7 given by the State Treasurer
 8 as custodian of the fund.

9	Total	\$ 15,000.00	\$ 15,000.00
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64—*West Virginia Liquor Control Commission*
 Acct. No. 6676

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

5	Total	\$ 303,000.00	\$ 303,000.00
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6 The total amount of this appro-
 7 priation shall be paid from the
 8 Special Revenue Fund out of
 9 liquor revenues.
 10 The above appropriation does

11 not include the salaries of
 12 store personnel, store operat-
 13 ing expenses or equipment,
 14 purchase of liquor, or equip-
 15 ment for administration of-
 16 fices. There is hereby appro-
 17 priated from liquor revenues,
 18 in addition to the above appro-
 19 priation, the necessary
 20 amounts to pay salaries of
 21 store personnel, store operat-
 22 ing expenses, purchase of
 23 liquor and transportation
 24 thereof, and purchase of ad-
 25 ministration 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
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652—*Board of Aeronautics*

Acct. No. 6086

1	Total	\$	20,000.00	\$ 20,000.00
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653—*West Virginia Publicity Commission*

Acct. No. 4728

1	Total	\$	37,500.00	\$ 37,500.00
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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:

1	Salary of Commissioner	\$ 6,000.00	\$ 6,000.00
2	Cther Personal Services	444,000.00	444,000.00
3	Current Expenses	55,000.00	55,000.00
4	Equipment	30,000.00	30,000.00
5	Materials and Supplies	130,000.00	130,000.00

6	Total	\$ 665,000.00	\$ 665,000.00
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7 In addition to the foregoing ap-
 8 propriations and any other ap-
 9 propriations or claims, as au-
 10 thorized by this act to be paid
 11 from the state road fund, the
 12 balance or residue of the an-
 13 nual receipts of the state road
 14 fund are hereby appropriated
 15 for the payment of interest on
 16 and principal of outstanding
 17 road bonds, for maintenance
 18 and construction and recon-
 19 struction of state roads, in ac-
 20 cordance with the provisions
 21 of article three, chapter seven-
 22 teen of the code of West Vir-
 23 ginia, 1931, as amended.

672—*State Road Commission*

Acct. No. 6406

TO BE PAID FROM THE GENERAL REVENUE FUND:

- 1 To supplement the State Road
- 2 Fund for maintenance, con-
- 3 struction and reconstruction of
- 4 secondary roads, including co-
- 5 operation with the Works
- 6 Projects Administration or
- 7 other substitute agency; to be

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

1	Salary of Commissioner	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services	95,728.00	95,728.00
3	Current Expenses	62,700.00	62,700.00
4	Equipment	5,500.00	5,500.00
5	For the eradication and preven-		
6	tion of livestock diseases, to		
7	be expended in cooperation		
8	with the Federal Government	69,800.00	69,800.00
9	Total	\$ 239,728.00	\$ 239,728.00
10	From Collections	40,000.00	40,000.00

70A—Department of Agriculture: Soil Conservation

Acct. No. 510

1	Total	\$ 15,000.00	\$ 15,000.00
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71—Agricultural Fairs and Association Awards

Acct. No. 515

1	Incorporated County and Dis-		
2	trict Fairs	\$ 7,500.00	\$ 7,500.00
3	Regional 4-H Fairs	1,800.00	1,800.00
4	State Agricultural Fairs	7,500.00	7,500.00
5	Agricultural and Industrial Ex-		
6	hibits	6,000.00	7,500.00
7	Total	\$ 22,800.00	\$ 24,300.00

CONSERVATION AND DEVELOPMENT

730—West Virginia Geological Survey

Acct. No. 520

1	Personal Services, including Sal-		
2	ary of State Geologist	\$ 41,000.00	\$ 45,000.00

3	Current Expenses	18,000.00	18,000.00
4	Equipment	4,000.00	4,000.00
5	Total	\$ 63,000.00	\$ 67,000.00
6	From Collections	2,000.00	2,000.00
7	Of the above appropriation for		
8	Current Expenses not more		
9	than \$3,200.00 may be used		
10	each year of the biennium to		
11	cooperate with the United		
12	States Geological Survey in		
13	stream-flow measurement.		

731—Conservation Commission—General Administration,
 Division of Game, Fish and Forestry
 Acct. No. 6612

1	Salary of Commissioner	\$ 5,000.00	\$ 5,000.00
2	Other Personal Services	25,620.00	25,620.00
3	Current Expenses	29,580.00	29,580.00
4	Equipment	1,000.00	1,000.00
5	Total	\$ 61,200.00	\$ 61,200.00
6	The total amount of this appro-		
7	priation shall be paid from the		
8	Special Revenue fees collected		
9	by the Conservation Commis-		
10	sion. This appropriation is for		
11	administration purposes only		
12	and shall not be construed as		
13	a limit upon the expenditures		
14	from the Special Revenue col-		
15	lections of said department,		
16	except for administration.		

732—Conservation Commission—Division of Forestry
 Acct. No. 521

1	For superintendence, mainte-		
2	nance and operating of State		
3	Forests	\$ 35,000.00	\$ 35,000.00
4	White Pine Blister Rust Control	5,000.00	5,000.00

5	For soil conservation and pre-		
6	vention of soil erosion, any part		
7	of which may be used for the		
8	purpose of matching Federal		
9	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		
2	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		
2	States Department of Agricul-		
3	ture in fire prevention and con-		
4	trol.		
5	Total	\$ 50,000.00	\$ 50,000.00
6	Out of the above appropriations		
7	\$360.00 shall be paid each fiscal		
8	year to Fleet Bailey in month-		
9	ly installments of \$30.00 each,		
10	for injuries he received while		
11	enroute to fight forest fires on		
12	or about the nineteenth day of		
13	April, 1937.		

740—Droop Mountain Battlefield Monument

Acct. No. 5609

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

741—Point Pleasant Battle Monument Commission

Acct. No. 5619

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

742—Rumseyan Society

Acct. No. 5629

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

743—Morgan Morgan Memorial

Acct. No. 5639

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

744—Grafton G. A. R. Post

Acct. No. 5649

1	In aid of Memorial Day Patriotic			
2	Exercises.			
3	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

1	Personal Services	\$ 43,200.00	\$ 43,200.00
2	Current Expenses	11,210.00	11,210.00
3	Repairs and Alterations	4,800.00	2,300.00
4	Equipment	12,973.00	4,893.00
5	Buildings and Lands	30,000.00	
6	Total	\$ 102,183.00	\$ 61,603.00

771—Department of Public Safety
Acct. No. 6720

TO BE PAID FROM THE STATE ROAD FUND:

1	For the enforcement of traffic		
2	violations.		
3	Total	\$ 30,000.00	\$ 30,000.00

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

1	Salary of Adjutant General	\$ 5,000.00	\$ 5,000.00
2	Other Personal Services	7,770.00	7,770.00
3	Current Expenses	57,501.00	57,501.00
4	Repairs and Alterations	4,000.00	4,000.00
5	Equipment	3,000.00	3,000.00
6	Compensation of Commanding		
7	Officers, Clerical Services and		
8	Care of Property	41,548.00	41,548.00
9	Total	\$ 118,819.00	\$ 118,819.00

10 The unexpended balance in the
 11 appropriation "Compensation
 12 of Commanding Officers, Cleri-
 13 cal Services and Care of Prop-
 14 erty" for the fiscal year 1940-41
 15 is hereby reappropriated and
 16 may be expended at the direc-
 17 tion of the Governor during
 18 either year of the biennium
 19 1941-43 for National Guard,
 20 Home Guard or other state de-
 21 fense purposes.

22 Of the above appropriation
 23 \$2,000.00 may be expended an-
 24 nually from Personal Services
 25 and \$7,000.00 annually from
 26 Current Expenses for main-
 27 taining a Negro Unit of the
 28 state militia as authorized by
 29 law, when and if a Negro Unit
 30 is authorized by the War De-
 31 partment.

32 Out of the above appropriations,
 33 there may be expended a sum
 34 sufficient to organize and main-
 35 tain the 3rd Battalion of the
 36 201st Infantry, when, and if it
 37 is authorized by the proper
 38 authorities.

39 The unexpended balances in the
 40 appropriations above, as of
 41 June 30, 1942, are hereby re-
 42 appropriated for expenditure
 43 in the fiscal year 1942-43, if the
 44 3rd Battalion of the 201st In-
 45 fantry is organized, or said
 46 Negro Unit, if established.

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

1 Personal Services	\$ 18,440.00	\$ 18,440.00
2 Current Expenses	7,100.00	7,100.00
3 Equipment	1,000.00	1,000.00
4 Total	\$ 26,540.00	\$ 26,540.00

5 The total amount of this appro-
 6 priation shall be paid from the
 7 Special Revenue collections of
 8 special tax of $\frac{1}{2}$ of one per
 9 cent of fire insurance com-
 10 panies premiums as provided
 11 by the code of West Virginia,
 12 1931.

775—*Fire Insurance*

Acct. No. 591

1	To be expended under the rules			
2	and regulations adopted by the			
3	Board of Control to pay fire in-			
4	surance premiums on build-			
5	ings and contents of State In-			
6	stitutions.			
7	Total	\$	30,000.00	\$ 30,000.00

780—*State Board of Law Examiners*

Acct. No. 6005

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

781—*State Board of Examiners of Accountants*

Acct. No. 6007

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

782—*State Athletic Commission*

Acct. No. 6017

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

783—*State Board of Examiners of Registered Nurses*

Acct. No. 6044

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

784—*State Board of Dental Examiners*

Acct. No. 6045

1	To pay the per diem of members			
2	and other general expenses.			

3	Total	\$	1,000.00	\$	1,000.00
4	From Collections		1,000.00		1,000.00

785—State Board of Pharmacy
Acct. No. 6046

- 1 To pay the per diem of members
2 and other general expenses.

3	Total	\$	5,000.00	\$	5,000.00
4	From Collections		5,000.00		5,000.00

786—State Board of Osteopathy
Acct. No. 6047

- 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

787—State Board of Optometry
Acct. No. 6048

- 1 To pay the per diem of members
2 and other general expenses.

3	Total	\$	1,500.00	\$	1,500.00
4	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
2 and other general expenses.

3	Total	\$	5,000.00	\$	5,000.00
4	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
2 and other general expenses.

3	Total	\$	4,000.00	\$	4,000.00
4	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
2 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 PASSAGE7—*Circuit Courts*

Acct. No. 111

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

8—*Compensation of Special Judges*

Acct. No. 113

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

120—*Governor's Office*

Acct. No. 120

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

29—*Secretary of State*

Acct. No. 250

1	To supplement the 1940-41 ap-				
2	propriation:				

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 ap-
 2 propriations:
 3 Salary of Superintendent of Free
 4 Schools -----\$ 465.00
 5 Salaries of County Superintend-
 6 ents ----- 338.00
 7 Other Personal Services ----- 6,500.00
 8 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 requis-
 7 tion of the Governor.

371A—*State Department of Education*

Acct. No. 6405

1 State Aid to supplement the Gen-
 2 eral School Fund for the fiscal
 3 year 1940-41 -----\$ 100,000.00
 4 To be transferred to the General
 5 School Fund upon the requis-
 6 tion of the Governor, to be al-
 7 located and disbursed by the
 8 State Board of School Finance
 9 with the approval of the Board
 10 of Public Works to aid mar-
 11 ginal counties in completing a
 12 nine months' school term, or

- 13 such part thereof as the above
14 appropriation will permit.

401—*Marshall College*

Acct. No. 320

- 1 To pay City of Huntington Flood
2 Wall Assessment, in the fiscal
3 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
2 1940-41:
3 Building, in cooperation with
4 National Youth Administra-
5 tion\$ 5,000.00

406—*Concord State Teachers College*

Acct. No. 325

- 1 To supplement the 1940-41 ap-
2 propriation:
3 Buildings and Lands\$ 14,500.00

520—*State Health Department and Public Health Council*

Acct. No. 400

- 1 Appropriation for the fiscal year
2 1940-41:
3 Mine Sealing Project.
4 Total\$ 6,072.00

405—*Shepherd State Teachers College*

Acct. No. 324

- 1 The amount appropriated "From
2 Collections" for the fiscal year
3 1940-41 is hereby reduced from
4 \$19,000.00 to \$16,000.00 for the
5 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:

1 George W. Stamm	\$ 2,604.01
2 Louis R. Sweetland	2,818.08
3 Emma F. Adams	1,402.20
4 Jesse E. Ebeling	94.86
5 Caroline G. Tallman	3,498.04
6 John C. Lynch	126.50
7 Louise Stifel	23.59
8 Minnie B. Pugh	1,709.35
9 Ellen Kraft	834.08
10 Benson B. McMechen	41.18
11 Amelia S. Dalzell	900.00
12 George E. Stifel	1,174.94
13 Estate of Frank Kirschner	1,410.26
14 Jacob F. Cork Estate	219.13
15 Total	\$ 16,856.17

*Refunding Erroneous Payments Made to the State for
Gross Sales Taxes
Acct. No. 6449*

1 Air Reduction Sales Company..	\$ 3,224.02
2 L. Berman and Son	180.39
3 Paul Blatt	15.00
4 J. W. Gray	86.56
5 Merchants Wholesale Grocery..	579.44
6 Lucas Bros. Dairy	179.76
7 Bluefield Coal & Coke Com- 8 pany	3,348.88
9 Amherst Fuel Company	4,367.58
10 Pritchard Coal Company	1,017.85
11 Wyatt Coal Sales Company	7,694.44
12 Smokeless Fuel Company	10,842.56
13 E. A. Doak	10.77
14 Rufus F. Lazzell, Jr., d. b. a.	
15 R. F. Lumber Co.	29.86
16 Pocahontas Corporation	72.11

17 Pulaski Iron Company	6.90
18 Sweeney's Service Station	11.27
19 Lowe's Meat Market	33.75
20 Staats Clinic	294.80
21 French Coal Company	247.65
22 Tower Oil Company	303.07
23 W. H. Rangeley Service Station	22.78
24 Lilly Bros. and Piper	466.64
25 Pocahontas Fuel Company, Inc.	67.77
26 Spears and Riddle	72.08
27 Davidson-Connellsville Coal	
28 Company	1,156.59
29 Beckley Water Company	368.36
30 Meadow River Lumber Com-	
31 pany	7,131.32
32 Croft Lumber Company	7,350.65
33 Consolidated Brokerage Com-	
34 pany	647.39
35 Thompson-Brown Sand Com-	
36 pany	1,013.08
37 Thos. F. Downing, M. D.	126.87
38 McMillion Service Station, T.	
39 R. McMillion, Prop.	12.10
40 Columbian Carbon Company....	1,333.21
41 Blair Motors, Inc.	543.56
42 White Oak Coal Company	26,590.92
43 H. L. McGinnis	106.51
44 Grocers Wholesale Company....	327.38
45 M. H. Cain	198.89
46 J. W. and McAllister Ruble	83.88
47 General Brokerage Company....	167.33
48 Ted N. Moyers & Edw. W.	
49 Moyers, d. b. a. Wheeling-	
50 Steubenville Truck Service....	1,387.86
51 C. R. Wolfe and Wesley Wolfe	82.11
52 Lee H. Haas	23.18
53 Alba Marl Lime Company	768.71
54 Kelleys Creek Improvement	
55 Company	177.68
56 Summit Lumber Company	348.51

57 A. M. Rowe, Inc.	799.74
58 Harlan Cumberland Coal Land	
59 Company	200.25
60 Bank of Follansbee	34.14
61 Henry M. Cole and Son	7.37
62 Pritchard Motor Car Company	1,216.27
63 E. L. Dequasie	64.76
64 Telluric Company	108.90
65 Charles Tucker	31.74
66 Elkins Limestone Company,	
67 Inc.	411.04
68 Fourco Glass Company	2,118.01
69 Laval Sand Company	476.55
70 Zenith Sand Company	961.18
71 Cooperative Building and Loan	
72 Association	549.49
73 Mary E. McCarty Bullock	158.51
74 Monongahela Building Com-	
75 pany	570.08
76 Davis Lumber Company	177.68
77 Midelburg Bros. and Hyman...	645.75
78 South Hills Realty Company...	431.96
79 Walter Gall	31.59
80 Balch and Mahan	104.52
81 Baer and Miller	21.86
82 Mary C. Flanagan	16.07
83 S. S. Pine	44.80
84 Hayden Service Station	16.58
85 A. W. Cox Dept. Store Com-	
86 pany	351.06
87 McComas Gas Company	67.50
88 R. P. Burks	15.06
89 Weir-Cove Moving and Storage	
90 Company, Inc.	3,216.31
91 Brugh Furniture Company, Inc.	668.67
92 The Constitution Stone Com-	
93 pany	602.60
94 W. J. Weakland	156.36
95 McGraw Service Station	87.42
96 R. K. Mehurin and E. L. Bock...	14.16

97 Wilkins Motors _____	234.94
98 Wm. James _____	107.54
99 Greenbrier Milling Company—	52.07
100 S. L. Moyers and H. J. Meyn,	
101 d. b. a. Wheeling-Steuben-	
102 ville Transfer Company _____	154.33
103 Jobbers Brokerage Company—	67.94
104 Garlow Block, Inc. _____	208.14
105 Lea and Company, Inc. _____	883.76
106 Caravasos Real Estate _____	11.10
107 Cooperative Fuel Company —	593.60
108 Standard Gas Company _____	5,776.87
109 Mrs. Florence Emery _____	111.71
110 New Martinsville Ferry _____	224.90
111 Gallaher and Sutherland _____	54.77
112 Daily Telegraph Printing Com-	
113 pany _____	233.10
114 L. B. Snyder Supply Company	378.75
115 Wheeling Bronze Casting Com-	
116 pany _____	101.00
117 Dickey's Dairy _____	77.58
118 Clyde D. Smith _____	96.60
119 Harvard Gas Company _____	189.77
120 Cambridge Gas Company _____	915.26
121 W. Va. Production Company—	703.86
122 Gilmer County Gas Company—	101.22
123 Kanawha Gas and Utilities Com-	
124 pany _____	2,688.29
125 Rogers Jewelry Company _____	35.11
126 Calhoun Super Service Station	71.88
127 Parkersburg Maytag Company—	31.34
128 Dr. Truman E. Gore Estate —	77.64
129 Smallwood Stone Company —	624.22
130 Inter-City Transport and Motor	
131 Company _____	510.58
132 Colcord Coal Sales Company,	
133 Inc. _____	1,041.41
134 North American Cement Corpo-	
135 ration _____	1,307.06
136 Acme Motor Company _____	444.82

137 Cooperative Fuel Company ----	593.60
138 Maryland and West Virginia	
139 Lumber Company -----	6,294.01
140 Mrs. F. H. Maize -----	348.43
141 C. and O. Railway Company --	57,987.53
142 West Virginia Broadcasting	
143 Corporation -----	1,096.43
144 New River Lumber Company---	1,498.12
145 Acme Limestone Company -----	2,564.07
146 Crawford and Prince -----	112.22
147 Olmstead Bros. Company -----	164.45
148 Citizens Transfer & Storage	
149 Company -----	231.14
150 Charleston Optical Company---	254.23
151 R. B. Smith, Bramwell Garage	31.48
152 Jones-Cornett Electric Com-	
153 pany -----	63.47
154 Ball Brothers, Inc. -----	136.44
<hr/>	
155 Total -----	\$ 186,986.78

Refunding Erroneous Payments Made to the State for

Consumers Sales Tax

Acct. No. 6449

1 J. W. Dorsey -----	\$ 280.19
2 Mike Lee -----	111.62
3 Estella Dorsey Ward -----	451.92
4 Monongahela Valley Broadcast-	
5 ing Company -----	780.15
6 Haynes Brothers -----	387.56
7 West Virginia Broadcasting	
8 Company -----	3,431.65
9 Early Brothers -----	1,464.05
10 Walter M. Stephens -----	218.68
11 A. M. Rowe, Inc. -----	212.79
12 Richwood Store Co. for W. S.	
13 Chapman -----	134.50
<hr/>	
14 Total -----	\$ 7,473.11

*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 result-
2 ing from personal injury or property damages, this amount
3 is appropriated for the remainder of fiscal year ending June
4 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
6 George J. Carter, Jr. _____	9.25
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 23 Company _____	96.41
24 Kermit Simms _____	226.55
25 Morley S. Sloman _____	355.40
26 Brady Webb _____	14.90
27 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	16.83
64 Ira Krantz	325.00
65 Charlie Arnold	10.00
66 Bryant Snapp	20.00
67 Harry P. Marshall	56.75

68 William Gill	16.32
69 Ray Hurst	256.00
70 J. P. Thompson	130.33
71 Albert Laugh	1,151.85
72 Mrs. Vicie Turner	45.90
73 John Monroe Taylor	40.00
74 Halliburton Oil Well Cement-	
75 ing Company	644.73
76 George Casey	17.04
77 J. A. Kelley	275.96
78 Bernard Baker	22.05
79 J. H. Pettit	13.17
80 Catherine Giles, Walter Giles,	
81 and Lloyd Grimm	600.00
82 Ray M. Swisher	1,478.54
83 E. R. Biggess	8.00
84 Stella Ballard	56.08

85 Total	\$ 12,463.15
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86 To pay Jay Montoney for inju-
87 ries received on or about the
88 15th day of September, 1936,
89 by reason of the operation of
90 a tractor belonging to the
91 State Road Commission by
92 one William McDaniel, an em-
93 ployee of said Commission,
94 and evidenced by a judgment
95 in the sum of nine thousand
96 dollars (\$9,000.00) secured in
97 the Circuit Court of Randolph
98 County against said William
99 McDaniel. The amount here-
100 by appropriated is to be paid
101 only upon the execution by
102 Jay Montoney of a full and
103 complete release from said
104 judgment as to said William
105 McDaniel, his heirs and as-
106 signs, and the State of West

107 Virginia, the State Road Com-
108 mission and any other officer
109 or Department of the State
110 against whom said claim might
111 in any manner be asserted. Of
112 this appropriation no part
113 thereof in excess of two thou-
114 sand five hundred and fifty
115 dollars (\$2,550.00) shall be
116 used for the payment of at-
117 torney's fees and other ex-
118 penses incurred in and about
119 the securement of said judg-
120 ment and the presentment of
121 this claim. To be paid from
122 the State Road Fund.

123 Total \$ 9,000.00

124 To pay the Williamstown Vol-
125 unteer Fire Department, of
126 Williamstown, West Virginia,
127 for equipment damaged or
128 destroyed during the fire
129 which occurred on the Wil-
130 liamstown - Marietta toll
131 bridge on September 10, 1939.
132 To be paid from the State
133 Road Bridge Fund.

134 Total \$ 135.00

900—*Bonded Obligations*
Acct. No. 6476

Sec. 3. *Bonded Obligations.*

2 There is hereby appropriated
3 out of the General Revenue
4 Fund to meet the principal
5 and interest requirements of
6 funding bonds authorized un-
7 der chapter fifty-eight of the
8 first extraordinary session of
9 the 1933 Legislature to pay
10 non-bonded debts existing at

11 the time of the adoption of the
12 tax limitation amendment.
13 Total ----- \$ 375,000.00 \$ 363,000.00

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

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

10 The estimated balance of \$780,350 as of July 1st, 1941, and
11 the revenue estimates upon which the foregoing and defin-
12 itely appropriated budget items are based are, for each
13 fiscal year 1941-1942 and 1942-1943, \$32,690,000, including
14 institutional collections and professional board receipts and
15 upon estimates of retirements into the state treasury for
16 non-expenditure from said appropriations of approximate-
17 ly \$175,000 for each of said fiscal years.

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

31 (3) The order in which the items of this section are
32 named indicates a legislative preference in order of ex-
33 penditure based upon institutional needs, except that
34 relating to secondary roads, but, having regard to the
35 amount of revenues available, if any, the expendi-
36 ture within which construction may be undertaken, and
37 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 ations 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	ments	200,000.00
80	(7) West Virginia Penitentiary,	
81	Sewage Disposal Plant ----	50,000.00
82	(8) West Virginia Penitentiary,	
83	to complete Cells and	
84	Classification Unit	225,000.00
85	(9) Huntington State Hospital,	
86	Major Building Repairs ---	130,000.00
87	(10) Hopemont Sanitarium,	
88	Patients' Unit, Central	
89	Heating Plant, Sewage Dis-	
90	posal and other Appurte-	
91	nances	500,000.00
92	(11) Weston State Hospital,	
93	Patients' Unit, Kitchen and	
94	Dining Room Enlargement,	
95	and other necessary Build-	
96	ings and Appurtenances ---	500,000.00
97	(12) Conservation Commission,	
98	Land, Buildings, Improve-	
99	ments and Equipment for	
100	Fish and Game Propagation	
101	and State Game Farm ----	50,000.00
102	(13) Spencer State Hospital	
103	Building and Equipping	
104	Cafeteria	50,000.00
105	(14) West Virginia School for	
106	Deaf and Blind, New Dor-	
107	mitory and Central Heating	
108	Unit	225,000.00
109	(15) West Virginia University,	
110	Jackson's Mill 4-H Camp,	
111	Administration Building	
112	and Improvements on	
113	Roads	15,000.00
114	(16) Bluefield State Teachers	
115	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 Im-	
122 provements	1,000,000.00
123 (19) Marshall College, Reno-	
124 vating Administration	
125 Building	60,000.00
126 (20) West Liberty State Teach-	
127 ers College, Building	200,000.00
128 (21) Potomac State School, Li-	
129 brary, Science and Audi-	
130 torium Building	200,000.00
131 (22) Shepherd State Teachers	
132 College, Library Building..	50,000.00
133 (23) Marshall College, Science	
134 Building and Equipment ..	250,000.00
135 (24) Concord State Teachers	
136 College, Science Building..	150,000.00
137 (25) Secondary Roads	2,000,000.00
138 (26) Primary Roads	1,000,000.00
139 (27) To establish Limestone	
140 Plants for the Production	
141 Agricultural Lime	200,000.00

Sec. 4-a. *Date of Expiration of Unexpended Balances of 2 1939 Appropriations.*—The date for expiring unexpended
3 balances, if any, in the appropriations made by and under
4 authority of section four of the 1939 Budget Act, for build-
5 ing purposes at the West Virginia University, Pinecrest
6 Sanitarium, New River State College, Marshall College,
7 Shepherd State Teachers College and Glenville State
8 Teachers College, is hereby extended to June 30, 1942, and
9 are hereby reappropriated from the date of expiration to
10 June 30, 1942.

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

Sec. 6. *Appropriations Revived and Extended.*—A part of an appropriation to a spending unit that remains unexpended at the end of the fiscal year one thousand nine hundred 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 treasury is hereby appropriated out of the fund into which it was paid for refund to the proper person.
When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid he shall issue his requisition upon the auditor for the refunding of the proper amount. The auditor shall issue his warrant to the treasurer and the treasurer shall pay the warrant out of the fund into which the amount was originally paid.

Sec. 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-

3 cision shall not affect any portion of this act which remains,
4 but the remaining portions shall be in full force and effect
5 as if the portion declared unconstitutional had never been
6 a part of the act.

CHAPTER 7

(Senate Bill No. 20—By Mr. Pelter)

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

4 and sold for the purpose of raising funds for assisting in
5 building and constructing the system of state roads and
6 highways provided for by the constitution. Said bonds
7 may be issued by the governor in such amounts, in coupon
8 or registered form, in such denominations, at such times
9 and bearing such date or dates as the governor may de-
10 termine, and shall become due and payable serially in
11 equal amounts beginning one year and ending twenty-
12 five years from the date thereof: *Provided, however,*
13 *That no bonds may be issued under the provisions of this*
14 *act until bonds authorized and issued under the pro-*
15 *visions of the "good roads amendment" to the constitu-*
16 *tion of the state, ratified at the general election held in*
17 *November, one thousand nine hundred twenty, have been*
18 *retired and cancelled out of the state road sinking fund*
19 *created by section six, chapter one hundred thirteen, acts*
20 *of the Legislature of West Virginia, one thousand nine*
21 *hundred twenty-one, in an amount equal to or greater*
22 *than the amount to be issued hereunder at any one time.*

Sec. 2. *Transfer, Fee; Registration, Fee; Where Pay-*
2 *able; Interest Rate; Tax Exempt.*—The auditor and
3 treasurer are hereby authorized to arrange for the transfer
4 of registered bonds, and for each such transfer a fee of
5 fifty cents shall be charged by and paid to the state of
6 West Virginia, to the credit of the state road sinking fund.
7 Bonds taken in exchange will be cancelled by the auditor
8 and treasurer and be carefully preserved by the treasurer.
9 The treasurer shall make provisions for registering
10 "payable to bearer" bonds and for each bond registered a
11 fee of fifty cents shall likewise be charged by and paid to
12 the state of West Virginia, to the credit of the state road
13 sinking fund. All of such bonds shall be payable at the
14 office of the treasurer of the state of West Virginia, or, at
15 the option of the holder, at some designated bank in the
16 city of New York to be designated by the governor. Said
17 bonds shall bear interest at a rate not exceeding four and
18 one-half per cent per annum, payable semi-annually,
19 on the first day of and the first day of,
20 of each year, to bearer, at the office of the treasurer of
21 the state of West Virginia, at the capitol of said state,

22 or at the bank designated by the governor, upon pre-
 23 sentation and surrender of interest coupons then due, in
 24 the case of coupon bonds. In the case of registered bonds
 25 the treasurer of the state of West Virginia shall issue his
 26 check for the interest then due on the first day of
 27 and of each year, and mail the same to the
 28 registered owner at his address as shown by the record of
 29 registration. Both the principal and interest of said bonds
 30 shall be payable in lawful money of the United States of
 31 America and said bonds shall be exempt from taxation by
 32 the state of West Virginia, or by any county, district, or
 33 municipality thereof, which fact shall appear on the face
 34 of the bonds as part of the contract with the holder
 35 thereof.

Sec. 3. *Form of Bond.*—Said bonds and coupons shall
 2 be engraved and the bonds shall be signed, on behalf of
 3 the state of West Virginia, by the treasurer thereof,
 4 under the great seal of the state, and countersigned by the
 5 auditor of the state, and shall be in the following form
 6 or to the following effect, as nearly as may be, namely:

7 COUPON ROAD BOND

8 (Or registered road bond, as the case may be)

9 OF THE

10 STATE OF WEST VIRGINIA

11 \$..... No.....

12 The State of West Virginia, under and by virtue of
 13 authority of an act of its Legislature passed at the regular
 14 session of one thousand nine hundred forty-one, on the
 15 day of, one thousand nine hundred forty-
 16 one, and approved by the governor on the day of
 17, one thousand nine hundred forty-one, which
 18 is hereby made a part hereof as fully as if set forth at
 19 length herein, acknowledges itself to be indebted to, and
 20 hereby promises to pay to the bearer hereof (in the case
 21 of a coupon bond) or to or assigns (the
 22 owner of record, in case of registered bonds)
 23 years after the date of this bond, to-wit: On the
 24 day of, 19....., in lawful money of the
 25 United States of America at the office of the Treasurer
 26 of the State of West Virginia, at the capitol of said state,
 27 or at the option of the holder at

28 bank in the City of New York, the sum of _____
29 dollars, with interest thereon at _____ per centum per
30 annum from date, payable semi-annually in like lawful
31 money of the United States of America at the Treasurer's
32 Office or bank aforesaid, on the first day of _____
33 and the first day of _____ of each year, (and in
34 the case of coupon bonds) according to the tenor of the
35 annexed coupons, bearing the engraved facsimile sig-
36 nature of the Treasurer of the State of West Virginia,
37 upon surrender of such coupons. This bond (in the case
38 of a coupon bond) may be exchanged for a registered
39 bond of like tenor upon application to the Treasurer of
40 the State of West Virginia.

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

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

54 In testimony whereof, witness the signature of the
55 Treasurer of the State of West Virginia, and the counter-
56 signature of the Auditor of said State, hereto affixed
57 according to law, dated the _____ day of _____,
58 one thousand nine hundred _____, and the seal
59 of the State of West Virginia.

60 (Seal) _____

61 _____ Treasurer of the State of West Virginia

62 Countersigned: _____

63 _____

64 _____ Auditor of the State of West Virginia

Sec. 4. *Form of Coupon.*—The form of coupon shall be
2 substantially as follows, to-wit:

STATE OF WEST VIRGINIA

Bond No. Coupon No.
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 Treas-
urer of the State, or at the option of the holder at
..... bank in the City of New York, the sum of
..... dollars, the same being semi-
annual interest on Road Bond No., series of
one thousand nine hundred

Treasurer of the State of West Virginia

The signature of the treasurer to said coupon shall be
by his engraved facsimile signature and the coupons shall
be numbered in the order of their maturity, from number
one consecutively. Said bonds and coupons may be
signed by the present treasurer and auditor, or by any of
their respective successors in office, and bonds signed by
the persons now in office may be sold by the governor or
his successor in office without being signed by the succes-
sor 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 pur-
pose, 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 inter-
est 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

13 payment of the principal of said bonds or the interest
14 thereon.

15 All such funds shall be kept by the treasurer in a
16 separate account, under the designation aforesaid, and
17 all money belonging to said fund shall be deposited in
18 the state treasury to the credit thereof.

19 Said fund shall be applied by the treasurer of the
20 state, first to the payment of the semi-annual interest
21 on said bonds as it shall become due as herein provided.
22 The remainder of said fund shall be turned over by the
23 state treasurer to the state sinking fund commission,
24 whose duty it shall be to invest the same in bonds of the
25 government of the United States, bonds of the state of
26 West Virginia, or any political subdivision thereof:
27 *Provided, however,* That bonds so purchased by the state
28 sinking fund commission shall mature so as to provide
29 sufficient money to pay off all bonds herein provided to
30 be issued as they may become due; and the money so
31 paid into the said state road sinking fund under the pro-
32 visions of this act shall be expended for the purpose of
33 paying the interest and principal of the bonds hereby
34 provided for as they severally become due and payable,
35 and for no other purpose except that said fund may be
36 invested until needed, as herein provided.

Sec. 7. Tax Levy to Pay, Unless Other Funds Available.

2 —In order to provide the revenue necessary for the pay-
3 ment of the principal and interest of said bonds, as herein-
4 before provided, the board of public works, within the
5 limits prescribed by the constitution, is authorized, em-
6 powered and directed to lay annually a tax upon all
7 real and personal property subject to taxation within
8 this state, sufficient to pay interest on said bonds accruing
9 during the current year and one twenty-fifth of the total
10 issue (at par value) of said bonds, for such number of
11 years, not exceeding twenty-five, as may be necessary to
12 pay the interest thereon and to pay off the principal sum
13 of said bonds; and said taxes, when so collected, shall not
14 be liable for or applicable to any other purpose: *Provided,*
15 *however,* That if there be other funds in the state
16 treasury, or in the state road funds, in any fiscal year,

17 not otherwise appropriated, or if other sources of reve-
18 nue be hereafter provided by law for the purpose, the
19 board of public works is authorized, empowered and
20 directed to set apart, in any year there be such funds, or
21 other sources of revenue provided for such purpose, a
22 sum sufficient to pay the interest on bonds accruing
23 during the current year, and to pay off, and retire the
24 principal of said bonds, or any part thereof, at maturity.
25 The authority hereby vested in the board of public
26 works shall be in addition to the authority now vested
27 in it by present law.

Sec. 8. *Sale by Governor; Minimum Price.*—The gover-
2 nor shall sell all bonds herein mentioned at such time
3 or times as he may determine necessary to provide funds
4 for road construction purposes, as herein provided, upon
5 recommendation of the state road commission. All sales
6 shall be at not less than par and accrued interest. All
7 interest coupons becoming payable prior to said sale
8 date shall be cancelled by the treasurer and rendered
9 ineffective, before the delivery of the bonds so sold.

Sec. 9. *Proceeds Paid Into State Road Fund.*—The pro-
2 ceeds of all sales of bonds herein authorized shall be
3 paid into the state road fund created by section one, article
4 three, chapter forty, acts of the Legislature, first extraor-
5 dinary session, one thousand nine hundred thirty-three.

Sec. 10. *Plates Property of State.*—The plates from
2 which the bonds authorized by this act are engraved shall
3 be the property of the state of West Virginia.

Sec. 11. *Auditor to Be Custodian of Unsold Bonds.*—
2 The state auditor shall be the custodian of all unsold bonds
3 issued pursuant to the provisions of this act.

Sec. 12. *Interim Certificates.*—The governor may au-
2 thorize the issuance of interim certificates to be issued to
3 the purchasers of said bonds to be held by them in lieu of
4 engraved bonds. When said interim certificates are so
5 issued, they shall become full and legal obligations of
6 the state of West Virginia under all of the provisions of
7 this act just as fully and completely as the engraved
8 and permanent bonds.

- Sec. 13. *Payment of Expenses.*—All necessary expenses
2 incurred in the execution of this act shall be paid out of
3 the state road fund on warrants of the auditor of the state
4 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
- 3 for the purpose of acquiring, constructing and erecting,
- 4 enlarging, extending, reconstructing or improving any
- 5 building, work, utility or undertaking, or for furnishing,
- 6 equipping and acquiring or procuring the necessary ap-
- 7 paratus for any building, work, improvement or depart-
- 8 ment, or for establishing and maintaining a library or
- 9 museum, for the public use, or acquiring a recreation
- 10 park for the public use, or for other similar corporate

11 purposes, for which the political division is authorized to
12 levy taxes or expend public money. But no bonds shall be
13 issued for the purpose of providing funds for the current
14 expenses of any body or political division. Interest accru-
15 ing during the construction period, that is to say, the time
16 when an improvement is under construction and six
17 months thereafter, shall be deemed a part of the cost of
18 the improvement, and shall not be deemed current ex-
19 penses. All engineering and inspection costs, including a
20 proper proportion of the compensation, salaries and ex-
21 penses of the engineering staff of the political division
22 properly chargeable to any work or improvements, as
23 determined by the governing body, or the estimated
24 amount of such costs, shall be deemed part of the cost
25 of an improvement. All costs and estimated costs of the
26 issuance of bonds shall be deemed a part of the cost of the
27 work or improvement, or of the property, or of the
28 carrying out of the purposes for which such bonds are
29 to be issued. The power to acquire or construct any build-
30 ing, work or improvement as herein provided shall be
31 deemed to include the power to acquire the necessary
32 lands, sites and rights-of-way therefor.

33 Bonds may also be issued by any municipality having a
34 population of fifty thousand or more for the purpose of
35 acquiring land and constructing a building or buildings for
36 use and occupancy as a college. The proposal for such a
37 bond issue shall contain a provision that there shall be
38 created a commission or committee for the purpose of
39 operating the building or buildings and for renting the
40 same for an amount sufficient to pay the interest and
41 sinking fund on the bonds proposed to be issued, and
42 shall contain a further provision that in the event a
43 sufficient amount is not realized from rent or rents for
44 the purpose of meeting the debt service, then the city
45 shall lay a levy for such purpose in an amount sufficient
46 within the constitutional and statutory limitation to pay
47 the interest and principal on such bonds as the same be-
48 come due and payable. The proposal may also contain a
49 provision that when the bonds and the interest thereon
50 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, sewerage, 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 "sewerage" 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,

38 under and by virtue of article one, chapter thirteen of
39 the code of West Virginia, without first offering them for
40 sale at public auction, or to any other person or agency.

3

CHAPTER 9

(Senate Bill No. 195—By Mr. Vickers)

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 property 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.
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 Improvement 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 appurtenances 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 improvements 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 without effect.

CHAPTER 11

(House Bill No. 421—By Mr. Russek)

ENACT 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".

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

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

Article 6. Legislature.

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

9 public highways, and also the payment of the interest
10 and principal on all road bonds heretofore issued or
11 which may be hereafter issued for the construction, re-
12 construction or improvement of public highways, and
13 the payment of obligations incurred in the construction,
14 reconstruction, repair and maintenance of public high-
15 ways.

Sec. 2. *Amendment to Be Known as the "Good Roads
2 Amendment."*—For convenience in referring to said pro-
3 posed amendment and in the preparation of the form of
4 the ballot hereinafter provided for, said proposed amend-
5 ment is hereby designated and shall be known as the
6 "Good Roads Amendment".

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

9 Ballot on constitutional "Good Roads Amendment",
10 adding section fifty-two to article six of the state consti-
11 tution.

12 ☐ For ratification of "Good Roads Amendment".

13 ☐ Against ratification of "Good Roads Amendment".

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

25 The ballots cast on the question of said proposed amend-
26 ment shall be counted as other ballots cast at said elec-
27 tion.

Sec. 4. *Certificates of Election Commissioners; Canvass 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 hundred 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 election 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 Sunday, after that on which said election was held, 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 members of the Legislature are laid before them; and as soon as the result of said election in the county upon

41 the question of such ratification or rejection is ascer-
42 tained, two certificates of such results shall be made
43 out and signed by said commissioners, as a board of
44 canvassers, in the following form or to the following
45 effect:

46 "We, the board of canvassers of the county of
47 _____, having carefully and impartially
48 examined the returns of the election held in said county,
49 in each district thereof, on the _____ day of Novem-
50 ber, one thousand nine hundred forty-two, do certify
51 that the result of the election in said county on the
52 question of the ratification or rejection of the proposed
53 constitutional amendment to article six is as follows:

54 For ratification of 'Good Roads Amendment' _____
55 _____ votes.

56 Against ratification of 'Good Roads Amendment' _____
57 _____ votes.

58 Given under our hands this _____ day of _____,
59 one thousand nine hundred forty-two."

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

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

2 Sec. 6. *Publication of Proposed Amendment by Gover-*
3 *nor.*—The governor shall cause the said proposed amend-

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

CHAPTER 12

(Com. Sub. for Senate Bill No. 107—Originating in Senate Committee
on the Judiciary)

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
2 official bond provided for in section ten of this article,
3 relating to county clerks, shall be deemed to apply only
4 to collection of local fees. The state auditor, on behalf of
5 the general school fund, and the state conservation com-
6 missioner, on behalf of the state conservation commis-
7 sion, shall require from the county clerk of any county

8 such additional bonds as are deemed necessary, and in
9 such amounts as are deemed adequate to protect the
10 general school funds and the state conservation funds in
11 the hands of such clerk. The auditor and the state con-
12 servation commissioner shall require corporate surety
13 bonds and pay the necessary premiums from the said
14 general school fund and the said state conservation fund
15 on said additional bonds, but the amount of such ad-
16 ditional bonds shall not exceed the amount of the state
17 funds handled by such clerk during the preceding fiscal
18 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
3 as follows: Barbour county, two thousand two hundred
4 dollars; Berkeley county, two thousand dollars; Boone

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-
20 sand three hundred fifty dollars; Jefferson county,
21 two thousand dollars; Kanawha county, five thou-
22 sand 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-
29 sand 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-

45 mers county, one thousand five hundred dollars; Taylor
46 county, two thousand dollars; Tucker county, one thou-
47 sand six hundred dollars; Tyler county, two thousand two
48 hundred dollars; Upshur county, two thousand dollars;
49 Wayne county, two thousand six hundred dollars; Web-
50 ster county, one thousand three hundred fifty dollars;
51 Wetzel county, two thousand six hundred dollars; Wirt
52 county, one thousand one hundred dollars; Wood county,
53 two thousand eight hundred dollars; Wyoming county,
54 two thousand four hundred dollars.

55 In addition to the above salary each assessor shall re-
56 ceive a commission of ten per cent on all state school,
57 road and municipal capitation taxes collected by him.

58 The salaries of assessors and their deputies, assistants
59 and employees shall be paid out of the county fund at the
60 time and in the manner now provided by law for pay-
61 ing other county officers.

C

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 Legis-
lature, 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.)

Article 1. County Courts Generally.

Section

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

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

Be it enacted by the Legislature of West Virginia:

That section five, article one, chapter seven of the code of

West Virginia, one thousand nine hundred thirty-one, as last amended by chapter twenty, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be repealed, and a new section five and sections five (one) to five (fifty-four), inclusive, of said article and chapter be enacted to read as follows:

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-

35 fairs and business of each county, within their counties,
36 and other county business by such commissioners in ad-
37 dition to compensation for services in court, the sums of
38 money hereafter provided.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 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.]

Article 1. County Courts Generally.

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 Prosecuting Attorney; Salaries; When Court May Appoint Attorney to Prosecute.*—Any prosecuting attorney may, with the assent of the county court of his county, entered of record, appoint one (and Ohio, Harrison, Kanawha, Fayette, Raleigh, Cabell and McDowell counties two each) practicing attorney to assist him in the discharge of his official duties for and during his term of office, and such assistant shall take the same oath and may perform the same duties as his principal; and he may be removed from office as such at any time by his principal; and further he may be removed from his office as such assistant by the circuit court of the county in which he is appointed, for any cause for which his principal might be so removed. The compensation of such assistant shall be paid by the principal, except in the counties of Barbour, 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 Wyoming, and in said counties the county court thereof shall allow annually to such assistants such compensation to be paid out of the county treasury as is deemed reasonable by the court; in Ohio county for the first assistant, three thousand dollars, and for the second assistant not to exceed 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 thousand nor more than three thousand dollars; in Raleigh county, not more than three thousand dollars; in Mingo

38 county, not to exceed two thousand four hundred dollars;
39 in Harrison, Logan and Mercer counties, not less than one
40 thousand five hundred nor more than three thousand dol-
41 lars; in Summers and Wood counties, not less than one
42 thousand nor more than two thousand dollars; in Fayette
43 county for the first assistant, not less than two thousand
44 four hundred nor more than three thousand two hundred
45 dollars, and for the second assistant not to exceed one
46 thousand eight hundred dollars; in Boone and Wyoming
47 counties, not less than one thousand two hundred nor more
48 than one thousand eight hundred dollars; in Barbour
49 county, one thousand dollars; in Monongalia county, two
50 thousand four hundred dollars; in Wayne county, one
51 thousand five hundred dollars; in Berkeley county, not to
52 exceed one thousand two hundred dollars; in Lewis, Lin-
53 coln, Marshall, Mineral, Nicholas, Randolph and Upshur
54 counties, not to exceed twelve hundred dollars; in Wetzel
55 county, not less than six hundred nor more than nine hun-
56 dred dollars; in Taylor county, not to exceed six hundred
57 dollars; in Putnam and Calhoun counties, three hundred
58 dollars. In each case such compensation shall include the
59 compensation provided by law for such assistant's services
60 as attorney for boards of education and other administra-
61 tive boards and officers of the county.

62 In any case in which it would, in the opinion of the court,
63 be improper for the prosecuting attorney and his assistant
64 (if he has one) to act, or if the prosecuting attorney and
65 his assistant be unable to act, such court shall appoint
66 some competent practicing attorney to prosecute such case,
67 and upon the performance of the service for which he was
68 appointed, the court shall certify that fact, with its opinion
69 of what would be a reasonable allowance to such attorney
70 for the service rendered, to the county court of the
71 county, and such sum, or a different sum, when allowed
72 by the county court, shall be paid out of the county treas-
73 ury: *Provided*, That nothing in this section shall be con-
74 strued to prohibit the employment by any person of a
75 competent attorney or attorneys to assist in the prosecu-
76 tion of any person or corporation charged with crime.

77 In each of the counties herein named, except Harrison,

78 and including Greenbrier, Lewis, Hampshire, Pocahontas,
79 Preston, Putnam, Ritchie, Roane and Upshur, the prose-
80 cuting attorney may employ a stenographer for his office
81 at a salary, payable out of the county treasury, of not less
82 than nine hundred nor more than two thousand dollars
83 per annum; except, the annual salary of such stenog-
84 rapher in Barbour, Lewis, Pocahontas, Preston and Taylor
85 counties shall not exceed one thousand two hundred
86 dollars; in Upshur and Calhoun counties, shall not exceed
87 nine hundred dollars; in Hampshire, Roane and Monroe
88 counties, shall not exceed six hundred dollars; in Berkeley
89 county, shall not be less than six hundred dollars nor
90 exceed one thousand two hundred dollars; in Putnam
91 and Ritchie counties, shall be seven hundred dollars; in
92 Boone county, shall be one thousand two hundred dollars;
93 and in Braxton county, shall be seven hundred and
94 twenty dollars; in Webster county, shall be six hundred
95 dollars; in Jefferson county, shall not exceed nine hun-
96 dred dollars: *Provided*, That in each of the last two
97 named counties the prosecuting attorney may not em-
98 ploy a stenographer except with the consent of the county
99 court entered of record.

100 In the county of Harrison, the prosecuting attorney
101 may employ two stenographers for his office at a salary
102 for each stenographer of not less than nine hundred
103 nor more than one thousand two hundred dollars per
104 annum, payable out of the county treasury.

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

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

113 In the county of Jackson, the prosecuting attorney may
114 employ one stenographer or clerk for his office at a
115 salary of six hundred dollars per annum, payable out
116 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

20 signature of the sheriff shall be safely kept in the office
21 of the sheriff so that no one shall have access thereto
22 except the sheriff and such of his deputies as may be au-
23 thorized to have access thereto.

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

CHAPTER 18

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

AN ACT to amend and reenact section three, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to collection 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 continuing 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.

41 Any high school which has been established and main-
42 tained for teacher training and other educational purposes
43 by any board or boards of education in connection with
44 state institutions of higher learning, shall be continued
45 and maintained in the manner provided by the act autho-
46 rizing such school; except, that the advisory authority
47 formerly vested in the district board or boards of educa-
48 tion is hereby transferred to the county board of educa-
49 tion; and the levy for the support of such school, formerly
50 laid by the district board or boards of education, shall be
51 laid on all the assessed property of the county, by the
52 county board of education. All expenditures from such
53 fund shall be paid on requisition issued by the county
54 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, regular 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 fol-
3 lows: The counties of Brooke, Hancock and Ohio shall
4 constitute the first circuit; the counties of Marshall, Tyler
5 and Wetzel shall constitute the second circuit; the coun-
6 ties of Doddridge, Pleasants and Ritchie shall constitute
7 the third circuit; the counties of Wood and Wirt shall con-
8 stitute the fourth circuit; the counties of Calhoun, Jack-
9 son, Mason and Roane shall constitute the fifth circuit;
10 the counties of Cabell, Lincoln and Putnam shall consti-
11 tute the sixth circuit; the county of Logan shall consti-
12 tute the seventh circuit; the county of McDowell shall con-
13 stitute the eighth circuit; the counties of Mercer and Wy-
14 oming shall constitute the ninth circuit; the counties of
15 Boone and Raleigh shall constitute the tenth circuit; the
16 counties of Greenbrier, Monroe, Pocahontas and Summers
17 shall constitute the eleventh circuit; the counties of Fay-
18 ette and Nicholas shall constitute the twelfth circuit; the
19 county of Kanawha shall constitute the thirteenth circuit;
20 the counties of Braxton, Clay, Gilmer and Webster shall
21 constitute the fourteenth circuit; the counties of Harrison
22 and Lewis shall constitute the fifteenth circuit; the county
23 of Marion shall constitute the sixteenth circuit; the county
24 of Monongalia shall constitute the seventeenth circuit;
25 the county of Preston shall constitute the eighteenth cir-
26 cuit; the counties of Barbour and Taylor shall constitute
27 the nineteenth circuit; the counties of Randolph and Up-

28 shur shall constitute the twentieth circuit; the counties
29 of Grant, Mineral and Tucker shall constitute the twenty-
30 first circuit; the counties of Hampshire, Hardy and Pendle-
31 ton shall constitute the twenty-second circuit; the counties
32 of Berkeley, Jefferson and Morgan shall constitute the
33 twenty-third circuit; and the counties of Mingo and
34 Wayne shall constitute the twenty-fourth circuit.

35 There shall be elected on the Tuesday next after the
36 first Monday in November, one thousand nine hundred
37 thirty-six, and every eighth year thereafter, one judge in
38 each of the circuits herein constituted, except for the first
39 circuit there shall be two judges elected.

40 The terms of the several circuit courts of the counties
41 aforesaid shall commence and be held each year as herein-
42 after provided.

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

Sec. 1-j. *Tenth Circuit*.—For the county of Boone, on
2 the fourth Monday in January, the second Monday in
3 April, the second Monday in July, and the second Monday
4 in October.

5 For the county of Raleigh, on the third Monday in
6 February, on the third Monday in May, on the fourth
7 Monday in August and on the second Monday in Novem-
8 ber.

Sec. 1-k. *Eleventh Circuit*.—For the county of Poca-
2 hontas, on the second Tuesday in March, and the first
3 Tuesday in June and October.

4 For the county of Greenbrier, on the third Tuesday in
5 April, and the fourth Tuesday in July and November.

6 For the county of Monroe, on the first Tuesday in
7 April, and the second Tuesday in July and November.

8 For the county of Summers, on the second Tuesday in
9 January, and the second Tuesday in May and September.

Sec. 1-x. *Twenty-fourth Circuit*.—For the county of
2 Mingo, on the first Monday in January, May and October.

3 For the county of Wayne, on the second Monday in
4 March and July, and the fourth Monday in November.

5 Chapter forty-one, acts of the Legislature, regular ses-
6 sion, one thousand nine hundred thirty-five, and chapter
7 forty-two, acts of the Legislature, regular session, one
8 thousand nine hundred thirty-five, as amended by chap-
9 ter fifteen, acts of the Legislature, regular session, one
10 thousand nine hundred thirty-seven, and all other acts
11 and parts of acts in conflict herewith, are hereby ex-
12 pressly 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.
9. Oath of office.
10. Qualifications of judges.
11. Attorney general to represent state.
12. General powers of the court.
13. The jurisdiction of the court.
14. Claims excluded.
15. Rules of practice and procedure.
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.
28. Provisions severable.

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
2 provide a simple and expeditious method for the consid-
3 eration of claims against the state that because of the
4 provisions of section thirty-five, article six of the consti-
5 tution of the state, and of statutory restrictions, inhibi-
6 tions or limitations, cannot be determined in a court of
7 law or equity; and to provide for proceedings in which
8 the state has a special interest.

Sec. 2. *Definitions.*—For the purposes of this article:
2 “Court” means the state court of claims established
3 by section four of this article.
4 “Claim” means a claim authorized by the court in
5 accordance with this article.
6 “Approved claim” means a claim found by the court
7 to be one that should be paid under the provisions of
8 this article.
9 “Award” means the amount recommended by the court
10 to be paid in satisfaction of an approved claim.
11 “Clerk” means the clerk of the court of claims.
12 “State agency” means a state department, board, com-
13 mission, institution, or other administrative agency of
14 the state government.

Sec. 3. *Proceedings Against State Officers.*—The follow-
2 ing proceedings shall be brought and prosecuted only in
3 the circuit court of Kanawha county:

4 1. Any suit in which the governor, any other state
5 officer, or a state agency is made a party defendant, except
6 as garnishee or suggestee.

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

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

Sec. 4. *Court of Claims.*—There is hereby created a
2 “State Court of Claims” which shall be a special instru-
3 mentality of the Legislature for the purpose of consid-
4 ering claims against the state, which because of the
5 provisions of section thirty-five, article six of the consti-
6 tution of the state, and of statutory restrictions, inhibi-
7 tions or limitations, cannot be heard in a court of law or
8 equity, and recommending the disposition thereof to the
9 Legislature. The court shall not be invested with or exer-
10 cise the judicial power of the state in the sense of article
11 eight of the constitution of the state. A determination
12 made by the court shall not be subjected to appeal to or
13 review by a court of law or equity created by or pursuant
14 to article eight of the constitution.

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

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

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

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

Sec. 6. *Terms of Court.*—The court shall hold at least
2 four regular terms each year, on the second Monday in
3 January, April, July and October. If, however, one
4 week prior to the date of a regular term, no claims
5 are ready for hearing or consideration, the clerk, with
6 the approval of the presiding judge, shall notify the
7 members that the court will not be convened. So far
8 as possible, the court shall not adjourn a regular term
9 until all claims then upon its docket and ready for hear-
10 ing or other consideration have been disposed of.

11 Special terms or meetings may be called by the clerk
12 at the request of the presiding judge whenever the
13 number of claims awaiting consideration, or any other
14 pressing matter of official business, makes such a term
15 advisable.

Sec. 7. *Meeting Place of Court.*—The regular meeting
2 place of the court shall be the offices of the secretary
3 of state at the state capitol. When deemed advisable, in
4 order to facilitate the full hearing of claims arising
5 elsewhere in the state, the court may convene at any
6 county seat.

Sec. 8. *Compensation of Members.*—Each judge of the
2 court shall receive fifteen dollars for each day actually
3 served, and actual expenses incurred in the performance
4 of his duties.

5 Requisition for traveling expenses shall be accom-
6 panied by a sworn and itemized statement, which shall
7 be filed with the auditor and preserved as a public record.

8 For the purposes of this section, days served shall in-
9 clude time spent in the hearing of claims, in the consid-
10 eration of the record, and in the preparation of opinions.
11 In no case, however, shall a judge receive compensation
12 for more than one hundred fifty days' service in any fiscal
13 year.

Sec. 9. *Oath of Office.*—A judge shall, before entering
2 upon the duties of his office, take and subscribe to the
3 oath prescribed by article four, section five of the consti-
4 tution of the state. The oath shall be filed with the
5 clerk.

Sec. 10. *Qualifications of Judges.*—A judge shall not
2 be a state officer or a state employee except in his capacity
3 as a member of the court. A member shall receive no
4 other compensation from the state.

5 A judge shall not hear or participate in the considera-
6 tion of a claim in which he is personally interested.
7 Whenever a member is thus disqualified, the clerk shall
8 notify the governor, and thereupon the governor shall
9 assign an alternate to act during such disqualification.
10 Whenever a judge is unable to attend and serve for any
11 reason, the governor shall, when so notified by the clerk,
12 assign an alternate to act in the absence of the regular
13 judge.

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

Sec. 12. *General Powers of the Court.*—The court shall,
2 in accordance with this article, consider claims which,
3 but for the constitutional immunity of the state from
4 suit, or of some statutory restrictions, inhibitions or lim-

5 itations, could be maintained in the regular courts of the
6 state. But no liability shall be imposed upon the state or
7 any of its agencies by a determination of the court of
8 claims approving a claim and recommending an award, un-
9 less the Legislature has previously made an appropriation
10 for the payment of a claim subject only to the determina-
11 tion of the court. The court shall consider claims in accord-
12 ance with sections sixteen to twenty, inclusive, of this
13 article.

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

Sec. 13. *The Jurisdiction of the Court.*—The jurisdic-
2 tion of the board, except for the claims excluded by
3 section fourteen, shall extend to the following matters:

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

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

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

Sec. 14. *Claims Excluded.*—The jurisdiction of the
2 court shall not extend to any claim:

- 3 1. For loss, damage, or destruction of property or for
4 injury or death incurred by a member of the militia or
5 national guard when in the service of the state.
- 6 2. For injury to or death of an inmate of a state penal
7 institution.
- 8 3. Arising out of the care of treatment of a person in
9 a state institution.
- 10 4. For a disability or death benefit under chapter
11 twenty-three of this code.
- 12 5. For unemployment compensation under chapter
13 twenty-one-a of this code.
- 14 6. For relief or public assistance under chapter nine
15 of this code.
- 16 7. With respect to which a proceeding may be main-
17 tained by or on behalf of the claimant in the courts of
18 the state.

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

8 The court shall also adopt and may from time to time
9 amend rules pertaining to persons appearing as repre-
10 sentatives of claimants. Rules shall permit a claimant
11 to appear in his own behalf, or to present his claim
12 through a qualified representative. A representative
13 shall be a person who, as further defined by the rules
14 of the court, is competent to present and protect the
15 interests of the claimant.

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

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

- 4 1. The claimant shall give notice to the clerk that he
5 desires to maintain a claim. Notice shall be in writing

6 and shall be in sufficient detail to identify the claimant,
7 the circumstances giving rise to the claim, and the state
8 agency concerned, if any. The claimant shall not other-
9 wise be held to any formal requirement of notice.

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

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

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

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

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

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

6 2. The state agency concerned concurs in the claim.

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

9 4. The claim has been approved by the attorney general

10 as one that, in view of the purposes of this article, should
11 be paid.

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

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

8 1. There shall be filed with the clerk the record of the
9 claim including a full statement of the facts, the conten-
10 tions of claimant, and such other materials as the rules
11 of the court may require. The record shall submit specific
12 questions for the court's consideration.

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

19 3. When the claim is reached on the special docket,
20 the court shall prepare a brief opinion for the information
21 and guidance of the officer. The claim shall be considered
22 informally and without hearing. A claimant shall not
23 be entitled to appear in connection with the consider-
24 ation of the claim.

25 4. The opinion shall be filed with the clerk. A copy

26 shall be transmitted to the officer who referred the claim.
27 An advisory determination shall not bar the subsequent
28 consideration of the same claim if properly submitted by,
29 or on behalf of, the claimant. Such subsequent consid-
30 eration, if undertaken, shall be *de novo*.

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

6 1. A claimant whose claim has been rejected by the
7 state agency concerned or by the state auditor.

8 2. The head of the state agency concerned in order
9 to obtain a determination of the matters in issue.

10 3. The state auditor in order to obtain a full hearing
11 and consideration of the merits.

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

Sec. 20. *Claims Under Special Appropriations.*—When-
2 ever the Legislature makes an appropriation for the pay-
3 ment of claims against the state, then accrued or arising
4 during the ensuing biennium, determination of claims
5 and the payment thereof may be made in accordance
6 with this section. But this section shall apply only if
7 the Legislature in making its appropriation specifically
8 so provides.

9 The claim shall be considered and determined by the
10 regular or shortened procedure, as the case may be, and
11 the amount of the award shall be fixed by the court. The

12 clerk shall certify each approved claim and award to
13 the governor. The clerk shall issue his requisition to
14 the auditor who shall issue his warrant to the treasurer
15 in favor of the claimant. The auditor shall issue his
16 warrant without further examination or review of the
17 claim except for the question of a sufficient unexpended
18 balance in the appropriation.

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

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

Sec. 23. *Inclusion of Awards in Budget.*—The clerk
2 shall certify to the director of the budget on or before

3 the twentieth day of November of each year next preced-
4 ing the year in which the Legislature meets in regular
5 session, a list of all awards recommended by the court
6 to the Legislature for appropriation. The clerk may cer-
7 tify supplementary lists to the board of public works to
8 include subsequent awards made by the court. The board
9 of public works shall include all awards so certified in
10 its proposed budget bill transmitted to the Legislature.

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

Sec. 25. *Reports of the Court.*—The clerk shall be the
2 official reporter of the court. He shall collect and edit
3 the approved claims, awards and statements, and shall
4 prepare them for publication and submission to the Legis-
5 lature in the form of a biennial report.

6 Claims and awards shall be separately classified as
7 follows:

8 1. Approved claims and awards not satisfied but referred
9 to the Legislature for final consideration and appropria-
10 tion.

11 2. Approved claims and awards satisfied by payments
12 out of regular appropriations for the biennium.

13 3. Approved claims and awards satisfied by payment
14 out of a special appropriation made by the Legislature
15 to pay claims arising during the biennium.

16 4. Claims rejected by the court with the reasons there-
17 for.

18 5. Advisory determinations made at the request of the
19 governor or the head of a state agency.

20 The court may include any other information or recom-
21 mendations pertaining to the performance of its duties.

22 The court shall transmit its biennial report to the gov-
23 ernor who shall transmit a copy thereof to the presiding
24 officer of each house of the Legislature. The biennial re-
25 ports of the board shall be published by the clerk as a
26 public document.

Sec. 26. *Fraudulent Claims.*—A person who knowingly
2 and wilfully presents or attempts to present a false or
3 fraudulent claim, or a state officer who knowingly and
4 wilfully participates or assists in the preparation or
5 presentation of a false or fraudulent claim, shall be guilty
6 of a misdemeanor. A person convicted, in a court of
7 competent jurisdiction, of violation of this section shall
8 be fined not more than one thousand dollars or imprisoned
9 for not more than one year, or both, in the discretion of
10 such court. If the convicted person is a state officer he
11 shall, in addition, forfeit his office.

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

Sec. 28. *Provisions Severable.*—If any part of this act is
2 held unconstitutional, the decision shall not affect any
3 portion of the act which remains. The remaining portions
4 shall be in full force and effect as if the portion declared
5 unconstitutional had never been a part of the act.

CHAPTER 21

(House Bill No. 281—By Mr. Moore)

AN ACT to amend and reenact section sixteen, article eleven,
chapter sixty-one of the code of West Virginia, one thou-
sand 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.]

Article 11. General Provisions Concerning Crimes.

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

(Com. Sub. for House Bill No. 70—Originating in the House Committee on the Judiciary)

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-

17 ship, foreign or domestic, who or which shall violate the
18 provisions of this act, shall be deemed guilty of a mis-
19 demeanor, and upon conviction thereof, shall, for the first
20 offense, be fined not less than twenty-five nor more than
21 one hundred dollars; and for a second offense shall be
22 fined not less than fifty dollars nor more than two hundred
23 fifty dollars, and in addition thereto, the owner, manager
24 or acting agent of the seller shall be imprisoned in the
25 county jail not less than ten nor more than sixty days;
26 and upon conviction for a third or subsequent offense,
27 shall be fined not less than one hundred dollars nor more
28 than five hundred dollars, and in addition thereto the
29 owner, manager or acting agent of the seller shall be con-
30 fined in the county jail not less than thirty days nor more
31 than six months, at the discretion of the court, and upon
32 conviction for such third or subsequent offense, in addi-
33 tion to the penalty herein provided, the license of the
34 offender for the sale of merchandise shall be revoked and
35 shall not be renewed for the period of six months from
36 the date of such third conviction, and then only upon the
37 offender executing bond with approved security in the
38 sum of one thousand dollars, conditioned that he or it will
39 not violate the provisions of this act.

CHAPTER 24

(House Bill No. 144—By Mr. Jones)

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

26 false pretense or token, or for receiving United States
27 currency knowing the same to have been stolen, it shall
28 be sufficient to allege the larceny, or the obtaining there-
29 of by a false pretense or token, or the receiving thereof
30 knowing it to have been stolen, to be of United States
31 currency, without specifying the number and denomin-
32 ation thereof, and such allegation, so far as it regards
33 the description of said United States currency, shall be
34 sustained if the accused be proved guilty of the larceny
35 of national bank notes or United States treasury notes,
36 certificates for either gold or silver coin, fractional coin,
37 currency, or any other form of money issued by the
38 United States government, or of obtaining the same by
39 false pretense or token, or of receiving the same know-
40 ing it to have been stolen, although the particular species
41 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

(House Bill 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.]

Article 13. Uniform Declaratory Judgments Act.

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.
14. Provisions severable; exceptions.
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.*

2 —A contract may be construed either before or after there
3 has been a breach thereof.

Sec. 4. *Declaration Concerning Trusts and Estates.*—Any

2 person interested as or through an executor, administra-
3 tor, trustee, guardian or other fiduciary, creditor, devisee,
4 legatee, heir, next of kin or cestui que trust, in the ad-
5 ministration of a trust, or of the estate of a decedent, an
6 infant, lunatic or insolvent, may have a declaration of
7 rights or legal relations in respect thereto:

8 (a) To ascertain any class of creditors, devisees, leg-
9 atees, heirs, next of kin or others; or

10 (b) To direct the executors, administrators, or trus-
11 tees to do or abstain from doing any particular act in
12 their fiduciary capacity; or

13 (c) To determine any question arising in the adminis-
14 tration of the estate or trust, including questions of con-
15 struction of wills and other writings.

Sec. 5. *Enumeration Not Restriction.*—The enumera-

2 tion in sections two, three, and four does not limit or re-
3 strict the exercise of the general powers conferred in sec-
4 tion one, in any proceeding where declaratory relief is
5 sought, in which a judgment or decree will terminate the
6 controversy or remove an uncertainty.

Sec. 6. *When Court May Refuse Judgment or Decree.*—

2 The court may refuse to render or enter a declaratory
3 judgment or decree where such judgment or decree, if
4 rendered or entered, would not terminate the uncer-
5 tainty or controversy giving rise to the proceeding.

Sec. 7. *Review of Orders, Judgments and Decrees.*—All

2 orders, judgments and decrees under this act may be re-
3 viewed as other orders, judgments and decrees.

Sec. 8. *Further Relief on Petition; Showing by Adverse*

2 *Party.*—Further relief based on a declaratory judgment
3 or decree may be granted whenever necessary or proper.
4 The application therefor shall be by petition to a court
5 having jurisdiction to grant the relief. If the application
6 be deemed sufficient, the court shall, on reasonable notice,

7 require any adverse party whose rights have been adjudi-
8 cated by the declaratory judgment or decree, to show
9 cause why further relief should not be granted forth-
10 with.

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

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

Sec. 11. *Parties to Action; Municipal Ordinance or Fran-
2 chise Involved.*—When declaratory relief is sought, all
3 persons shall be made parties who have or claim any in-
4 terest which would be affected by the declaration, and no
5 declaration shall prejudice the rights of persons not par-
6 ties to the proceeding. In any proceeding which involves
7 the validity of a municipal ordinance or franchise, such
8 municipality shall be made a party, and shall be entitled
9 to be heard, and if the statute, ordinance or franchise is
10 alleged to be unconstitutional, the attorney general of the
11 state shall also be served with a copy of the proceeding
12 and be entitled to be heard.

Sec. 12. *Act Remedial; Liberal Construction and Ad-
2 ministration.*—This act is declared to be remedial; its pur-
3 pose is to settle and to afford relief from uncertainty and
4 insecurity with respect to rights, status and other legal
5 relations; and is to be liberally construed and adminis-
6 tered.

Sec. 13. *"Person" Defined.*—The word "person", wher-
2 ever used in this act, shall be construed to mean any per-
3 son, partnership, joint stock company, unincorporated
4 association or society, or municipal or other corporation
5 of any character whatsoever.

Sec. 14. *Provisions Severable; Exceptions.*—The sev-
2 eral sections and provisions of this act, except sections

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

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

2 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.
9. Notice to registrar of vital statistics.
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.

2 Sec. 5. *Consent.*—Except as otherwise provided in this
3 section, no adoption shall be permitted except with the
4 acknowledged written consent of the parents or guardian
5 of a child, or of the mother of a child born out of wed-
6 lock. The consent of a minor parent shall be effective
7 only when concurred in by the state department of public
8 assistance. In the case of a child twelve years old, the
9 consent of such child shall also be required and must be
10 given in writing in the presence of the court. If the
11 parental rights have been terminated by order of a court,
12 or by other legal means, and the care, custody, and guard-
13 ianship of the child have been given to some authorized
14 agency, the consent of such agency must be obtained be-
15 fore adoption is allowed. If the child has no parent
16 or guardian and is not under the guardianship of an
17 approved public or private child-placing agency, consent
18 must be given by the state department of public assistance
before adoption is allowed.

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

2 Sec. 7. *Order of Adoption.*—If upon the hearing the
3 court is satisfied that the child is suitable for adoption,
4 that the facts stated in the petition are true, and that all
legal requirements relating to adoption have been com-

5 plied with, it may, at any time after the child has lived
6 with the petitioner for one year, enter an order setting
7 forth all the jurisdictional facts and providing that from
8 and after the date thereof the child shall be deemed to
9 all legal intents and purposes the child of the petitioners.
10 In the order the name of the child may, if so desired, be
11 changed to that of the parent or parents by adoption.

Sec. 8. *Effect of Adoption; Descent of Property.*—By
2 such order the child shall be to all intents and purposes
3 the child and legal heir of the adopting parent or parents,
4 entitled to all the rights and privileges and subject to
5 all the obligations of a child of such parent or parents
6 born in lawful wedlock. On consummation of the adop-
7 tion, the natural parents shall be divested of all legal
8 rights and obligations in respect to such child and the
9 child shall be free of all legal obligations of obedience and
10 maintenance in respect to them. If, however, the adopt-
11 ing parent is married to one of the natural parents of the
12 child, the relation of the child to such natural parent
13 shall be in no way altered.

14 The adopted child shall not be capable of taking prop-
15 erty expressly limited to the heirs of the body of the
16 adopting parent or parents, nor property coming from the
17 collateral kindred of such adopting parent or parents
18 by right of representation. A child shall not by adoption
19 lose his right to inherit from his natural parents or
20 kindred. Upon the death of the adopting parent or
21 parents and the subsequent death of the adopted child,
22 without issue and without having disposed, by deed
23 during his life or by will upon his death, of any property
24 which came to him from the adopting parent or parents,
25 such property shall descend to and be distributed among
26 the next of kin of such parent or parents and shall not
27 descend to the next of kin of the adopted child.

Sec. 9. *Notice to Registrar of Vital Statistics.*—After
2 entry of the order of adoption, the clerk of the court shall
3 immediately report to the state registrar of vital statistics
4 such facts in regard to the adoption as may be required by
5 the registrar.

Sec. 10. *Records of Adoption Proceedings.*—All records
2 of proceedings in adoption cases and all papers and records
3 relating to such proceedings shall be kept in a separate
4 file and shall not be open to inspection or copy by anyone
5 other than the parties of record or their representatives,
6 except upon order of the court for good cause shown.
7 No person in charge of adoption records shall disclose the
8 names of the adopting parent or parents unless ordered
9 to do so by the court.

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

Sec. 12. *Adoption of Adults.*—Any adult person who is
2 a resident of West Virginia may petition the juvenile
3 court for permission to adopt one who has reached the
4 age of twenty-one years, and, if desired, to change the
5 name of such person. The consent of the person to be
6 adopted is the only consent necessary. The order of adop-
7 tion shall create the same relationships between the
8 adopting parent or parents and the person adopted and
9 the same rights of inheritance as in the case of an adopted
10 minor child. If a change in name is desired, the order of
11 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.]

Article 1. Marriage.

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

- 2 any person resident of this state shall, in order to evade
- 3 the law, and with an intention of returning to reside in
- 4 this state, go into another state or country, and there inter-
- 5 marry in violation of section one, article two of this chap-
- 6 ter, and shall afterwards return and reside here, such mar-
- 7 riage shall be governed by the same law, in all respects,
- 8 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

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
2 finance shall then proceed to allocate the amount avail-
3 able for distribution as state aid (as certified by the state
4 auditor in accordance with section six-a, article nine of
5 this chapter) among the several counties as follows:

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

12 (2) The board shall then allocate the amount remain-
13 ing for distribution as state aid, after the requirements
14 of (1) above have been met, among the several counties
15 of the state in a uniform proportion to the amount ac-
16 tually levied for current school purposes in each county
17 during the preceding year. The amount to be received
18 by a county under this subsection shall be computed by
19 multiplying the amount available for distribution to all
20 counties by the amount actually levied for current school
21 purposes by the county, divided by the amount actually
22 levied for such purposes by all counties.

23 The amount of state aid to be received by each county
24 shall be the sum of the amounts determined as the result
25 of (1) and (2) above, and shall be used by the several
26 counties in the support of the schools generally. No
27 county shall employ more than the allotted number of
28 teachers, without the prior consent of the board of school
29 finance. By allotted number of teachers is meant the
30 sum of three per cent of the corrected average daily at-
31 tendance in elementary schools and four per cent of the
32 corrected average daily attendance in high schools. In de-
33 termining the corrected average daily attendance, under
34 this paragraph, a non-isolated elementary school shall be
35 counted as one full school and not as one-fourth of a
36 school.

CHAPTER 30

(House Bill No. 325—By Mr. Perry, of Logan)

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.
24. Elementary school 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.
30. Certificate renewals.
31. Certificate fees.
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

2 valid in the elementary schools are authorized to in-
3 clude:

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

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

10 (3) Second class elementary certificate, valid for four
11 years, issued to persons who complete a required curricu-
12 lum of ninety-six semester hours in an approved insti-
13 tution.

14 (4) Third class elementary certificate, valid for three
15 years, issued to persons who complete a required curricu-
16 lum of sixty-four semester hours in an approved institu-
17 tion, issuance to begin with the series of one thousand
18 nine hundred forty-three.

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

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

3 (1) First class high school certificate, valid for five
4 years, issued to college graduates who complete a re-
5 quired curriculum in an approved institution.

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

9 High school certificates, as above described, shall be
10 valid in the junior and senior high schools of the state.
11 High school certificates may be used in the elementary
12 schools, provided the holders have had one full year or
13 more teaching or principalship experience in the ele-
14 mentary grades prior to one thousand nine hundred
15 thirty-four. In all such cases, the teacher or principal
16 shall file with his certificate a certified statement of
17 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
10 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-

38 ter's degree, shall, upon application, be granted a certifi-
39 cate valid for life.

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

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

48 If the applicant seeking renewal has cause to believe
49 that his county superintendent refuses to give a recom-
50 mendation without just cause, he shall have the right in
51 such cases to appeal to the state superintendent of schools.

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

Sec. 32. *Revocation of Certificates.*—The state superin-
2 tendent may, after ten days' notice and upon proper evi-
3 dence, revoke the certificates of any teacher for drunken-
4 ness, untruthfulness, immorality, or for any physical,
5 mental or moral defect which would render him unfit for
6 the proper performance of his duties as a teacher, or for
7 any neglect of duty or refusal to perform the same, or
8 for using fraudulent, unapproved, or insufficient credit,
9 or for any other cause which would have justified the
10 withholding of a certificate when the same was issued.

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

16 If a certificate has been granted through an error, over-
17 sight, or misinformation, the state superintendent of
18 schools shall have authority to recall the certificate and
19 make such corrections as will conform to the require-
20 ments of law and the state board of education.

21 Sections sixteen, seventeen, eighteen, nineteen, twenty,
22 twenty-one and twenty-two, article seven, chapter eigh-

23 teen of the code of West Virginia, one thousand nine hun-
24 dred thirty-one, as last amended, are hereby repealed,
25 and all acts and parts of acts inconsistent with this act are
26 hereby repealed.

CHAPTER 32

(Senate Bill No. 177—By Mr. Smith)

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 ther 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, qualifications, 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 section 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.
9. Reimbursement for traveling expense; voucher.
10. Duties.

Section 1. *Election and Term.*—The county superintendent shall be elected by the county board of education

3 for a term of not less than one nor more than four years.
4 Such elections shall be held on the first Monday in July,
5 the superintendent taking office immediately thereafter.
6 A superintendent who fills a vacancy caused by an in-
7 complete term, shall be appointed to serve till the follow-
8 ing first Monday in July. The president of the board of
9 education, immediately upon the election of the superin-
10 tendent, shall certify the election to the state superin-
11 tendent. The superintendent in office at the time of
12 the passage of this act shall continue in office until the
13 expiration of his present term.

Sec. 2. *Qualifications; Health Certificate.*—The super-
2 intendent at the time of his election shall hold a certifi-
3 cate valid in West Virginia and an approved bachelor's de-
4 gree including at least twelve semester hours in school
5 administration and supervision, and at least five years
6 experience in public school teaching and/or supervision:
7 *Provided*, A superintendent who held office during the
8 school year of one thousand nine hundred forty—one thou-
9 sand nine hundred forty-one may be elected to succeed
10 himself in office.

11 Before entering upon the discharge of his duties the
12 superintendent shall file with the president of the board a
13 health certificate from a reputable physician, on a form
14 prescribed by the state superintendent of schools, certify-
15 ing that he is physically fit for the duties of his office and
16 that he has no infectious or contagious diseases.

Sec. 9. *Reimbursement for Traveling Expense; Voucher.*
2 —The board may reimburse the superintendent from the
3 current expense fund for traveling expenses, not to ex-
4 ceed five hundred dollars, incurred in the performance of
5 his duties. But no allowance shall be made except upon
6 sworn itemized statements.

Sec. 10. *Duties.*—The county superintendent shall:
2 (1) Act as the chief executive officer of the board, and
3 execute under the direction of the state board all its edu-
4 cational policies;
5 (2) Nominate all teachers, principals, and assistant
6 superintendents to be employed; in case the board of edu-
7 cation refuses to appoint any or all of the persons nomi-

8 nated, the superintendent shall nominate others and
9 submit the same to the board of education at such time as
10 the board may direct, but no teacher, or principal, or
11 assistant superintendent, shall be employed except on
12 the nomination of the county superintendent;

13 (3) Assign, transfer, suspend, promote, or dismiss
14 teachers and all other school employees of the district,
15 subject only to the approval of the board;

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

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

20 (6) Certify all expenditures and monthly payrolls of
21 teachers and employees;

22 (7) Be the secretary of the board and attend all meet-
23 ings of the board or its committees, except when his
24 tenure, salary or administration is under consideration;

25 (8) Administer oaths and examine under oath wit-
26 nesses in any proceedings pertaining to the schools of the
27 district, and have the testimony reduced to writing;

28 (9) Exercise all other authority granted by this chap-
29 ter or required by the board or state board;

30 (10) Act in case of emergency as the best interests of
31 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;*
2 *Board May Employ Agricultural Club Agents.*—The
3 board, upon the recommendation of the county superin-
4 tendent, may employ an assistant whose term of office
5 shall not be less than one nor more than four years; pro-
6 vided, such term shall not exceed that of the incumbent
7 county superintendent. The salary of the assistant superin-
8 tendent shall be paid in monthly installments, and in addi-
9 tion thereto the assistant shall be reimbursed for his
10 necessary traveling expenses, not to exceed five hundred
11 dollars, when a sworn itemized monthly statement is pre-
12 sented.

13 The board shall not employ more than one assistant for

14 each two hundred teachers: *Provided, however,* That in
15 such districts in which assistants are employed and fifty
16 or more negro teachers are employed therein, the board
17 may employ one negro assistant superintendent.

18 The superintendent shall direct the work of the assist-
19 ant superintendents and define their duties.

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

31 The board may also cooperate with the extension di-
32 vision of the college of agriculture in employing an agri-
33 cultural club agent for the organization and direction of
34 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
- 2 every county may purchase the necessary textbooks to
 - 3 be used in the free schools by the pupils thereof. All
 - 4 textbooks so purchased shall be kept in charge by the
 - 5 county superintendent and furnished to the pupils of the
 - 6 free schools of the county as hereinafter provided. All
 - 7 such books shall be furnished by the county board as pre-
 - 8 scribed by law, and purchased at the net wholesale price.
 - 9 In such case, at the commencement of every term, the
 - 10 county superintendent shall deliver to the teachers of the
 - 11 various schools the textbooks necessary for the use of the

12 several pupils enrolled therein for the ensuing term of
13 school and shall take from them receipts showing the
14 number and kind of textbooks so received. It shall be the
15 duty of the teachers to take charge of such textbooks and
16 to distribute them among the pupils of their schools as
17 needed; and said teachers shall have and exercise general
18 control of all such textbooks, and at the close of the
19 school term, and before receiving an order for salary for
20 the last month of such term, shall collect and gather to-
21 gether all textbooks so used and deliver them to the
22 county superintendent.

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

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

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

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

10 (1) Each county shall share in state aid for the pur-
11 chase of state adopted textbooks according to the ratio

12 which its total net enrollment in public schools, grades
13 one to eight inclusive, for the preceding school year,
14 bears to the total net enrollment in public schools for the
15 state as a whole, grades one to eight inclusive, for the
16 preceding year.

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

13 After complying with section twenty-one-a and twenty-
14 one-b of this article, the county board of education shall
15 use any proceeds remaining in the "Free Textbook Ac-
16 count" for the purchase (including replacement and re-
17 pair) of textbooks for all pupils enrolled in the public
18 schools of the county, grades one to eight inclusive, who
19 are not provided with free textbooks under the require-
20 ments of sections twenty-one-a and twenty-one-b of said
21 article. Such textbooks shall be those adopted by the state
22 board of education for the elementary schools of the state.

23 The order of preference used in providing free text-
24 books for such pupils shall be either by grade preference
25 in accordance with the plan as stated in subsection one
26 below, or by subject preference in accordance with the
27 plan as stated in subsection two below. The county board
28 of education shall be required to adopt the one of these
29 plans considered preferable for the county, and shall so
30 advise the state superintendent of schools in writing be-
31 fore the plan so chosen is made operative through the
32 requisition or purchase of textbooks in accordance there-
33 with.

34 (1) In furnishing free textbooks by grade preference,
35 the order of such preference shall be to begin with grade

36 one and to continue by consecutive grades to and includ-
37 ing grade eight.

38 (2) In furnishing free textbooks by subject prefer-
39 ence, the order of such preference shall be to begin with
40 the lowest grade and to continue by consecutive grades
41 through grade eight as follows: Reading, arithmetic, his-
42 tory, health and elementary science, music, English, ge-
43 ography, writing, spelling, civics: *Provided*, That the
44 order of subject preference as specified in subsection two
45 above may be changed with prior approval of the state
46 board of education, upon written application of any
47 county stating reasons for wishing to make such change.

48 In any county in which the provisions of sections twen-
49 ty-one-a, twenty-one-b, and twenty-one-d of this article
50 shall have been fully complied with, any proceeds yet
51 available in the "Free Textbook Account" shall be used
52 for the purchase of approved library books and other
53 supplementary materials for grades one to eight: *Pro-*
54 *vided*, That such purchase shall have the prior approval
55 of the state board of education.

56 In providing free textbooks to pupils under the pro-
57 visions of this act, the county board of education shall
58 have authority to purchase state adopted textbooks from
59 pupils who own them, or from their parents, at a price
60 commensurate with the usable value of said books at the
61 time, but in no case to exceed one half the original pur-
62 chase price of the textbook to the pupil as determined
63 by reference to the official contract price entered into be-
64 tween the publisher and the state board of education at
65 the time of adoption of said textbook. All such purchases
66 shall conform to the order of preference, either by grade
67 or by subject, adopted by the county board of education
68 under the provisions of subsection one and two above of
69 this section for furnishing free textbooks to the pupils of
70 said county.

71 Nothing in this act shall be construed to prevent a
72 county board of education from supplementing its "Free
73 Textbook Account" with county school funds available
74 for that purpose and so approved in the annual school
75 budget.

2 Sec. 21-e. *Rules and Regulations for Care, Distribution*
3 *and Use of Free Textbooks; Boards of Education to Make*
4 *Reports; Funds May be Withheld from County for Vio-*
5 *lation of Rules.*—The state board of education shall have
6 authority to prescribe rules and regulations governing the
7 care, distribution and use of free textbooks provided
8 under this act, including their rebinding and recondition-
9 ing, replacement, and return, storage facilities, and such
10 other measures as may be necessary for the most efficient
11 and economical administration of this act: *Provided, how-*
12 *ever,* That no used textbooks shall be transferred from
13 white schools to negro schools, or from negro schools to
14 white schools.

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

20 The state superintendent of schools is authorized by
21 this act to withhold the state allotment of free textbook
22 money from any county for violation of the rules and reg-
23 ulations herein authorized.

24 If any provisions of this act are declared unconstitu-
25 tional or the applicability thereof to any person or cir-
26 cumstances is held invalid, the constitutionality of the
27 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 pur-

pose 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

2 *Attendance.*—If as a result of epidemics or other abnormal
3 circumstances any county suffers an abnormal reduction
4 in attendance during any year, the board of school
5 finance, in order to assure an equitable allocation of aid,
6 may in its computation for such aid, make adjustments in
7 the average daily attendance figure.

8 The maximum limit to such adjustment shall be the
9 average daily attendance used as a base in computing the
10 allocation of aid for the previous year multiplied by the
11 ratio that the net enrollment for the adjusted year bears
12 to the net enrollment for the base year.

—C—

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.
6. Compensation.

7. Quorum.
8. Legal adviser.
9. Meetings of the retirement board.
10. Employment of secretary and other employees.
11. Records; actuarial data.
12. Reports by retirement board.
13. Membership in system.
14. Contributions by members.
15. Collection of member contributions.
16. Payment of employer contributions.
17. Statement and computation of teacher's service.
18. Funds created; uses and purposes.
19. Custody of funds; bond of custodian.
20. Investment of funds.
21. Misuse of funds; penalties.
22. Eligibility for prior service pensions.
23. Withdrawal and death benefits.
24. Disposition of accumulated contributions.
25. Eligibility for retirement allowance.
26. Allowance upon retirement.
27. Regular interest.
28. Options to beneficiaries.
29. Protection against fraud; penalties.
30. Exemption from taxation, garnishment and other process.
31. Unexpended funds under prior appropriations.
32. Inconsistent acts repealed.
33. Constitutionality.

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,

- 6 (c) public school librarians,
7 (d) county superintendents of schools and assistant
8 county superintendents of schools,
9 (e) county school attendance directors holding a West
10 Virginia teachers' certificate,
11 (f) the secretary of the retirement board,
12 (g) members of the research, extension, administrative,
13 and library staff of the public schools,
14 (h) the state superintendent of schools, heads and as-
15 sistant heads of the divisions created under his super-
16 vision, or any other employee thereunder performing serv-
17 ices of an educational nature,
18 (i) employees of the state board of education who are
19 performing services of an educational nature.
- 20 "Retirement system" shall mean the West Virginia
21 teachers' retirement system provided for in this act.
- 22 "Former teacher" shall mean a teacher whose period
23 of employment ceased prior to the effective date of this
24 act.
- 25 "Present teacher" shall mean any person who was a
26 teacher on the effective date of this act, and whose mem-
27 bership in the retirement system created by this act has
28 been continuous.
- 29 "Total service" shall mean all service as a teacher of a
30 member of the retirement system since last becoming a
31 member and, in addition thereto, all his prior serv-
32 ice.
- 33 "New entrant" shall mean any person who becomes a
34 teacher subsequent to the effective date of this act.
- 35 "Prior service" shall mean all service as a teacher
36 completed in this state prior to the effective date of
37 this act.
- 38 "Average final salary" shall mean the average annual
39 salary earned as a teacher during the last fifteen years
40 of prior service, or if prior service is less than fifteen
41 years, the average annual salary for that period. If
42 the records for so determining "final average salary"
43 cannot reasonably be established by the retirement board,
44 then the term shall mean the legal minimum salary of
45 such teacher during the last year of service.

46 "Accumulated contributions" shall mean the sum of
47 all the amounts deducted from the compensation of a
48 contributor and credited to his individual account in the
49 employees' accumulation fund.

50 "Regular interest" shall mean interest at three per
51 cent per annum compounded annually, or a higher earn-
52 able rate if approved by the board.

53 "Employer" shall mean the agency of and within the
54 state which has employed or employs a member.

55 "Contributor" shall mean a member of the retirement
56 system who has an account in the employees' accumula-
57 tion fund.

58 "Beneficiary" shall mean the recipient of payments
59 made under the retirement system.

60 "Earnable compensation" shall mean the full com-
61 pensation received by members for service as teachers
62 whether or not a part of such compensation is received
63 from other funds, federal or otherwise, than those pro-
64 vided by the state or its subdivisions.

65 "Annuities" shall mean the annual (superannuation)
66 payments for life derived from contributions made by a
67 member.

68 "Member" shall mean a member of the teachers' re-
69 tirement system.

70 "Public schools" shall mean all publicly supported
71 schools, including normal schools, colleges and univer-
72 sities in this state.

73 The masculine gender shall be construed so as to
74 include the feminine.

75 Age in excess of seventy years shall be deemed to be
76 seventy years.

Sec. 4. *The Retirement Board.*—The general adminis-
2 tration and the management of the retirement system
3 are hereby vested in a "Teachers' Retirement Board".
4 The retirement board shall have the right to sue and
5 be sued, plead and be impleaded, contract and be con-
6 tracted with, and shall make all necessary rules and regu-
7 lations to carry out the provisions of this article. All of
8 the business of the board shall be transacted, all of its
9 funds invested, all warrants for money drawn and pay-

10 ments made, and all of its cash and securities and other
11 property shall be held in the name of the "Teachers'
12 Retirement Board".

Sec. 5. *Membership of the Retirement Board.*—The
2 retirement board shall consist of the following seven
3 members: (a) The governor, who shall be ex officio
4 chairman; (b) the state superintendent of free schools;
5 (c) the state treasurer; (d) the state insurance com-
6 missioner; (e) three teacher members of the retirement
7 system, appointed for the first term by the governor,
8 upon recommendation of the state superintendent of
9 schools. The first member under subsection (e) shall
10 be appointed for a term of one year, the second for a
11 term of two years, and the third for a term of three years.
12 After the terms of these appointed members shall have
13 expired, the members under subsection (e) shall thence-
14 forth be elected for three-year terms by the members of
15 the retirement system. The manner and mode of such
16 election shall be determined by the retirement board.
17 Vacancies occurring in the terms of the elected mem-
18 bership of the retirement board shall be filled for the
19 unexpired periods by the governor upon recommendation
20 of the state superintendent of schools.

Sec. 6. *Compensation.*—The members of the retirement
2 board shall serve without compensation, but they shall
3 be reimbursed from the expense fund for all necessary
4 expenses incurred. No member of the retirement board
5 shall suffer loss of salary while performing his duties
6 as a member of the retirement board.

Sec. 7. *Quorum.*—A majority of the members of the re-
2 tirement board shall constitute a quorum for the trans-
3 action of any business.

Sec. 8. *Legal Adviser.*—The attorney general of the
2 state shall be the legal adviser of the retirement board.

Sec. 9. *Meetings of the Retirement Board.*—The retire-
2 ment board shall hold meetings in the state capitol at
3 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.

13 Payment by an employer to a member of the sum
14 specified in the employment contract minus the amount
15 of the employee's contributions shall be deemed to be a
16 full discharge of the employer's contractual obligation
17 as to earnable compensation.

Sec. 15. *Collection of Member Contributions.*—Each
2 employer shall compile a list of all members in its em-
3 ploy and shall specify the amount of the contributions to
4 be made by such members for the ensuing school year.
5 Such data shall be filed with the retirement board.

6 The monthly payments, which members would receive
7 from employers as compensation for service in the absence
8 of this article, shall be decreased to the amount of the
9 contributions due under this article. The amount of such
10 deductions shall be retained in the fund containing the
11 state appropriations to such employer, until such time as
12 the retirement board shall make appropriate requisition
13 for such sums.

14 Each employer shall be held accountable for the sum
15 composing the contributions made by its member em-
16 ployees.

17 During any period which the retirement board deems
18 appropriate, it shall make requisition upon the state
19 auditor to issue warrants for the total amount of the paid
20 contributions of the members. Such sum shall be paid to
21 the retirement board from the fund containing the state
22 appropriations made to such employers.

Sec. 16. *Payment of Employer Contributions.*—The
2 aggregate of employer contributions due and payable
3 under this article shall be paid from general fund appro-
4 priations for the teachers' retirement system. Such
5 amount shall equal four per cent of the aggregate earn-
6 able compensation of the members.

7 The retirement board shall make and certify each year
8 to the governor an estimate of the maximum employers'
9 contributions to be due at the end of each school year.
10 The governor is hereby authorized to order the transfer
11 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
2 board may adopt, each teacher shall file a detailed state-
3 ment of his length of service as a teacher for which he
4 claims credit. The retirement board shall determine what
5 part of a year is the equivalent of a year of service. In
6 computing such service, however, it shall credit no period
7 of more than a month's duration, during which a mem-
8 ber was absent without pay, nor shall credit for more
9 than one year service performed in any calendar year.

11 Subject to the above restrictions and to such other
12 rules and regulations as the retirement board shall adopt,
13 the board shall verify as soon as practicable the state-
14 ments of service submitted.

15 The retirement board shall issue prior service certifi-
16 cates to members eligible to receive prior service pen-
17 sions under this article. Such certificates shall state the
18 length of such prior service in the state.

Sec. 18. *Funds Created; Uses and Purposes.*—The funds
2 hereby created are the teachers' accumulation fund, the
3 employers' accumulation fund, the benefit fund, the ex-
4 pense fund, and the reserve fund.

5 (a) The teachers' accumulation fund shall be the fund
6 in which contributions from the compensation of mem-
7 bers shall be accumulated. The accumulated contribu-
8 tions of a member returned to him upon his withdrawal,
9 or paid to his estate or designated beneficiary in the event
10 of his death, shall be paid from the teachers' accumula-
11 tion fund. Any accumulated contributions forfeited by
12 failure to claim such contributions shall be transferred
13 from the accumulation fund to the reserve fund.

14 Any member shall be permitted to deposit in the teach-

15 ers' accumulation fund such amounts in multiples of one
16 hundred dollars as such members shall desire.

17 (b) The employers' accumulation fund shall contain
18 the contributions paid by employers. Upon the retirement
19 of a member, the full amount of the employer's contribu-
20 tions shall be transferred from the employers' accumula-
21 tion fund to the benefit fund.

22 (c) The benefit fund shall be the fund from which
23 retirement allowances shall be paid. Upon the retire-
24 ment of a member, his accumulated contributions shall
25 be transferred from the teachers' accumulation fund to
26 the benefit fund; the employer's contributions and a sum
27 for prior service pension, if any, shall be transferred from
28 the employers' accumulation fund to the benefit fund.

29 (d) The retirement board is hereby authorized to ac-
30 cept gifts and bequests. Any funds that may come into
31 possession of the retirement system in this manner or
32 which may be transferred from the teachers' accumula-
33 tion fund by reason of lack of claimant or because of a
34 surplus in any of the funds; or any other moneys whose
35 disposition is not otherwise provided for shall be credited
36 to the reserve fund. The retirement board shall allow
37 regular interest on the sums in the teachers' accumula-
38 tion fund. Such regular interest shall be paid from the
39 reserve fund and credited to the teachers' accumulation
40 fund. Any deficit occurring in any fund which would not
41 be automatically covered by the payments to that fund
42 as otherwise provided by this article shall be met by pay-
43 ments from the reserve fund to such fund.

44 (e) The expense fund shall be the fund from which
45 shall be paid the expense incurred in the administration
46 of the retirement system.

Sec. 19. *Custody of Funds; Bond of Custodian.*—The
2 state treasurer shall be the custodian of the funds and
3 securities of the retirement system. Disbursements from
4 the funds of the retirement system shall be made by the
5 custodian only upon warrants signed by a member or
6 members of the retirement board, or an official thereof,
7 authorized to do so by resolution of the retirement board.
8 The state treasurer shall give a separate and additional

9 bond in such amount as may be fixed by the governor for
10 the faithful performance of the duties as custodian of
11 the retirement system. Such bond shall be approved by
12 the governor and filed in the same office as are the bonds
13 of other state officers. The cost of such bond shall be paid
14 from the expense fund.

15 The custodian shall furnish annually to the retirement
16 board a sworn statement of the amount of the funds in
17 his custody belonging to the retirement system.

Sec. 20. *Investment of Funds.*—The members of the
2 retirement board shall be the trustees of the several
3 funds created by this article, and shall determine from
4 time to time what part of the moneys belonging to the
5 retirement system shall be invested. When such board
6 shall determine to invest any moneys or to convert
7 or sell any securities, it shall by resolution so direct the
8 custodian. The board of public works is hereby em-
9 powered to determine in what securities the investments
10 shall be made, but such investments shall be made only
11 in those securities to which the board of public works is
12 limited in the investment of workmen's compensation
13 funds under section two, article three, chapter twenty-
14 three of the code of West Virginia, one thousand nine
15 hundred thirty-one, as amended. It shall be the duty of
16 every county, school district or municipality issuing any
17 bonds to offer them in writing to the retirement board,
18 prior to advertising the bonds for sale. The board of
19 public works, within fifteen days after receipt of such
20 offer, may accept or reject such offer in whole or in part.
21 It shall be the duty of the custodian to collect the prin-
22 cipal and the interest on investments when they become
23 due and payable and to credit such collections to the re-
24 tirement system.

Sec. 21. *Misuse of Funds; Penalties.*—No member nor
2 employee of the retirement board, for himself or as an
3 agent or partner of others, or for a corporation of which
4 he is an officer, stockholder or member, shall directly or
5 indirectly borrow any of the funds or deposits of the
6 retirement board or in any manner use such funds except

7 to make such payments as are authorized by the board
8 under this article. Any member or employee violating the
9 provisions of this section shall be guilty of a misde-
10 meanor, and, upon conviction, be fined not more than one
11 thousand dollars or be imprisoned for one year, or both.

Sec. 22. *Eligibility for Prior Service Pensions.*—The fol-
2 lowing shall be eligible for prior service pensions as
3 prescribed in subsection (c), section twenty-six of this
4 article:

5 (a) Present members, upon retirement;

6 (b) Any person who has served at least thirty years
7 as a teacher prior to the enactment of this article;

8 (c) Former teachers retired under the state teachers'
9 retirement fund created in one thousand nine hundred
10 thirty-nine.

11 A new entrant shall not be eligible to receive prior
12 service pensions.

13 When membership ceases, prior service credits due a
14 member previous to cessation shall be void and not re-
15 newable.

Sec. 23. *Withdrawal and Death Benefits.*—Benefits upon
2 death or upon withdrawal from service prior to retire-
3 ment shall be payable as follows:

4 (a) A member who withdraws from service for any
5 cause other than death or retirement shall, on demand,
6 be paid his accumulated contributions made up to the
7 date of his withdrawal.

8 (b) A member with twenty years of total service at
9 the time of withdrawal from service may elect (1) to
10 receive his accumulated contributions at the time of such
11 withdrawal; (2) or receive at retirement age an annuity
12 which is the actuarial equivalent of his accumulated con-
13 tributions plus the employer's contributions.

14 (c) Should a member die before retirement, his ac-
15 cumulated contributions shall be paid to his estate or to
16 such person as he shall have nominated by written desig-
17 nation duly executed and filed with the retirement board.

Sec. 24. *Disposition of Accumulated Contributions.*—A
2 person who ceases to be a member for any cause other

3 than death or retirement, shall, upon demand, be paid the
4 accumulated contributions standing to his credit in the
5 accumulation fund. Ten years after such cessation of
6 service, if no previous demand has been made, the accumu-
7 lated contributions of such member shall be returned to
8 him or to his legal representative. If the member or his
9 legal representative cannot be found, his accumulated con-
10 tributions shall be forfeited to the retirement system and
11 credited to the reserve fund.

Sec. 25. *Eligibility for Retirement Allowance.*—Any
2 member, who has attained the age of sixty years or who
3 has had thirty-five years of total service as a teacher in
4 West Virginia, regardless of age, shall be eligible for re-
5 tirement allowance. No new entrant nor present member
6 shall be eligible for retirement allowance, however, if
7 either has less than five years of service to his credit.
8 The request for a retirement allowance shall be made
9 in writing to the retirement board.

Sec. 26. *Allowance upon Retirement.*—Upon retirement,
2 a member shall be granted a retirement allowance con-
3 sisting of an annuity which shall be the sum of the fol-
4 lowing:

5 (a) The actuarial equivalent of the contributions and
6 deposits of the member up to the time of his retirement,
7 with regular interest.

8 (b) The actuarial equivalent of the contributions of the
9 employer up to the time of the member's retirement,
10 which shall equal the sum in subsection (a) of this
11 section minus deposits.

12 (c) Where prior service credit has been granted, an
13 allowance of one and twenty-five hundredths per cent
14 of the member's final average salary multiplied by the
15 number of years of prior service credited to him.

16 For the purposes of this subsection:

17 (1) An allowance for prior service, shall in no case ex-
18 ceed one-half of the member's final average salary.

19 (2) Final average salary shall in no instance be deemed
20 to exceed the sum of two thousand five hundred dollars.

21 (3) Teachers retired under the state teachers' retire-

22 ment fund created in one thousand nine hundred thirty-
23 nine shall be deemed to have retired at the age of sixty
24 years.

Sec. 27. *Regular Interest.*—Regular interest shall be
2 added to all sums, except for prior service, due and pay-
3 able to beneficiaries under this article.

Sec. 28. *Options to Beneficiaries.*—The retirement board
2 is hereby authorized to offer plans, optional with the
3 beneficiary, for the payment of allowances due such bene-
4 ficiary for retirement, withdrawal or prior service pen-
5 sions under the retirement system. No plans shall be
6 offered, however, which are not approved by competent
7 actuaries.

Sec. 29. *Protection against Fraud; Penalties.*—Any per-
2 son who shall knowingly make any false statement or
3 shall falsify or permit to be falsified any record or records
4 of the retirement system in any attempt to defraud such
5 system shall be guilty of a misdemeanor, and, upon con-
6 viction, be punished by a fine not exceeding one thousand
7 dollars, or imprisonment in jail not exceeding one year,
8 or both.

Sec. 30. *Exemption from Taxation, Garnishment and*
2 *Other Process.*—The moneys in the various funds and
3 the right of a member to a retirement allowance, to the
4 return of contributions, or to any benefit under the pro-
5 visions of this article, are hereby exempt from any state
6 or municipal tax; shall not be subject to execution, gar-
7 nishment, attachment or any other process whatsoever;
8 and shall be unassignable except as is provided in this
9 article.

Sec. 31. *Unexpended Funds under Prior Appropriations.*
2 —Any unexpended funds for teachers' retirement bene-
3 fits, which were appropriated from general revenue prior
4 to the enactment of this article, shall be credited and
5 transferred to the reserve fund of the retirement system.

Sec. 32. *Inconsistent Acts Repealed.*—All previous acts
2 and parts of acts inconsistent with this act are hereby
3 repealed.

- Sec. 33. *Constitutionality*.—If any part of this act is
2 declared unconstitutional, it shall not affect any portion
3 which remains, but the remaining portions of the act
4 shall be in full force and effect as if the portions declared
5 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 holding collegiate elementary, first class high school, or other certificates of equal rank based on a bachelor's degree earned in an approved institution, not less than one hundred twenty dollars a month;

(6) 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, at least one hundred thirty-five dollars a month;

(7) 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

41 of school and not more than five regular terms, the rate
42 of salary shall be the basic salary plus at least three dol-
43 lars a month for the second term; the basic salary plus
44 at least five dollars a month for the third term; the basic
45 salary plus at least seven dollars and fifty cents for the
46 fourth term; and the basic salary plus at least ten dol-
47 lars a month for the fifth term.

48 (2) For teachers who have taught five regular terms
49 of school and less than ten regular terms, the rate of
50 salary shall be at least fifteen dollars more a month than
51 the rate of the basic salary of teachers holding similar
52 credentials.

53 (3) For teachers who have taught ten regular terms
54 of school or more, the rate of salary shall be at least
55 twenty dollars a month more than the rate of the basic
56 salary for teachers holding similar credentials.

57 If a teacher who has taught one or more terms secures
58 a certificate of the third class, or a certificate of the sec-
59 ond class, or a certificate of the first class, his advanced
60 salary shall be increased by at least as much as is al-
61 lowed for such preparation, in each case fixing basic
62 salary.

63 Basic salaries shall be uniform throughout the district
64 for teachers holding similar credentials, and advanced
65 salaries shall be uniform throughout the district for
66 teachers in the same classification as to experience, and
67 holding similar credentials. But boards of education may
68 fix higher salaries for principals of elementary and high
69 schools, teachers of one room schools, and any teachers
70 assigned to or employed for duties in addition to their
71 regular teaching duties, consistent with the extra duties
72 and responsibilities of said positions.

73 In determining the number of regular terms of school
74 a teacher has taught, boards of education shall credit
75 as regular teaching, service in the United States army
76 and navy in the World War, and active work in educa-
77 tional positions other than teaching, but no teacher shall
78 be given credit for teaching more than one regular term
79 in any school year.

80 Salaries of colored teachers shall be the same as the

81 salaries of other teachers in the same district with the
82 same training and experience and holding similar cre-
83 dentials. Any board of education failing to comply with
84 the provisions of this paragraph may be compelled to do
85 so by mandamus.
86 All acts and parts of acts inconsistent with this act are
87 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

8 history of the United States, in civics, and in the constitu-
9 tions of the United States and of the state of West Vir-
10 ginia, for the purpose of teaching, fostering and perpet-
11 uating the ideals, principles and spirit of Americanism,
12 and increasing the knowledge of the organization and
13 machinery of the government of the United States and of
14 the state of West Virginia. The state board of education
15 shall, with the advice of the state superintendent of
16 schools, prescribe the courses of study covering these sub-
17 jects for the public elementary and grammar schools,
18 public high schools and state normal schools. It shall be
19 the duty of the officials or boards having authority over
20 the respective private, parochial and denominational
21 schools to prescribe courses of study for the schools under
22 their control and supervision similar to those required
23 for the public schools.

24 The state board of education shall cause to be taught in
25 all of the public schools of this state the subject of
26 scientific temperance, including the nature of alcoholic
27 drinks and narcotics, with special instruction as to their
28 effect upon the human system and upon society in gen-
29 eral; and the textbooks on the subjects of health and
30 hygiene, biology and the social sciences, adopted for the
31 use in the public schools of the state, shall contain ap-
32 propriate material for such teaching.

33 Any person violating the provisions of this section shall
34 be guilty of a misdemeanor, and, upon conviction thereof,
35 shall be fined not exceeding ten dollars for each viola-
36 tion, and each week during which there is a violation
37 shall constitute a separate offense. If the person so con-
38 victed occupy a position in connection with the public
39 schools, he shall also automatically be removed from such
40 position, and shall be ineligible for reappointment to that
41 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.]

Article 4. Nomination of Candidates.

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

2 who is eligible to hold an office (including that of mem-
3 ber of a state or county executive committee) may file
4 with the secretary of state, if it be an office to be filled
5 by the voters of more than one county, or with the clerk
6 of the circuit court, if it be for an office to be filled by the
7 voters of a county or a subdivision less than a county, a
8 certificate declaring himself a candidate for the nomina-
9 tion for such office; which certificate shall be in form or
10 effect as follows:

11 I, _____, hereby certify that
12 I am a candidate for the nomination for the office of _____
13 _____ to represent the _____
14 party, and desire my name printed on the official ballot
15 of said party to be voted at the primary election to be
16 held on the _____ day of _____, 19____; that
17 I am a legally qualified voter of the county of _____,
18 State of West Virginia; that my residence is number _____
19 _____ of _____ street in the city (or
20 town) of _____ in _____ county

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 Signed and acknowledged before me this _____ day of
27 _____, 19____

28

29 _____
30 Signature and official title
31 of person before whom
32 signed.

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 Such certificate shall be filed with the secretary of
40 state or the clerk of the circuit court, as the case may be,
41 on or before the fifth Saturday preceding the primary
42 election day, and must be received before midnight, east-
43 ern standard time, of that day or, if mailed, shall be post-
marked before that hour.

*Sec. 8. *Certification and Posting of Candidacies.*—On
2 the Monday following the fifth Saturday preceding the
3 day fixed for the primary election, the secretary of state
4 shall arrange the names of all the candidates, who have
5 filed announcements with him, as provided in this article,
6 and who are entitled to have their names printed on any
7 political party ballot, in accordance with the provisions of
8 this chapter, and shall forthwith certify the same under
9 his name and the lesser seal of the state, and file the same
10 in his office, and make and transmit a duplicate thereof
11 by registered mail to the clerk of the circuit court of
12 each county, in the state, in which such candidate or
13 candidates is or are to be voted for. He shall also post a
14 duplicate of such list or lists in a conspicuous place in
15 his office, and keep the same posted until after the pri-
16 mary election. In case of emergency, the secretary of

*This section was also amended and reenacted by chapter 42 of this volume.

17 state may transmit such duplicate list or lists by tele-
18 graph. The certificates to be made by the secretary of
19 state as herein provided shall give the name and resi-
20 dence of each candidate, the office for which he is a
21 candidate, the name of the political party of which he
22 is a candidate, and upon what ballot his name is to be
23 printed.

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.]

Article 4. Nomination of Candidates.

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

2 *Signers and Solicitors; Penalties.*—(a) Groups of citizens
3 having no party organization may nominate candidates
4 for public office otherwise than by conventions or pri-
5 mary elections. In such case, the candidate or candi-
6 dates, jointly or severally, shall file a declaration con-
7 taining the name of the political party he or they pro-
8 pose to represent, its platform, principles or purposes,

9 with the secretary of state, if the office is to be filled by
10 the voters of more than one county, or with the clerk
11 of the circuit court of the county if the office is to be
12 filled by the voters of one county or political sub-
13 division thereof; such declaration to be filed at least
14 thirty days prior to the time of filing the certificate
15 provided by section thirty of this article, and at the
16 time of filing of such declaration each candidate shall
17 pay the filing fee required by law, and if such declaration
18 is not so filed or the filing fee so paid the certificate
19 shall not be received by the secretary of state, or clerk
20 of the circuit court, as the case may be.

21 (b) The person or persons soliciting or canvassing sig-
22 natures of duly qualified voters on such certificate or
23 certificates, shall be residents and qualified, registered
24 voters, of the magisterial district of the county in which
25 such solicitation or canvassing is made, and may solicit or
26 canvass duly registered voters resident within their own
27 respective magisterial district, but must first obtain from
28 the clerk of the county court of which such canvasser or
29 solicitor is a resident, credentials which must be ex-
30 hibited to each voter canvassed or solicited, which creden-
31 tials may be in the following form or effect:

32 State of West Virginia, County of _____, ss:

33 This certifies that _____, a duly registered voter
34 of Precinct No. _____, _____ District, of this
35 county and state; whose postoffice address is _____,
36 is hereby authorized to solicit and canvass duly regis-
37 tered voters residing in _____ District of this
38 County to sign a certificate purporting to nominate
39 _____ (here place name of candidate head-
40 ing list on certificate) for the office of _____, and
41 others, to represent the _____ Party at the
42 general election to be held on _____, 19____.

43 Given under my hand and the seal of my office this
44 _____ day of _____, 19____.

45

46

Clerk, County Court of _____ County.

47

48

49

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.

50 (c) The certificate shall be personally signed by duly
51 registered voters, in their own proper handwriting or
52 by their marks duly witnessed, who must be residents
53 within the magisterial district of the county wherein
54 such canvass or solicitation is made by the person or
55 persons duly authorized. Such signatures need not all
56 be on one certificate. The number of such signatures
57 shall be equal to not less than one per cent of the entire
58 vote cast at the last preceding general election for the
59 office in the state, circuit, district, county or other political
60 division for which the nomination is to be made, but in
61 no event shall the number be less than twenty-five.
62 Where two or more nominations may be made for the
63 same office, the total of the votes cast at the last preced-
64 ing general election for the candidates receiving the
65 highest number of votes on each ticket for such office shall
66 constitute the entire vote. No signature on such certi-
67 ficate shall be counted unless it be that of a duly regis-
68 tered voter of a precinct within the magisterial district
69 wherein such certificate was presented. No person sign-
70 ing such certificate shall vote at any primary election to
71 be held to nominate candidates for office to be voted for
72 at the election to be held next after the date of signing
73 such certificate.

74 (d) Such certificates shall state the name and resi-
75 dence of each of such candidates; that he is legally quali-
76 fied to hold such office; that the subscribers are legally
77 qualified and duly registered as voters and desire to vote
78 for such candidates; and shall designate, by not more than
79 five words, a brief name of the party which such candi-
80 dates represent and may adopt a device or emblem to be
81 printed on the official ballot. All candidates nominated
82 by the signing of such certificates shall have their names
83 placed on the official ballot as candidates, as if otherwise
84 nominated under the provisions of this chapter. At the
85 top of each certificate shall be the following form or to
86 the following effect:

87 State of West Virginia, County of _____, ss:

88 This is to certify that we, the undersigned, are duly
89 registered voters, resident within the magisterial district
90 of _____, County of _____, State of

91 West Virginia, and do hereby make the following nomi-
92 nations for public office, to-wit:

93 For House of Delegates

94 A _____ B _____, Residence _____

95 (And so on for each nomination so made)

96 And, we further certify that each of said candidates is
97 legally qualified to hold the office for which he is nomi-
98 nated; that we are legally registered and qualified voters
99 and desire to vote for said candidates and acknowledge
100 that we are aware that no person signing this certifi-
101 cate can legally vote at the primary election next en-
102 suing after the date of the filing of this certificate. The
103 name of the party which the candidates represent is (here
104 state name) and the device or emblem of the party is
105 (here affix device).

106 Signature	Precinct No.	Residence	Postoffice Address
107 (Names	(Number of	(Describe	(Name of office)
108 of Voters)	precinct	it)	
109	in magisterial		
110	district)		

111 (e) The secretary of state, or the clerk of the circuit
112 court, as the case may be, may investigate the validity
113 of such certificates and the signatures thereon, and if
114 upon such investigation there may be doubt as to the
115 legitimacy and the validity of such certificate, he may re-
116 quest the attorney general of the state, or the prosecuting
117 attorney of the county, to institute a quo warranto pro-
118 ceeding against the nominee or nominees by certificate to
119 determine his or their right to such nomination to public
120 office, and upon request being made, the attorney general
121 or prosecuting attorney shall institute such quo warranto
122 proceeding.

123 (f) Any person violating the provisions hereof, in addi-
124 tion to penalties prescribed elsewhere for violations of
125 this chapter, shall be guilty of a misdemeanor, and, upon
126 conviction, shall be fined not more than one thousand
127 dollars, or confined in the county jail for not more than
128 one year, or both, in the discretion of the court.

129 All acts, or parts of acts, in conflict with the provisions
130 hereof, are hereby repealed; and if any clause, sentence,
131 paragraph, or part of this section shall for any reason be

132 adjudged by any court of competent jurisdiction to be in-
 133 valid, such judgment shall not affect, impair or invalidate
 134 the remainder of this section, but shall be confined in its
 135 operation to the clause, sentence, paragraph or part
 136 thereof directly involved in the controversy in which
 137 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 conviction

tion, be disqualified from holding any public office or employment 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 person to solicit any contribution from any non-elective salaried 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 salaried employee of the state government or of any of its subdivisions into engaging in any form of political activity. 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 imprisoned 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 engaging in political activity voluntarily, that is, without coercion, intimidation, or solicitation.

Sec. 15. *Promise of Employment or Other Benefits; Penalties.*—It shall be unlawful for any person, directly or indirectly, to promise any employment, position, work, compensation, or other benefit provided for, or made possible, 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 violating this section shall be guilty of a misdemeanor, and, upon conviction, be fined not more than one thousand dollars 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 entering 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 performance under such contract or furnishing of materials, supplies, equipment, land or buildings, directly or indirectly make any contribution to any political party, committee 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, subscription, loan, advance, or deposit of money, or anything of value given or offered in connection with political activity. It shall also include a contract, promise, or agree-

10 ment, whether or not legally enforceable, to make a con-
11 tribution.

12 (3) The term "subdivisions" shall include any county,
13 city, town, village or any other governmental unit.

14 (4) The term "election" shall include primaries, gen-
15 eral and special elections.

Sec. 19. *Applicability of Penalties.*—In all cases of vio-
2 lations of this act by a partnership, committee, associa-
3 tion, corporation, or other organization or group of per-
4 sons, the officers, directors, or managing heads thereof,
5 who knowingly and willingly participate in such violation,
6 shall be subject to the punishment herein provided.

Sec. 20. *Existing Laws.*—Nothing in this act shall be
2 construed to legalize that which is made illegal by any pro-
3 vision 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 non-partisan 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.

14 No member of any board of education shall be eligible
15 for nomination for, or appointment to, any public office,
16 other than to succeed himself, unless and until his mem-
17 bership on the board has been terminated at or before
18 the time of his filing for such nomination for, or appoint-
19 ment to, such public office.

20 For the purposes of this section the term "public office"
21 shall be construed to include any position of public trust,
22 responsibility or service in any municipality, county, state,
23 or federal government, or any subdivision or combined
24 unit or units thereof, regardless of whether such position
25 be remunerative or not.

Sec. 1-b. *Term of Office.*—At the general election in the
2 year one thousand nine hundred forty-two, two members
3 shall be elected for a term of six years and one member for
4 a term of four years; at the general election in the year
5 one thousand nine hundred forty-four, two members shall
6 be elected for a term of six years. As the terms provided
7 above expire, the offices shall be filled for six-year terms.

8 The term of office of any member of any county board of
9 education shall immediately cease, and a vacancy shall
10 exist, upon occurrence of ineligibility as prescribed in
11 section one-a of this article.

12 This section, however, shall in no manner be construed
13 so as to affect the unexpired terms of county school board
14 members who hold office or were elected under prior exist-
15 ing law.

Sec. 1-c. *President of Board of Education.*—On the
2 first Monday in July following each general election each
3 respective board of education shall organize and elect for
4 a two-year term a president from its own membership.

Sec. 2. *Filling Vacancies.*—The board shall, by appoint-
2 ment, fill within thirty days any vacancy that occurs in
3 its membership. Such appointments shall continue until
4 the next general election, when the voters shall elect a
5 successor for the unexpired term. In the event that the
6 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

4. Nomination of Candidates.
5. Conducting Election; Ascertaining and Certifying the Result.

Article 4. Nomination of Candidates.

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.

22

23

24 Signed and acknowledged before me this _____ day
25 of _____, 19____.

26

27

28

Candidate

Signature and official title of
person before whom signed.

29 Such announcement shall be signed and acknowledged
30 by the candidate before some officer qualified to ad-
31 minister oaths, who shall certify the same.

*Sec. 8. *Certification and Posting of Candidacies.*—At
2 least thirty days before the day fixed for the primary
3 election, the secretary of state shall, as provided in this
4 article, arrange a list of names of all the candidates who
5 have filed announcements with him, and who are en-
6 titled to have their names printed on the ballot. He
7 shall forthwith certify the list under his name and the
8 lesser seal of the state, and file it in his office, and make
9 and transmit a duplicate thereof by registered mail to
10 the clerk of the circuit court of each county in the state,
11 in which such candidate or candidates is or are to be
12 voted for. He shall also post a duplicate of such list in
13 a conspicuous place in his office, and keep the same posted
14 until after the primary election. In case of emergency
15 the secretary of state may transmit such duplicate list
16 by telegraph. The certificates to be made by the sec-
17 retary of state shall, as herein provided, give the name
18 and residence of each candidate, the office for which he
19 is a candidate, the name of the political party, if any,
20 of which he is a candidate, and upon what ballot or
21 ballots his name is to be printed.

Sec. 9. *Publication and Printing of Ballots.*—At least
2 twenty-five days before the holding of any primary
3 election, the ballot commissioners of each county shall
4 prepare from the lists and certificates of announcements,
5 as provided in this article, a sample official primary
6 ballot for each party, placing thereon the names of all
7 the candidates of the respective political party, and, as
8 the case may be, the non-partisan candidates to be voted
9 for at such primary election. They shall publish the
10 same in two issues of a newspaper of general circulation
11 published in such county and representing such party,
12 if one there be; if not, then in some other newspaper
13 published in such county in two issues of such newspaper.
14 The ballot commissioners shall cause official ballots,
15 to at least one and one-half times the number of regis-
16 tered voters in each election precinct of each political

*This section was also amended and reenacted by chapter 39 of this volume.

17 party, to be printed and delivered to them for holding
18 the primary election.

Sec. 12. *Form and Contents of Ballots.*—The official
2 primary ballot shall contain at the left of each column
3 of names of candidates, a perpendicular column, and shall
4 be so printed as to leave a square at the left of each
5 name on the ballot.

6 On such primary ballot, the names of candidates for
7 president of the United States, for United States senator,
8 for representatives in Congress, and for delegates and
9 alternate delegates to the national convention of the
10 party, shall be placed in the first column of candidates;
11 the names of candidates for all state offices, except judges
12 of the supreme court of appeals, and all other offices to
13 be filled by the voters of a political division greater than
14 a county, including the state executive committee and
15 excluding judges of the circuit courts, in the second
16 column. The names of all candidates for county offices,
17 including members of the house of delegates, and con-
18 gressional, judicial and senatorial executive committees
19 (except judges of the circuit court, in cases where a single
20 county constitutes a judicial circuit, and judges of inferior
21 courts) shall be placed in the third column; and the
22 names of all candidates for office in the magisterial dis-
23 tricts, in the fourth column.

24 The face of every primary election ballot shall con-
25 form as nearly as practicable to that used at the general
26 election.

27 The secretary of state, or the circuit court clerk, as the
28 case may be, shall arrange the names of the candidates
29 to be printed on the ballot in alphabetical order, accord-
30 ing to the surname, under the title of the respective
31 offices upon the ballot.

32 Immediately below the space provided on the ballot for
33 listing the candidates affiliated with the respective politi-
34 cal party, shall be printed in bold type, the caption, "Non-
35 partisan Nomination for Candidates for _____
36 County Board of Education." The names of the candi-
37 dates for nomination to the respective county board of
38 education, the length of term for which they announce
39 their candidacy and the number of candidates for which

40 each person is entitled to vote shall be printed beneath
41 said caption, without reference to political party affili-
42 ation.

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 divis-
46 ion. 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
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 _____
8 County Board of Education.” Beneath such caption shall
9 be printed the names of the nominees for membership
10 and the term of office sought on the respective county
11 boards of education without reference to political party
12 affiliation. In all other matters consistent with the pur-
13 pose of this act, the procedures in article five shall apply.

CHAPTER 43

(House Bill No. 206—By Mr. Thomas)

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

5 person who has not been registered as a voter as required
6 by law, or who is a minor, or of unsound mind, or a
7 pauper, or who is under conviction of treason, felony or
8 bribery in an election, or who, in the case of state-county
9 elections has not been a bona fide resident of the state
10 for one year and of the county in which he offers to vote
11 for sixty days next preceding such election, or who in the
12 case of municipal elections has not been a bona fide resi-
13 dent of the state for one year and of the municipality in
14 which he offers to vote for sixty days next preceding such
15 election, shall be permitted to vote at such election while
16 such disability continues: *Provided*, That subject to the
17 qualifications otherwise prescribed in this section, a minor
18 shall be permitted to vote in a primary election if he will
19 have reached the age of twenty-one on the date of the
20 election next to be held after the primary election.

Sec. 10-a. *Municipal Precincts.*—The governing bodies
2 of all municipalities shall, for the purpose of municipal
3 elections, provide by ordinance for making the voting
4 precincts in the respective municipalities coincide, as
5 nearly as possible, to the boundaries of the voting pre-
6 cincts fixed by the county court for all state and county
7 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.
9. Expenses.
10. Office and place of meeting.
11. Meetings.
12. Powers and duties of members.
13. Secretary of state; powers; duties.
14. Powers and duties of appointees.
15. Powers of county court.
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.
- 23-a. Issuance of registration receipts.
24. Absentee registration.
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.
30. Naturalized applicants.
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

14 to the people of the state or any of the aforesaid sub-
15 divisions.

16 The masculine pronoun shall be construed to include
17 the feminine.

18 "Subdivision" shall mean any county, city, town, village
19 or any other unit in which the voters are authorized to
20 elect public officers or to vote upon public questions sub-
21 mitted to them.

22 "County court" shall, where such tribunal has not been
23 established, be construed to mean the tribunal created in
24 lieu thereof.

25 "Clerk of the county court" shall be construed to include
26 any authorized deputy.

27 "Office" shall be construed to mean public office.

28 "Public question" shall mean any issue or proposition,
29 now or hereafter required by the governing body of this
30 state or of any of its subdivisions, to be submitted to the
31 voters of the state or subdivision for decision at elections.

32 "Initial registration" shall mean the first registration
33 under this article preparatory to the primary election of
34 the year one thousand nine hundred forty-two.

35 "Quadrennial check-up" shall mean the process by
36 which the registrars, every four years subsequent to the
37 initial registration, proceed to register all persons who
38 are not registered, but who qualify for registration; or to
39 alter, amend, correct, or cancel the registration records
40 of those persons previously registered.

41 "Registration form" shall mean the unfilled form to be
42 used for the registration of voters.

43 "Registration record" shall mean the filled registration
44 form.

45 "Registrar" shall be construed to include deputy regis-
46 trar.

47 In determining or reckoning any period of time men-
48 tioned in this act, the day upon which the act is done, paper
49 filed, or notice given shall be excluded from, and the date
50 of any election, hearing or other subsequent event, as the
51 case may be, shall be included in the calculation or reckon-
52 ing: *Provided, however,* That if the last day upon which
53 any act may be done, paper filed, or notice given, shall fall

54 on a Sunday or legal holiday, the next following ordinary
55 business day shall be considered as the last day for said
56 purpose.

Sec. 3. *Registration Prerequisite for Voting.*—No voter
2 otherwise qualified shall be permitted to vote at any elec-
3 tion unless he shall have been duly registered or shall have
4 placed himself within the “Challenged Voters” provision
5 of this chapter.

Sec. 4. *Qualifications for Registration.*—Any person who
2 possesses the constitutional and statutory requirements for
3 voting, except as to age, shall be permitted to register:
4 *Provided*, That such person shall have reached the age of
5 twenty-one years by the time of the next ensuing election.

Sec. 5. *Permanent and Uniform Registration.*—A per-
2 manent registration system shall hereby be established
3 which shall be uniform throughout the state and all of
4 its subdivisions. No voter so registered shall be required
5 to register again for any election while he continues to
6 reside at the same address or, having moved from such
7 address, is properly transferred according to the provisions
8 of section thirty-three of this article: *Provided*, That if a
9 voter fails to vote at least once during a period of five
10 years from the date of his last vote, his registration shall
11 be cancelled, and he shall be given proper notice thereof
12 by the clerk of the county court, to the effect that in order
13 to vote he must register again.

Sec. 6. *Election Commission.*—There shall hereby be
2 created “The State Election Commission”, which shall be
3 composed of five members, appointed by the governor, by
4 and with the consent of the senate. The commission shall,
5 from this membership, elect a chairman for a term of
6 two years.

Sec. 7. *Term of Office.*—The term of office of members
2 of the commission shall be six years, except that the gov-
3 ernor, upon the adoption of this law, shall appoint the
4 members of the commission upon the following basis: Two
5 members for a term of six years, two members for a term
6 of four years, and one member for a term of two years.

7 As these appointments expire, all appointments shall be
8 made for six years.

Sec. 8. *Qualifications of Members.*—No member of the
2 commission shall be a candidate for or hold any public
3 office other than that of membership in the commission;
4 nor shall he be a member of any committee of a political
5 party. At least one member shall be selected with special
6 reference to his expert knowledge as a student of the
7 problems of public elections. Of the remaining four mem-
8 bers, not more than two shall be affiliated with the same
9 major political party. In case a member becomes a candi-
10 date for or is appointed to any other public office or
11 political committee, his office as member of the commis-
12 sion shall be deemed immediately vacated.

Sec. 9. *Expenses.*—Each member of the commission
2 shall receive his actual and necessary traveling expense
3 incurred in the performance of his duties.

Sec. 10. *Office and Place of Meeting.*—The office and
2 place of meeting of the commission shall be the office of
3 the secretary of state in the state capitol.

Sec. 11. *Meetings.*—The commission shall hold meetings
2 at least six months prior to every primary election. Special
3 meetings may be convened on the call of the chairman,
4 the governor, or the secretary of state.

Sec. 12. *Powers and Duties of Members.*—The members
2 of the commission shall serve as an advisory body to the
3 secretary of state, and, as such, shall have the following
4 powers and duties:

5 (1) To recommend policies and practices to the secre-
6 tary of state, relating to his duties as registration official
7 (for voting) and election officer, imposed by law.

8 (2) To investigate the work of the secretary of state,
9 and for this purpose to have access at reasonable times
10 to pertinent records, books, papers and documents.

11 (3) To consider and study the election practices of other
12 jurisdictions, with a view to determining the techniques
13 used in eliminating fraud in elections and in simplifying
14 election procedure.

15 (4) To advise or make recommendations to the gover-
16 nor relative to election practices and policy in the state.

17 (5) To keep minutes of the transactions of each session,
18 regular or special, which shall be public records and filed
19 with the secretary of state.

Sec. 13. *Secretary of State; Powers; Duties.*—The secre-
2 tary of state shall be the chief registration official of the
3 state. He shall have authority, upon consultation with the
4 state election commission, of which he is hereby created
5 an *ex officio member*, to make, amend and rescind such
6 rules, regulations and orders as may be necessary to carry
7 out the policy of the Legislature, as contained in this ar-
8 ticle. It shall be the duty of all registration officials to abide
9 by such rules, regulations and orders, which shall include:

10 (a) Uniform rules of procedure for registrars and other
11 registration officials in the performance of their duties, as
12 to time and manner of performance.

13 (b) Uniform rules for the purging of registration rec-
14 ords.

15 . (c) Uniform rules for challenging registrants.

16 (d) Any other rules, regulations, or directions neces-
17 sary to standardize and make effective the administration
18 of the provisions of the act.

19 It shall be his further duty to advise with registration
20 officials; to furnish to the registration officials a sufficient
21 number of indexed copies of the current registration laws
22 of West Virginia and the administrative orders issued
23 thereunder; to investigate the administration of regis-
24 tration laws, frauds, and irregularities in any registration;
25 to report violations of registration laws to the appropriate
26 prosecuting officials, and to prepare an annual report of
27 registration.

28 The secretary of state shall also have the power to issue
29 subpoenas, administer oaths and affirmations, summon
30 witnesses, compel the production of books, papers, records
31 and other evidence, and fix the time and place for hearing
32 any matters relating to the administration and enforce-
33 ment of this article. In case of disobedience to a subpoena
34 or other process, he may invoke the aid of any circuit

35 court in requiring the evidence and testimony of witnesses
36 and the production of papers, books and documents.

Sec. 14. *Powers and Duties of Appointees.*—All powers
2 and duties vested in the secretary of state under this
3 article may be exercised by appointees of the secretary
4 of state at his discretion, but the secretary of state shall
5 be responsible for their acts.

Sec. 15. *Powers of County Court.*—Subject to the au-
2 thority of the secretary of state, the county court shall
3 be the chief registration authority in each respective
4 county and all subdivisions therein, and shall supervise
5 the county clerk and registrars in the performance of their
6 respective duties.

7 The county court shall have power on its own motion
8 to summon and to interrogate any person concerning the
9 registration of voters or any matter related thereto, to
10 investigate any irregularities, in registration, to summon
11 and examine witnesses, to require the production of any
12 relevant books and papers, and to administer oaths and
13 affirmations. Each person testifying before the county
14 court shall first be duly sworn or affirmed.

Sec. 16. *Selection of Registrars.*—The county court of
2 each county in the state shall, not less than eight weeks
3 prior to the date of the first registration under this act
4 and not less than eight weeks nor more than ten weeks
5 prior to each quadrennial check-up thereafter, appoint for
6 each voting precinct in the county two competent persons
7 as registrars, one each from the political parties which,
8 at the last preceding election, cast the highest and next
9 highest number of votes in the county in which the elec-
10 tion is to be held. If at any time during such session,
11 however, the county executive committee of either politi-
12 cal party from which registrars are to be selected, through
13 its chairman or secretary, shall present to the county court
14 or file in the office of the clerk of the county court a writ-
15 ing signed by the chairman of such committee, on behalf
16 of the committee, requesting the appointment as registrar
17 of a qualified voter of their political party, the court shall
18 appoint the person named in such writing as registrar.

19 Every writing so presented shall be filed and preserved
20 for one year by the clerk of such court in his office.

21 However, no person shall be eligible to appointment as
22 registrar, or in any way act as such, if he has been con-
23 victed of a felony; or if he holds any elective or appointive
24 office, or is a public employee, under the laws of this state,
25 or of the United States; or if he is not a qualified voter
26 in the precinct for which appointed; or cannot read or
27 write the English language; or is a candidate to be voted
28 for at such election. If in any precinct there should not
29 be a competent person, in the opinion of the chairman of
30 the executive committee, or of the county court, the chair-
31 man of such committee may recommend, and the court
32 shall appoint, some competent voter of such county from
33 some other precinct therein to act as registrar. If any
34 such registrar shall fail or refuse to serve or is properly
35 dismissed, the vacancy shall be filled either by the county
36 court or by the clerk thereof, in vacation, in the manner
37 provided for the appointment of registrars. Each registrar,
38 before entering upon the discharge of his duties, shall take
39 an oath that he will perform the duties of the office to
40 the best of his ability, and that he is a regular member of
41 the party for which appointed. Such oath shall be filed
42 in the office of the clerk of the county court.

Sec. 17. *Salaries of Registrars.*—For registering qualified
2 voters during the initial registration, each registrar shall
3 be compensated at a rate fixed by the respective county
4 court of not more than ten cents nor less than five cents
5 for each name registered. For registering qualified voters
6 or for checking the registration record of any qualified
7 voter during the periods of the quadrennial check-up,
8 each registrar shall receive not more than six cents for
9 each name registered or each record checked. In the event
10 of a re-registration, the registrars shall receive the same
11 payment as that prescribed for the initial registration.
12 Any part or all of the salary of any registrar may be
13 withheld by the county court until such time as the county
14 court shall have agreed that the duties of such registrars
15 have been fulfilled.

2 Sec. 18. *Clerical Assistance.*—The county court shall
3 have power to provide for clerical assistance at reasonable
4 compensation, to aid in the administration of registration.

2 Sec. 19. *Registration Record Files.*—The registration
3 records to be used in county-state elections shall be kept
4 in a separate file and arranged, where possible, according
5 to precinct, street and sequence of house, apartment or
6 room numbers. A duplicate set of these registration
7 records shall be made and kept in a separate file, and shall
8 be arranged in alphabetical order. Such file shall herein
9 be referred to as the "alphabet file".

9 The registration records to be used in municipal elec-
10 tions shall be kept in a separate file and arranged, where
11 possible, according to precinct, street, and sequence of
12 house, apartment or room numbers.

2 Sec. 20. *Custody of Registration Records; Public In-*
3 *spection.*—The registration records shall not be removed
4 from the custody of the county court except for use in
5 an election, or by the order of a court of record. The
6 registration records in the alphabet file shall be open for
7 public inspection under reasonable regulations prescribed
8 by the county court. Such inspection shall be carried on
9 in the presence of the clerk of the county court.

2 Sec. 21. *Registration Form.*—The registration form shall
3 be prescribed by the secretary of state substantially as
4 follows. The forms for county-state elections and municip-
5 al elections, shall be identical, save for color.

NAME (Last name first)		(Information in this space to be typed in at office of clerk of county court)							Address
YEAR	1942	1943	1944	1945	1946	1947	1948	(Upon change of address place sticker containing new address over former)	
State-County Primary									
Municipal Primary								PARTY AFFILIATION _____	
General State-County Election								DATE _____	
General Municipal Election								Record of Change of Address	
Special State-County Election									
Special Municipal Election									
(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.)									
Miss. _____ Mrs. _____ Mr. _____									
Last Name		First Name			Middle Name				
Will you have resided on day of next election in state one year?		In County 60 days?			In Municipality 60 days?				
Place and date of birth				Married—Single—					
Occupation				If unable to write state reasons:					
Color of eyes									
Color of hair									
Color of skin				Other means of identification					
Height									
If Naturalised		Name of Court Place Date		Through Whom Naturalized		Husband Name			
						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					
Subscribed and sworn before me this _____ day of _____ 19 _____									
				Signature of Registrar					
				Signature of Registrar					
(If registration of absentee)				Signature of Person Taking Affidavit (Official Seal)					
(If registration by clerk)				Signature of Clerk of County Court					

2 *Sec. 22. Filling of Registration Forms.*—Two registra-
3 tion forms shall be filled for each applicant, one for use
4 in county-state elections, the other for municipal elec-
5 tions. Only the form for the county-state elections shall
6 be filled, however, if the applicant for registration is not
7 eligible to vote in municipal elections. The signature of
 the applicant on both filled forms shall be written in ink.

2 *Sec. 23. Power to Administer Oaths.*—Whenever in any
3 matter concerning registration, an oath or affirmation is
4 required, the clerk of the county court and registrars shall
 have the power to administer the same.

2 *Sec. 23-a. Issuance of Registration Receipts.*—Upon the
3 completion of the registration of any person, the registra-
4 tion official shall issue to such person a signed and dated
5 receipt of such registration. The form for such receipt
 shall be prescribed by the secretary of state.

2 *Sec. 24. Absentee Registration.*—Any person who pos-
3 sesses the qualifications for registration, but who is ab-
4 sent from the state or county on account of occupation, or
5 for any other necessary cause, during the time of the in-
6 itial registration or quadrennial check-up, may register
7 by mail during these respective periods, according to the
 procedure prescribed by the secretary of state.

2 *Sec. 25. Quadrennial Check-up.*—Four years subsequent
3 to the initial registration, and the corresponding time
4 every four years thereafter the registrars, according to
5 directions prescribed by the secretary of state, shall pro-
6 ceed to register the names of all persons not registered
7 but who are qualified to register, and shall also alter,
8 amend, correct or cancel, where necessary, the registration
9 records of the voters of the respective precincts so as to
10 provide a complete and accurate record of all persons
 qualified to vote.

2 *Sec. 26. Registration Procedure in Office of the Clerk of*
3 *the County Court.*—The clerk of the county court may
4 register any qualified person by filling in the prescribed
5 registration form or forms, as the case may be, and having
 them signed by the applicant under oath or affirmation,

6 except as is otherwise provided in this article. Upon
7 proper proof, the registration record of any voter may be
8 altered, amended, corrected, or cancelled by the clerk of
9 the county court.

10 The aforesaid registration or alteration, correction, or
11 cancellation of registration records shall be carried on
12 throughout the year, except during the two weeks preced-
13 ing any election. For the initial registration the county
14 court may, at its discretion, order the clerk of the county
15 court to maintain additional office hours in the evening.

Sec. 27. *Duties of Registrars After Completion of Initial
2 Registration and Quadrennial Check-ups.*—After the com-
3 pletion of the initial registration, and before every pri-
4 mary and general election which follows, the county
5 court shall station the registrars for two days at some
6 convenient place within the voting precinct for the pur-
7 pose of registering persons qualified to register and for
8 amending, correcting, and cancelling, where necessary,
9 the registration records of the voters of the respective
10 precinct. The county court shall give notice of the time
11 and place of such procedure by posting notices at not less
12 than five conspicuous public places in the election pre-
13 cinct.

Sec. 28. *Registration of Applicants Unable to Write.*—
2 If an applicant, although physically able, shall allege in-
3 ability to sign his name, the registrar or clerk of the
4 county court shall require him to present an affidavit of a
5 qualified elector within the same county who is personally
6 acquainted with the applicant. Such elector shall, in his
7 affidavit, state his own residence and affirm that the state-
8 ments made by the applicant for registration are true.
9 Upon the presentation of such affidavit, the applicant shall
10 be permitted to sign the registration form by making his
11 mark.

12 If an applicant is literate, but physically unable to sign
13 his name, the registrar or clerk of the county court shall
14 insert the name of the applicant on the registration form
15 together with a notation of the nature of the disability.

Sec. 29. *Disability Suffered Since Registration.*—Any
2 voter who has since the time of registration suffered a
3 physical disability which renders him unable to sign his
4 name, may at any time except the two weeks immediately
5 preceding any election personally make application under
6 oath to the clerk of the county court to have such fact
7 entered on his registration record, together with a state-
8 ment of the exact nature of his physical disability, and
9 such entry shall be made accordingly. If such applicant
10 is physically unable to appear before the clerk of the
11 county court to cause such change to be made on the reg-
12 istration record, he may request the clerk of the county
13 court to mail him the necessary forms, and the clerk of
14 the county court upon receipt of such forms properly filled,
15 together with a physician's certificate affirming such dis-
16 ability, shall alter the registration record of the voter ac-
17 cordingly: *Provided*, That when the clerk of the county
18 court shall ascertain that any voter who has declared him-
19 self physically disabled or illiterate, no longer suffers from
20 such physical disability or illiteracy, he shall forthwith
21 cancel on the registration record the entry relating to
22 physical disability or illiteracy and shall notify such
23 elector by mail of his action.

Sec. 30. *Naturalized Applicants.*—Any naturalized cit-
2 izen claiming the right to register, shall produce his nat-
3 uralization papers or a certificate under the seal of the
4 court in which his naturalization was effected. Any per-
5 son claiming citizenship by reason of the naturalization of
6 his parent during his minority, may be registered either
7 by the production of his parent's original naturalization
8 papers, or a certified copy thereof, or a certificate of the
9 court. Any woman claiming citizenship by reason of her
10 marriage prior to September twenty-second, one thousand
11 nine hundred twenty-two, may be registered by the pro-
12 duction of her husband's original naturalization papers,
13 or a certified copy thereof, or a certificate of the court in
14 which naturalization was effected.

Sec. 31. *Statement of Party Affiliation.*—Any person
2 claiming the right to register shall be requested to state
3 the name of the political party with which he desires to

4 affiliate, and such affiliation shall be indicated on the reg-
5 istration record in the proper space. Any person who
6 declines to state any preference of party affiliation shall
7 be registered as "Independent" and such person shall not
8 be permitted to vote in any primary election.

Sec. 32. *Challenge of Right to Register.*—Any person
2 claiming the right to register may be challenged by the
3 clerk of the county court or by any registrar, or, provided
4 they appear in person at the office of the clerk of the
5 county court, by the chairman of a political party or any
6 other qualified voter. Such challenge shall be entered
7 upon a form prescribed by the secretary of state and shall
8 be filed as a matter of record in the office of the clerk of
9 the county court. Upon receipt of such form the clerk of
10 the county court shall mail to the person challenged a no-
11 tice, the form of which shall be prescribed by the secretary
12 of state. Any person so challenged may appear at the of-
13 fice of the clerk of the county court at any time, except
14 during the two weeks immediately preceding any election,
15 to show cause why the challenge should be removed.
16 Failure to appear shall automatically constitute a can-
17 cellation of such person's registration record: *Provided,*
18 That in no case shall such registration record be cancelled
19 unless such person receives notice of such challenge by
20 registered mail with return receipt requested at least
21 three weeks preceding any election.

Sec. 33. *Transfers.*—Whenever a voter removes his resi-
2 dence from one place to another within the same county
3 he may request that the change be made on his registra-
4 tion record. Such request shall be made by filling in, and,
5 if he is able, signing under oath or affirmation the neces-
6 sary form, which may be procured in person or by mail
7 from the office of the clerk of the county court. The form
8 of such notice shall be prescribed by the secretary of state.
9 Upon receipt of such notice the clerk of the county
10 court shall cause the signature thereon to be compared
11 with the signature of the applicant upon his registration
12 record and, if such signatures correspond, shall make entry
13 of such change of residence upon all the registration rec-

14 ords and the necessary transfers in the files. If the clerk
15 of the county court is not satisfied as to the genuineness
16 of the signature on the notice of change of residence, and
17 if the right of such applicant to register is challenged, ac-
18 cording to the procedure hereinbefore prescribed, such
19 transfer shall not be made.

Sec. 34. *Time of Transfer.*—Transfers of the registra-
2 tion record may be made throughout the year except dur-
3 ing the two weeks immediately preceding any election,
4 and if any voter shall move from one place to another
5 within the county within the said two weeks, he shall, for
6 that election only, vote in the precinct from which he
7 moved.

Sec. 35. *Change of Name.*—Whenever an elector, pre-
2 viously registered, shall change his name, such person
3 shall be required to register again. For this purpose such
4 person may register by mail in the same manner as an ab-
5 sentee registrant, according to the procedure of section
6 twenty-four of this article. Upon such registration the
7 clerk of the county court shall cancel the registration rec-
8 ord bearing the voter's former name. When such a
9 change of name is made during the two weeks immediate-
10 ly preceding any election, such elector, if duly registered,
11 may vote at the election under his former name.

Sec. 36. *Preparation, Posting and Furnishing of Pre-
2 cinct Lists.*—Prior to any election the clerk of the county
3 court shall, upon request, prepare lists which may be
4 photostated, typed, printed, or mimeographed at the dis-
5 cretion of such clerk. Such lists shall contain exact
6 copies of the names, address, and political affiliation of
7 the registered voters in the order of their arrangement
8 in the respective county or municipal precinct registra-
9 tion files. Such copies shall be known as the "precinct
10 registration lists".

11 Any person, municipality, corporation, or other entity
12 may obtain copies of precinct registration lists contain-
13 ing the name, address and political affiliation of each reg-
14 istered voter in such precinct from the clerk of the county
15 court, who shall charge a fee of one cent per name fur-

16 nished. The fees received by the clerk of the county court
17 shall be kept in a separate fund under his supervision for
18 the purpose of defraying the cost of the preparation of
19 the precinct lists. Any unexpended balance in the fund
20 shall be transferred to the general fund of the county
21 court.

Sec. 37. *Hearings Before County Court; Appeals.*—Any
2 person affected adversely in regard to any matter per-
3 taining to his registration may obtain a hearing before the
4 county court. The county court shall preserve and keep
5 all record evidence offered at such hearing and shall have
6 all oral evidence heard reduced to writing and preserved
7 and kept with other records. From the decision of the
8 county court such person or the person challenging his
9 registration shall have, within thirty days, an appeal of
10 right by petition to the circuit court of the respective
11 county. Such appeal may be taken by petition without
12 formal bill of exceptions or certification. The clerk of
13 the county court shall give reasonable notice of such ap-
14 peal thereof in writing to the party or parties to the pro-
15 ceedings.

16 The circuit court upon such appeal shall consider only
17 the record before the county court, which record shall
18 consist of the evidence considered by the county court in
19 reaching its decision. Such record shall be properly au-
20 thenticated by the clerk of the county court.

21 The circuit court may affirm the order of the county
22 court, whether the order be affirmative or negative; but
23 if it deems such order not to be reasonably justified by
24 the evidence considered, it may reverse such orders of the
25 county court in whole or in part as it deems just and
26 right; and if it deems the evidence considered by the
27 county court in reaching its decision insufficient, it may
28 remand the proceedings to the county court for further
29 hearing. Any such order or orders of the circuit court
30 shall be certified to the county court.

31 Any party to such appeal, may, within thirty days
32 after the date of a final order by the circuit court, apply
33 for an appeal to the supreme court of appeals, which may
34 grant or refuse such appeal at its discretion. The supreme

35 court of appeals shall have jurisdiction to hear and de-
36 termine the appeal upon the record before the circuit
37 court, and to enter such order as it may find that the cir-
38 cuit court should have entered.

39 Judges of the circuit and supreme court of appeals in
40 vacation shall have the same power as that prescribed in
41 this section for their respective courts.

Sec. 38. *Time of Hearings Before County Court.*—The
2 county court shall hold such hearings as shall be neces-
3 sary for the purpose of reviewing any case pertaining to
4 registration: *Provided*, That no such hearings shall be
5 held within the two weeks immediately preceding the
6 election in which the person whose registration is affected
7 seeks to vote.

Sec. 39. *Sessions of Courts in Registration Cases.*—It
2 shall be the duty of the circuit court and the supreme
3 court of appeals, in order to expedite registration and
4 election procedure, to hold such sessions as may be neces-
5 sary to determine any cases involving the registration of
6 voters.

Sec. 40. *Changes in Precinct Boundaries.*—Whenever a
2 new precinct has been created or the boundaries of any
3 precinct have been changed, the clerk of the county court
4 shall correct and transfer accordingly the registration
5 records of electors whose voting precincts have thus been
6 changed. The registration of an elector shall not be in-
7 validated by such alteration or transfer.

Sec. 41. *Re-registration.*—Whenever the county court
2 shall deem it necessary because of destruction of records,
3 or any other emergency, it shall have power to order a
4 re-registration in any precinct.

Sec. 41-a. *Purchase of Equipment for Initial Registra-*
2 *tion.*—The election commission, by resolution of the ma-
3 jority of the members, shall prescribe the type and
4 quantity of registration forms, poll books, and filing
5 equipment necessary for the completion of initial regis-
6 tration under this article, and shall make proper alloca-
7 tion of such materials to the counties.

8 The purchase of such forms, poll books and filing equip-
9 ment shall be made by the director of purchases in ac-
10 cordance with the procedure prescribed in chapter
11 twenty-five-a of the code of West Virginia.

Sec. 41-b. *Appropriations from General Revenues.*—
2 Appropriations for the purchase of the registration forms,
3 poll books, and filing equipment necessary for the com-
4 pletion of initial registration under this article shall be
5 paid out of the state general revenue fund.

Sec. 42. *Appropriation by County Court.*—The county
2 court shall budget the funds necessary for the payment of
3 the compensation of registrars and other assistants and
4 employees, and the fees of witnesses, and likewise for
5 preparing, securing, distributing notices, stationery and
6 other supplies, and other services which are necessary
7 for the purpose of this article. The county court shall not
8 include in its budget any sum for the purpose of preparing
9 or printing precinct lists. Any unexpended balances of
10 any appropriation heretofore made by the county court
11 for the purpose of carrying out any provision of the ex-
12 isting registration law shall be transferred to and made
13 available to the county court for the expenses of carrying
14 out the provisions of this article.

Sec. 43. *Disposition of Registration Records Under Prior*
2 *Laws.*—The registration records used prior to the date
3 when this article goes into effect shall be preserved by the
4 clerk of the county court for at least two years after this
5 article becomes effective, and during said period shall be
6 open for public inspection under proper regulations for
7 their safe keeping. Such records shall not be destroyed
8 without the previous consent in writing of the prosecut-
9 ing attorney of the respective county.

Sec. 44. *Unlawful Registration or Rejection of Voter;*
2 *Penalties.*—Any registrar or clerk of the county court who
3 knowingly registers or permits to be registered a person
4 not lawfully entitled to be registered, or who knowingly
5 refuses to register a person entitled to be registered, or
6 who knowingly assists in preventing such person from be-
7 ing registered, or who inserts or intentionally permits to

8 be inserted a name or other entries in any registration
9 form, knowing or having reason to know that such entry
10 should not be made, shall be guilty of a misdemeanor,
11 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.

14 Any person who registers or applies to be registered, or
15 who applies for a change of residence address, knowing or
16 having reason to know that he is not entitled to be regis-
17 tered, or to have his residence address changed on his
18 registration record, or any person who declares as his
19 address a place or address which he knows is not his legal
20 residence, or who impersonates another in an application
21 for registration, or who knowingly offers false naturaliza-
22 tion papers to establish his claim to be registered, shall be
23 guilty of a misdemeanor, and, upon conviction, shall be
24 fined not more than one thousand dollars or confined in
25 the county jail for not more than one year, or both, at the
26 discretion of the court.

Sec. 45. *Neglect of Duty by Registration Officers; Pen-*
2 *alties.*—Any registrar or clerk of the county court or their
3 authorized deputies or any other persons upon whom a
4 duty is laid by the permanent registration law, who shall
5 wilfully delay, neglect, or refuse to perform such duty,
6 shall be guilty of a misdemeanor, and, upon conviction,
7 shall be fined not more than one thousand dollars or con-
8 fined in the county jail for not more than one year,
9 or both, at the discretion of the court.

Sec. 46. *Alteration or Destruction of Registration Rec-*
2 *ords; Penalties.*—Any person who intentionally inserts
3 or permits to be wrongfully inserted any name or material
4 entry on any registration form or any other record in con-
5 nection with registration; or who wrongfully alters or de-
6 stroys an entry which has been duly made; or who wrong-
7 fully takes and removes any such registration form, or
8 any other record authorized or required in connection
9 with registration, from the custody of any person having
10 lawful charge thereof, shall be guilty of a misdemeanor,
11 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.

CHAPTER 44

(House Bill No. 207—By Mr. Thomas)

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

Article

4. Nomination of Candidates.
5. Conducting of Elections; Ascertaining and Certifying the Results.
6. Voting by Absentees.
7. Offenses and Penalties.

Article 4. Nomination of Candidates.

Section

2. Repealed.
13. Procuring ballots and other primary supplies.
- 13-a. Municipal precinct registration records.
17. Conducting primary; voting.
- 17-a. Challenge at the polls.
- 17-b. Voting by challenged voters.
- 17-c. Voting record.
- 18-a. Ballots of challenged voters.
- 20-a. Recount procedure.

Section 2. *Repealed.*—This section is hereby 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

10 precincts. The commissioner or commissioners shall be
11 given ballots for each party to the number of one and
12 one-fifth times the number of registered voters of such
13 party in the election precinct, and shall be given ballot
14 boxes, election booths, and other supplies required to
15 be furnished for conducting the election at such precinct.
16 The respective clerk shall take from the election com-
17 missioner or commissioners receipts for supplies and ma-
18 terials received, which receipts shall be filed in the office
19 of the clerk of the county court or circuit court, as the
20 case may be. It shall be the duty of such commissioner
21 or commissioners to attend at such clerk's office and to
22 receive such ballots and all other election supplies to be
23 used in conducting the election at the respective precinct
24 and to deliver the same, with the seal of all sealed pack-
25 ages unbroken, at his election precinct in time to open
26 the election. Such commissioner or commissioners, if they
27 perform such services, shall receive the per diem and
28 mileage rate prescribed by law for this service. At the
29 same time there shall be delivered to an election com-
30 missioner designated by the ballot commissioners the
31 proper poll books bearing on each page the following
32 headings: "Names of Persons Voting for Candidates at
33 Precinct No. _____ in the district of _____
34 in the county of _____ on this the _____ day
35 of _____ 19____; of the _____
36 party." Such poll books shall have columns headed re-
37 spectively: "Number of Voters", "Signature of Voters"
38 and "Challenge of Voter", and shall have under the head-
39 ing "Number of Voters" numbers, in consecutive order,
40 to the bottom of each page. Forms for oaths of commis-
41 sioners of election and poll clerks shall be written or
42 printed on the poll books, and one copy of such poll books
43 shall be supplied at each voting precinct for each political
44 party appearing on the primary ballot.

45 In case any commissioner of election so appointed shall
46 fail to appear at the offices of the clerks of such county
47 and circuit courts, by the close of the second day prior to
48 any election, as required by this section, the board of
49 ballot commissioners, or the chairman thereof, shall forth-
50 with dispatch a special messenger to the commissioners of

51 election of each respective precinct with the ballots, regis-
52 tration records, ballot boxes, poll books and other supplies
53 for such precinct. Such messenger shall be allowed two
54 dollars for his time, and five cents a mile for the distance
55 necessary to be traveled by him, and shall promptly re-
56 port to the clerks of the circuit and county court respec-
57 tively and file with such clerks the receipts of the person
58 to whom he delivered such ballots and other supplies, and
59 his affidavit, stating when and to whom he delivered them.

Sec. 13-a. *Municipal Precinct Registration Records.*—At
2 least three days prior to each municipal primary election,
3 it shall be the duty of the appropriate officer designated
4 by the municipality to procure from the office of the clerk
5 of the county court, the municipal registration records
6 necessary for the conduct of elections. Such records shall,
7 within ten days after the date of the municipal election,
8 be returned to the office of the clerk of the county court
9 by the appropriate officer or officers designated by the
10 municipality.

11 In case of a contested municipal election, the registra-
12 tion records of any challenged voter shall be made avail-
13 able by the clerk of the county court to the officer or
14 tribunal empowered to determine the contest. Such rec-
15 ords shall be returned to the office of the clerk of the
16 county court within a reasonable time after the contest
17 shall have been finally decided.

18 The clerk of the county court shall acknowledge the
19 release and return of the registration records under this
20 section by the issuance of appropriate receipts.

21 In the event any municipal registration record is lost,
22 destroyed, defaced, or worn in any way as to warrant
23 replacement, it shall be the duty of the clerk of the county
24 court to prepare a duplicate of such record and it shall be
25 the duty of the municipality to pay for such replacement.

Sec. 17. *Conducting Primary; Voting.*—Any person of-
2 fering to vote in a primary election shall be given a bal-
3 lot by the poll clerks. Such person shall sign his name in
4 the space marked "signature of voter" on the poll book
5 prescribed in section thirteen of this article. If such per-
6 son is physically or otherwise unable to sign his name,

7 his mark shall be affixed by one of the poll clerks in the
8 presence of the other. The name of the poll clerk affix-
9 ing the mark of such person shall be indicated beneath
10 such affixation.

11 The clerks shall write their names at the place desig-
12 nated on the back of the official ballot called for and de-
13 liver it to the voter, who shall have but one ballot unless
14 he shall return the same spoiled; if he shall return the
15 same spoiled, the clerks shall immediately destroy the
16 ballot so spoiled, and deliver to him another ballot in the
17 same manner as they delivered the first one. The voter
18 shall then forthwith, and without leaving the room, re-
19 turn alone to the booth or compartment prepared for the
20 purpose, and there prepare his ballot. Any voter, because
21 of illiteracy or disability, as shown by the registration rec-
22 ord, may receive the assistance as provided for in sec-
23 tion twenty-one, article five, chapter three of the code of
24 West Virginia.

25 After preparing the ballot, the voter shall fold the same
26 so that the face shall not be exposed, but so as to show
27 plainly the name of the political party and the names of
28 the poll clerks signed thereon. The voter shall then an-
29 nounce his name and present his ballot to the commis-
30 sioner of his party, if there be one, who shall hand the
31 same to another election official, who shall deposit it in
32 the ballot box, if such ballot is the official one and prop-
33 erly signed. When the voter has voted, he shall retire
34 immediately from the election room, and beyond the sixty
35 foot limit thereof, and shall not return, except by per-
36 mission of the commissioners.

Sec. 17-a. *Challenges at the Polls.*—It shall be the duty
2 of the members of the receiving board, jointly or severally,
3 to challenge the right of any person requesting a ballot
4 to vote in a primary election, if such person's registration
5 record is not available at the time of the election, or if
6 the signature written by the person in the poll book does
7 not correspond with the signature purported to be his on
8 the registration record, or if the registration record of
9 such person indicates any other legal disqualification.

2 Sec. 17-b. *Voting by Challenged Voters.*—Any person
3 challenged in accordance with section seventeen-a of this
4 article, shall nevertheless be permitted to vote in the pri-
5 mary election. Such person shall, however, be given a
6 ballot not endorsed by the poll clerks. In lieu of such en-
7 dorsements, the poll clerks shall fill and sign an appropri-
8 ate form indicating the challenge and the reason thereof,
9 and the name or names of the challengers. Such form
10 shall be securely attached to the voter's ballot and de-
11 posited together with the ballot in a separate box or en-
velope marked "challenged ballots".

2 Sec. 17-c. *Voting Record.*—In any primary election, it
3 shall be the duty of a poll clerk, with the approval of the
4 other poll clerk, to indicate the fact that a person voted
5 in such primary, by inserting on the registration record,
6 if available, a distinguishing initial or initials of the po-
7 litical party for whose candidates he voted. If a person is
8 challenged at the polls, such facts shall be indicated by
9 the poll clerks on the registration record. The subsequent
10 removal of the challenge shall be recorded on the regis-
tration record by the clerk of the county court.

2 Sec. 18-a. *Ballots of Challenged Voters.*—The ballot of
3 any voter challenged according to sections seventeen-a
4 and seventeen-b of this article shall not be counted by the
5 election officials. The county court shall, on its own mo-
6 tion, at the time of the canvassing of the election returns,
7 sit in session to determine the validity of such challenges.
8 If the county court shall determine that the challenges
9 are unfounded, the ballot of the challenged voter, if other-
10 wise valid, shall be counted and tallied together with the
11 regular ballots cast in the election. In such determinations
12 the county court shall disregard technical errors, omis-
13 sions, or oversights if it can reasonably be ascertained
that the challenged voter was entitled to vote.

2 Sec. 20-a. *Recount Procedure.*—The provisions of ar-
3 ticle five of this chapter, relating to the recount of votes
4 in final elections, shall, to the extent that they are ap-
plicable, be operative in primary elections.

Article 5. Conducting Elections; Ascertaining and Certifying the Results.

Section

- 12. Supplies for holding election.
- 13. Delivery of ballots and supplies to election commissioners.
- 13-a. Municipal precinct registration records.
- 16. Opening and closing the polls.
- 19. Conducting elections other than primaries; voting.
- 19-a. Voting record.
- 21. Assistance to voters unable to write.
- 25. Challenges at the polls.
- 25-a. Voting by challenged voters.
- 29. Counting and destruction of ballots not voted; recordation of number of voters.
- 31-a. Ballots of challenged voters.
- 39. Destruction of affidavits, certificates, and designation of election officers.

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

5 at the offices of the clerks of the circuit and county courts
6 at least three days before the election, to receive the
7 ballots, ballot boxes, poll books, registration records and
8 forms and other supplies and materials for conducting the
9 election at the respective precinct. Such commissioner
10 or commissioners shall receive the per diem and mileage
11 rate prescribed by law for this service. It shall be the
12 duty of such commissioners to receive such supplies and
13 materials from the respective clerks and to deliver the
14 same, with the seal of all sealed packages unbroken, at
15 the election precinct in time to open the election. The
16 ballots shall be delivered in sealed packages; and there
17 shall be two ballot boxes for each precinct for which a
18 receiving and counting board of election commissioners
19 have been appointed. The clerks shall take a receipt for
20 the respective materials delivered to the above commis-
21 sioner or commissioners of election, and shall file such
22 receipt in their respective offices.

Sec. 13-a. *Municipal Precinct Registration Records.*—

2 At least three days prior to every municipal election other
3 than primary elections, it shall be the duty of the appro-
4 priate officer designated by the municipality to procure
5 from the municipal precinct file in the office of the clerk
6 of the county court the registration records necessary for
7 the conduct of such election.

8 Such records shall, within ten days after the date of the
9 municipal election, be returned to the office of the clerk
10 of the county court by the appropriate officer or officers
11 designated by the municipality.

12 In case of a contested municipal election, the registra-
13 tion record of any challenged voter shall be made avail-
14 able by the clerk of the county court to the officer or
15 tribunal empowered to determine the contest. Such rec-
16 ords shall be returned to the office of the clerk of the
17 county court within a reasonable time after the contest
18 shall have been finally decided.

19 The clerk of the county court shall acknowledge the
20 release and return of the registration records under this
21 section by the issuance of appropriate receipts.

22 In the event any municipal registration record is lost,

23 destroyed, defaced, or worn in any way as to warrant
24 replacement, it shall be the duty of the clerk of the county
25 court to prepare a duplicate of such record and it shall
26 be the duty of the municipality to pay for such replace-
27 ment.

Sec. 16. *Opening and Closing the Polls.*—At every pri-
2 mary, general or special election the polls shall be opened
3 in each precinct on the day of such election at six-thirty
4 o'clock in the forenoon and be closed at seven-thirty in
5 the evening, eastern standard time. In all precincts
6 wherein two election boards shall have been appointed
7 the receiving board shall attend at the time and open
8 the polls.

9 At the time of opening the polls, the election commis-
10 sioners shall examine the ballot box and ascertain that
11 there are no ballots in the same, and they shall thereupon
12 securely lock the box and give one key to one of the
13 commissioners and one to a commissioner of the opposite
14 political party, who shall hold the same, and such boxes
15 shall not be again opened until the time to begin counting
16 the votes arrives and for that purpose.

17 At or before opening the polls, the commissioners of
18 election shall open the package containing the ballots in
19 such manner as to preserve the seals intact and thereupon
20 deliver all of the ballots to the poll clerk.

21 Before any voter is permitted to vote, the commissioners
22 of election shall proclaim that such election is opened.
23 When the polls are closed, proclamation must be made
24 of the fact by one of the commissioners of election to the
25 people outside, in a loud and audible tone of voice, and a
26 minute of such proclamation and of the time when it
27 was made must be entered on the poll books by the clerks,
28 and, after such minute has been made and entered, no
29 ballot of any voter shall be cast or received.

Sec. 19. *Conducting Elections Other Than Primaries;*
2 *Voting.*—Any person offering to vote in an election shall
3 be given a ballot by the poll clerks. Such person shall
4 sign his name in the space marked "signature of voter"
5 on the poll book prescribed in section twelve of this
6 article. If such person is physically or otherwise unable

7 to sign his name, his mark shall be affixed by one of the
8 poll clerks in the presence of the other. The name of the
9 poll clerk affixing the mark of such person shall be in-
10 dicated beneath such affixation.

11 The clerks shall write their names at the place desig-
12 nated on the back of the official ballot called for and de-
13 liver it to the voter, who shall have but one ballot un-
14 less he shall return the same spoiled; if he shall return
15 the same spoiled, the clerks shall immediately destroy
16 the ballot so spoiled, and deliver to him another ballot in
17 the same manner as they delivered the first one.

18 On receipt of the ballot the voter shall forthwith, and
19 without leaving the election room, retire alone to one of
20 the booths or compartments provided for the purpose and
21 shall prepare the ballot, using a black lead pencil or other
22 means for the purpose, and observing the following rules:

23 (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
27 device and above the name of the party at the head of
28 the ticket; or

29 (2) Make a cross mark on the left and opposite the
30 name of each and every candidate of such party in the
31 blank space provided therefor; or

32 (3) Mark out, by lines, all the tickets on the ballot,
33 other than the ticket he desires to vote.

34 (b) If the voter desires to vote a mixed ticket, or, in
35 other words, for candidates of different parties, he shall
36 either:

37 (1) Omit making a cross in the circular space above
38 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-
43 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

47 vote for every candidate on the ticket of such party ex-
48 cept for offices for which candidates are marked on other
49 party tickets, and the cross marks before the name of
50 such candidates will cast his vote for them; or

51 (3) Write with black lead pencil or other means the
52 name of any person for whom he desires to vote in the
53 space immediately below the name of the opposing can-
54 didate for the same office, on the ticket voted by him, and
55 the name so written shall be counted.

56 If, in marking either a straight or mixed ticket as
57 above defined, a cross mark is made in the circular space
58 above the name of a party at the head of the ticket, and
59 also one or more cross marks made before the name or
60 names of candidates on the same ticket for offices for
61 which candidates on other party tickets are not indi-
62 vidually marked, such marks before the name of candi-
63 dates on the ticket so marked shall be treated as surplus-
64 age and ignored.

65 If the voter desires to vote for any person whose name
66 does not appear on the ticket, he may substitute the name
67 by writing it with black pencil or other means in the
68 proper place, and making a cross mark in the blank space
69 at the left of the name so written.

70 If the voter marks more names than there are persons
71 to be elected to an office, or if, for any reason, it is impos-
72 sible to determine the voter's choice, for an office to be
73 filled, the ballot shall not be counted for such office.

74 No ballot shall be rejected for any technical error which
75 does not make it impossible to determine the voter's
76 choice.

77 After preparing the ballot the voter shall fold the same
78 so that the face shall not be exposed and so that the names
79 of the poll clerks thereon shall be seen. The voter shall
80 then announce his name and present his ballot to one of
81 the commissioners who shall hand the same to another
82 commissioner, of a different political party, who shall de-
83 posit it in the ballot box, if such ballot is the official one
84 and properly signed. The commissioners of election may
85 inspect every ballot before it is deposited in the ballot
86 box, to ascertain whether it is single, but without unfold-
87 ing or unrolling it, so as to disclose its content. When the

88 voter has voted, he shall retire immediately from the
89 election room, and beyond the sixty-foot limit thereof,
90 and shall not return, except by permission of the com-
91 missioners.

Sec. 19-a. *Voting Record*.—In any election under this
2 article it shall be the duty of a poll clerk, in the presence
3 of the other poll clerk, to indicate by a check mark in-
4 serted in the appropriate place on the registration record
5 of each voter the fact that such voter voted in the respec-
6 tive election. If a person is challenged at the polls, such
7 fact shall be indicated by the poll clerks on the registration
8 record together with the name of the challenger. The
9 subsequent removal of the challenge shall be recorded
10 on the registration record by the clerk of the county court.

Sec. 21. *Assistance to Voters Unable to Write*.—Any
2 person whose registration record indicates his inability to
3 write may declare his choice of candidates to the poll
4 clerks who, in the presence of the voter and in the pres-
5 ence of each other, shall prepare the ballot for voting in
6 the manner hereinbefore provided, and, on request, shall
7 read over to such voter the names of candidates on the
8 ballot as so prepared; or such voter may require the poll
9 clerks to indicate to him the relative position of the names
10 of the candidates on the ballot, whereupon the voter shall
11 retire to one of the booths or compartments to prepare
12 his ballot in the manner hereinbefore provided, or may
13 request the poll clerks to mark the ballot as he directs.

Sec. 25. *Challenges at the Polls*.—It shall be the duty of
2 the receiving board, jointly or severally, to challenge the
3 right of any person, requesting a ballot, to vote in the
4 election, if such person's registration record is not availa-
5 ble at the time of the election, or if the signature written
6 by the person in the poll book does not correspond with
7 the signature purported to be his on the registration rec-
8 ord, or if the registration record of such person indicates
9 any other legal disqualification.

Sec. 25-a. *Voting by Challenged Voters*.—Any person
2 challenged in accordance with section twenty-five of this
3 article, shall nevertheless be permitted to vote in the elec-

4 tion. Such person shall, however, be given a ballot not
5 endorsed by the poll clerks. In lieu of such endorsements,
6 the poll clerks shall fill and sign an appropriate form in-
7 dicating the challenge and the reason thereof, and the
8 name or names of the challengers. Such form shall be se-
9 curely attached to the voter's ballot and deposited together
10 with the ballot in a separate box or envelope marked
11 "challenged ballots".

Sec. 29. *Counting and Destruction of Ballots Not Voted;*
2 *Recordation of Number of Voters.*—Immediately on clos-
3 ing the polls, the commissioners of election shall ascer-
4 tain the number of ballots destroyed during the election
5 and count all of the ballots remaining not voted, and
6 record the number of each on tally sheets. All such re-
7 maining ballots shall be destroyed immediately by fire
8 or otherwise. The commissioners of election shall as-
9 certain from the poll books the number of persons who
10 voted and shall report the same, over their signatures,
11 to the clerk of the county court.

Sec. 31-a. *Ballots of Challenged Voters.*—The ballot of
2 any voter challenged according to sections twenty-five
3 and twenty-five-a of this article shall not be counted
4 by the election officials. The county court shall, on its
5 own motion, at the time of the canvassing of the election
6 returns, sit in session to determine the validity of such
7 challenges. If the county court shall determine that the
8 challenges are unfounded, the ballot of each challenged
9 voter, if otherwise valid, shall be counted and tallied to-
10 gether with the regular ballots cast in the election. In
11 such determinations the county court shall disregard tech-
12 nical errors, omissions or oversights, if it can reasonably
13 be ascertained that the challenged voter was entitled to
14 vote.

Sec. 39. *Destruction of Affidavits, Certificates, and Des-*
2 *ignation of Election Officers.*—At the expiration of one
3 year after any election, the affidavits taken and returned
4 by any registrar or any election officer, applications for
5 absent voters' ballots, rejected absent voters' ballots, and
6 certificates of nominations of candidates shall be de-

7 stroyed; at the expiration of two years from the date of
8 any election the written designations of election officers
9 and of ballot commissioners shall be destroyed. If
10 the further preservation of any of the documents men-
11 tioned in this section shall be required by the order of the
12 court, the same shall be destroyed at the expiration of the
13 time fixed for the further preservation thereof by such
14 order.

Article 6. Voting by Absentees.

Section

10. Canvass of ballots.

Section 10. *Canvass of Ballots.*—At any time between
2 the opening and closing of the polls on such election day,
3 the commissioners of election of such precinct, in the
4 presence of each other, shall open the outer or carrier
5 envelope only, announce the absent voter's name and
6 compare the signature upon the application with the sig-
7 nature upon the affidavit on the ballot envelope and upon
8 the voter's registration record. In case the election com-
9 missioners find the affidavit properly executed and at-
10 tested, that the signatures correspond, that the applicant
11 is a duly qualified elector of the precinct, that he is duly
12 registered, and that the applicant has not voted in person
13 at such election, or, in case of a primary election, if he has
14 not previously exercised the right of suffrage, if he shall
15 have executed the proper declaration relative to his age
16 and qualifications and the party with which he intends to
17 affiliate, the election commissioner shall open the envelope
18 containing the absent voter's ballot in such manner as
19 not to deface or destroy the affidavit therein and take out
20 the ballot or ballots inclosed therein, without unfolding
21 or permitting the same to be unfolded or examined. The
22 commissioners shall then deliver such ballot or ballots to
23 the poll clerks, who shall at once proceed to write their
24 names on the back of each of such ballots in the same
25 manner as other ballots are required to be endorsed. A
26 commissioner shall thereupon deposit the same in the bal-
27 lot box, and the poll clerks shall indicate in the appropri-
28 ate place on the registration record in the same manner
29 as if he had appeared personally, the fact that such ab-

30 sent voter had voted, and shall enter the absent voter's
31 name on the poll book. In the event that such affidavit is
32 found to be insufficient, or that the signatures do not cor-
33 respond, or that the applicant is not a duly qualified elec-
34 tor in such precinct, or that he has voted in person at
35 such election, or that he has not registered, or that the
36 ballot is open, or has been opened and resealed, or that the
37 ballot envelope contains more than one ballot of any one
38 kind, or, in case of a primary election, if he shall have
39 failed to execute the proper declarations relative to his
40 age and qualifications and the party with which he in-
41 tends to affiliate, the procedure to be followed shall be
42 as prescribed in this chapter relating to challenges at the
43 polls: *Provided*, That a notice of such a challenge shall be
44 sent by the clerk of the county court to the respective ab-
45 sentee voter by registered mail, with return receipt re-
46 quested.

Article 7. Offenses and Penalties.

Section

12-a. Fraudulent conduct of election officers at the polls.

12-b. Malicious or frivolous challenges.

13. Repealed.

23. Repealed.

Section 12-a. *Fraudulent Conduct of Election Officers at
2 the Polls.*—Any election officer who refuses the vote of a
3 duly registered and qualified voter, whom he knows is
4 entitled to vote or who accepts the vote of a person whom
5 he knows to be not lawfully registered, without chal-
6 lenging such persons, shall be guilty of a misdemeanor,
7 and upon conviction fined not more than one thousand
8 dollars or confined in the county jail for not more than
9 one year, or both, at the discretion of the court.

Sec. 12-b. *Malicious or Frivolous Challenges.*—Any per-
2 son who shall maliciously or frivolously, and without prob-
3 able cause, challenge the right of any person to vote, shall
4 be guilty of a misdemeanor, and upon conviction be fined
5 not more than one hundred dollars or confined in the
6 county jail for not more than ninety days, or both, at the
7 discretion of the court.

Sec. 13. *Repealed.*—Section thirteen is hereby repealed.

2 Sec. 23. *Repealed.*—Section twenty-three is hereby re-
pealed.

Chapter 8. MUNICIPAL CORPORATIONS

Article 3. Election, Appointment, and Qualification of Officers.

Section

7. *Repealed.*

14. Integration of municipal elections with system of permanent registration.

Section 7. *Repealed.*—Section seven is hereby repealed.

2 Sec. 14. *Integration of Municipal Elections with Sys-*
3 *tem of Permanent Registration.*—It shall be the duty of
4 each municipality by ordinance to make provision for
5 integrating the conduct of all municipal elections with
6 the system of "Permanent Registration of Voters". Such
7 ordinances, shall, to the extent that they are reasonably
8 applicable, parallel those provisions of chapter three of
9 the official code, which integrate county-state elections
10 with the "Permanent Registration System". The provi-
11 sions of this act shall supersede conflicting provisions in
12 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.

2 Section 7. *Elections.*—Regular city elections under a
3 home rule charter shall be held on the first Tuesday in
4 June at which election city officers shall be chosen to
5 take office upon the first day of July next ensuing for a
6 term of as many years, not to exceed four, as the charter
may prescribe.

7 A home rule charter shall provide a method and time
8 for nominating candidates, conducting elections, and de-
9 termining and certifying results of elections. A charter
10 may prescribe that the provisions of general law with
11 respect to primary and general elections, so far as ap-
12 plicable, shall apply to city elections: *Provided*, That the
13 provisions of section fourteen, article three, chapter eight
14 of the official code, as herein amended, shall be construed
15 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 thereof.

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

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

41 quorum authorizing the board to transact the business as
42 prescribed under this act.

43 The board shall have power and it shall be its duty to
44 make and enforce all necessary rules and regulations, not
45 inconsistent with this act, for the examination and licens-
46 ing of funeral directors and the general practice of funeral
47 directing; the examination and licensing of embalmers
48 and the general practice of embalming, and the registra-
49 tion and regulation of apprentices.

50 The board shall conduct annually a school of instruction
51 to apprise funeral directors and embalmers of the most
52 recent scientific knowledge and developments affecting
53 their profession. Qualified lecturers and demonstrators
54 may be employed by the board for this purpose. The
55 board shall give notice of the time and place at which
56 such school will be held for all licensed funeral directors
57 and embalmers, and it shall be the duty of every funeral
58 director or embalmer to attend at least one such school
59 in every three years.

60 The board or any of its members or any duly authorized
61 employee of the board shall have the authority to enter
62 at all reasonable hours for the purpose of inspecting the
63 premises in which the business or profession of funeral
64 directing is conducted or practiced, or where embalming
65 is practiced.

Sec. 4. *Definitions.*—For the purpose of this act, the
2 following terms shall be construed in the following man-
3 ner:

4 “Funeral director” shall mean any person engaged, or
5 holding himself out as engaged, in the business of funeral
6 directing as herein defined, and shall use in connection
7 with his name or business the words or terms “funeral
8 director”, “undertaker”, “mortician”, or any other word or
9 title to imply or designate him as a funeral director, un-
10 dertaker, or mortician.

11 “Funeral directing” shall mean the business or profes-
12 sion of directing or supervising funerals for profit, or the
13 business or profession of preparing dead human bodies for
14 burial by means other than embalming, or the disposition
15 of dead human bodies; or maintenance of a place or estab-

16 lishment for the preparation for disposition or for the care
17 or disposition of dead human bodies, or the use in connec-
18 tion with a business of the word or term "funeral di-
19 rector", "undertaker", "mortician", directing; or the hold-
20 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 embalm-
23 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 sys-
29 tem 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.

Sec. 5. *Embalmers and Funeral Directors to Be Li-*
2 *censed; Qualifications and Requirements for Licenses; Re-*
3 *quirements as to Name Under Which Funeral Home is*
4 *Conducted; Advertising; Renewal of Licenses; Registra-*
5 *tion as Apprentice; Recognition of Licenses of Other*
6 *States.*—After July first, one thousand nine hundred
7 forty-one, no person shall engage in or hold himself out
8 as engaging in the business or profession of embalming, or
9 preserving in any manner dead human bodies in this
10 state, whether for himself or in the employ of another,
11 unless he holds an embalmer's license issued to him by
12 the board, and shall at the date of its issue have complied
13 with the provisions of this act.

14 After July first, one thousand nine hundred forty-one,
15 no person shall engage in, or hold himself out as engaging
16 in, the business or profession of funeral directing in this
17 state, unless he holds a funeral director's license issued to

18 him by the board, and shall at the date of issuance have
19 complied with the provisions of this act, or conduct a
20 funeral, unless he be a licensed funeral director or a duly
21 registered apprentice.

22 No person shall be entitled to an embalmer's license
23 unless he is twenty-one years of age or over, a citizen of
24 the United States, of good moral character, shall hold a
25 certificate or diploma showing the completion of four
26 years high school course, shall be duly registered with
27 this board, shall have first completed a two years course
28 of apprenticeship under the supervision of a licensed
29 embalmer actively and lawfully engaged in the practice
30 of embalming in this state, such apprenticeship to consist
31 of diligent attention to the work in the course of regular
32 and steady employment and not as a side issue to another
33 employment or as casual funeral directing, under which
34 apprenticeship he shall have taken an active part in the
35 operation of embalming not less than thirty-five dead
36 human bodies, under supervision of licensed embalmer,
37 and shall possess a certificate or diploma of graduation
38 from a school of embalming which requires as a pre-
39 requisite to graduation the completion of a course of study
40 of not less than twelve months duration, and that said
41 school of embalming is duly approved by the board, and
42 the applicant shall pass such examination as the board
43 shall deem necessary to ascertain his qualifications and
44 ability to engage in the practice of embalming: *Provided,*
45 *however,* That any person who has been regularly and
46 lawfully practicing as funeral director for a period of five
47 years or more prior to the effective date of this act shall
48 be eligible to take the required examination for an em-
49 balmer's license, without having had a four-year high
50 school course, upon compliance with all other require-
51 ments as to eligibility for such examination. The board
52 will not recognize a course of instruction in embalming
53 obtained or apprenticeship served by any person who is
54 not first duly registered with the board and the holder of
55 a certificate of registration.

56 The board shall issue licenses separately to embalmers
57 and licenses separately to funeral directors.

58 An applicant for a funeral director's license must fur-
59 nish satisfactory proof to the board that his business or
60 profession of funeral directing is to be conducted in a
61 fixed place or establishment equipped for the care and
62 preparation for burial or disposition of dead human
63 bodies. What shall be deemed "necessary equipment"
64 shall be defined in the rules and regulations of the board,
65 the same to be in compliance with the public health laws
66 of the state or the rules of the state board of health of
67 West Virginia. This shall not be so construed as to deny
68 an applicant for a funeral director's license such a license
69 because he is not the owner, or part owner, of an estab-
70 lished or proposed funeral business.

71 Licenses issued under the provisions of this chapter
72 shall not be transferable or assignable.

73 No person shall receive a license as a funeral director
74 until he has been found by the board to be twenty-one
75 years of age or over, a citizen of the United States, of
76 good moral character and temperate habits. An applicant
77 shall hold a certificate or diploma showing the completion
78 of a four-year high school course, must have been duly
79 registered with the board as an apprentice and served not
80 less than two years apprenticeship under the personal
81 supervision of a licensed funeral director actively and
82 lawfully engaged in the business or profession of funeral
83 directing in this state, such apprenticeship to consist of
84 diligent attention to the work in the course of regular
85 and steady employment and not as a side issue to an-
86 other employment. The board will not recognize any
87 apprenticeship served by any person who is not first duly
88 registered with the board as an apprentice funeral di-
89 rector.

90 On or after the passage date of this amendment no
91 funeral home or establishment or any other place pertain-
92 ing to funeral directing or the conducting of funerals
93 shall be established in the state of West Virginia under
94 any name than that of the licensed holder of a West Vir-
95 ginia funeral director's license or the licensed holders
96 of West Virginia funeral directors' licenses under whose
97 direction such establishment is operated: *Provided*, That
98 every establishment shall display in all advertising the

99 name of the licensed funeral director who is actually in
100 charge of the establishment. All branch establishments
101 must display the name of the funeral director who is
102 actually in charge. At least one licensed funeral director
103 shall supervise each main establishment and at least one
104 licensed funeral director shall directly supervise each
105 branch establishment.

106 Any person now holding a license as an embalmer or as
107 a funeral director, or as an assistant funeral director,
108 or as an apprenticed embalmer, shall not be required to
109 make a new application, or submit to an examination, but
110 shall, upon the payment of the fee therefor, be entitled to
111 a renewal of his license upon the terms and conditions as
112 are herein provided for the renewal of licenses of those
113 who may be licensed after the passage of this act, but all
114 such persons shall be subject to every provision of this
115 act, and such rules and regulations as the board may adopt
116 in pursuance of this act.

117 Any person now holding a certificate of registration as
118 an apprentice shall be given full credit for his compliance
119 to July first, one thousand nine hundred forty-one.

120 On and after July first, one thousand nine hundred
121 forty-one, no person shall be registered as an apprentice
122 until he has been found by the board to be eighteen years
123 of age or over, a resident of West Virginia, of good moral
124 character and temperate habits, and the holder of a cer-
125 tificate or diploma showing the completion of a four years
126 high school course.

127 The board may recognize licenses issued to embalmers
128 or funeral directors by state boards or the proper au-
129 thorities of other states; and upon presentation of such
130 licenses may issue to the lawful holders thereof an em-
131 balmer's license or a funeral director's license as herein
132 provided. Such reciprocal licenses shall be renewed an-
133 nually upon the payment of such renewal license fees as
134 provided for in this act.

135 No person shall be entitled to a reciprocal license as a
136 funeral director or embalmer unless he shows to the satis-
137 faction of the board that he has, in the state in which he

138 is legally licensed, complied with requirements substan-
139 tially equal to those set out in this act.

Sec. 6. *Examination, Registration and Renewal Fees;*

2 *Disposition of Fees; Report to Governor.*—The examina-
3 tion fee for a funeral director's license shall be fifty dol-
4 lars and shall be remitted at the time the application for
5 a funeral director's license is submitted to the board.

6 The examination fee for an embalmer's license shall be
7 fifty dollars and shall be remitted at the time the ap-
8 plication for an embalmer's license is submitted to the
9 board.

10 The registration fee for apprentices shall be five dollars
11 and shall be remitted at the time the application for regis-
12 tration is submitted to the board.

13 All licenses shall expire on the thirtieth day of June of
14 each calendar year and the renewal date for all licenses
15 shall be the first day of July of each calendar year.

16 The annual renewal fee for an embalmer's license shall
17 be five dollars and shall be paid on or before the first day
18 of July of each calendar year.

19 The annual renewal fee for a funeral director's license
20 shall be five dollars and shall be paid on or before the
21 first day of July of each calendar year.

22 The annual renewal fee for an assistant funeral direc-
23 tor's license shall be five dollars and shall be paid on or
24 before the first day of July of each calendar year.

25 Any person who has been duly licensed as a funeral
26 director or as an embalmer under the laws of this state
27 but who fails to renew his license within ninety days
28 after the expiration date for renewals, may file an applica-
29 tion for a renewal of his license, without examination,
30 upon payment of a penalty of ten dollars and the required
31 renewal fee.

32 Any person who has been duly licensed as a funeral di-
33 rector or as an embalmer under the laws of this state but
34 who fails to renew his license within one year after the
35 expiration date for renewals, may file an application for a
36 renewal of his license, without examination, upon pay-
37 ment of a penalty of twenty-five dollars and the required
38 renewal fee.

39 A funeral director or an embalmer whose license has
40 lapsed one year or more shall make application to the
41 board for a new license in compliance with the provisions
42 of this act relating to unlicensed persons.

43 Any person who has been duly licensed as an assistant
44 funeral director and fails to renew his license within
45 ninety days after the expiration date for renewals may
46 file an application for renewal of his license upon payment
47 of a penalty of two dollars and the required renewal fee.
48 Otherwise, after the said period of ninety days, his license
49 will automatically be cancelled.

50 All fees collected under the provisions of this act shall
51 be paid to the treasurer of the board and by him deposited
52 monthly with the state treasurer. Such fees shall be used
53 for the purpose of defraying the necessary expenses and
54 per diem of said board in the administration of this act.
55 It shall be the duty of said board on or before the first
56 Monday in July of each year to make a report in writing
57 to the governor containing a detailed statement of the
58 nature and amount of its receipts and the amount and
59 manner of its expenditures; any balance of money re-
60 maining at the end of the year after the payment of the
61 necessary expenses, including the salary of the secretary,
62 the per diem, traveling expenses, and other expenses inci-
63 dent to the proper discharge of their duties by the mem-
64 bers and employees of said board, shall remain in the
65 treasury of the state in the general fund.

Sec. 7. *Refusal to Grant or Renew, Suspension or Re-
2 vocation of License or Certificate of Registration.*—The
3 board may either refuse to issue, or may refuse to renew
4 or may suspend, or may revoke any license, or certificate
5 of registration issued by it for any one or combination of
6 the following causes:

7 (a) The practice of fraud or deceit in obtaining or at-
8 tempting to obtain a license or a certificate of registration;

9 (b) Conviction of a felony as shown by a certified copy
10 of the record of the court of conviction;

11 (c) Violation of any of the provisions of this act or
12 the public health laws of this state;

13 (d) The board shall publish in its rules and regulations
14 the subjects to be covered in the said examination and the
15 standards to be attained thereon. Changes in the rules
16 and regulations shall be published and be given due pub-
17 licity at least ninety days before becoming effective;

18 (e) The use of misleading advertising by any licensee
19 or applicant for a license or certificate of registration;

20 (g) Upon satisfactory proof that a licensed embalmer
21 or a licensed funeral director has taken undue advantage
22 of his patrons or has committed a fraudulent act in the
23 conduct of his business;

24 (h) Solicitation of business by the licensee, his agents,
25 assistants or employees, whether such solicitation occurs
26 after death or while death is impending: *Provided*, That
27 this shall not be deemed to prohibit proper advertising;

28 (i) If the applicant therefor or holder thereof know-
29 ingly permits an unlicensed person to engage in the pro-
30 fession or business of embalming or funeral directing un-
31 der his supervision;

32 (j) Employment by the licensee of persons known as
33 "cappers", "steerers" or "solicitors", or other such per-
34 sons to obtain funeral directing business;

35 (k) Employment directly or indirectly of any appren-
36 tice, agent, assistant, embalmer, employee or other per-
37 son, on part or full time, or on commission, for the pur-
38 pose of calling upon individuals or institutions by whose
39 influence dead human bodies may be turned over to a
40 particular funeral director;

41 (l) The buying of business by the licensee, his agents,
42 assistants, or employees, or the direct or indirect payment
43 or offer of payment of a commission by the licensee, his
44 agent, assistants, or employees for the purpose of securing
45 business;

46 (m) Gross immorality;

47 (n) If the applicant therefor or holder thereof has been
48 guilty of habitual drunkenness or is addicted to the use of
49 morphine, cocaine or other habit forming drugs.

Sec. 8. *Duty of Public Officers, Physicians, etc., as to*
2 *Disposition of Body of Deceased Person; Penalty for Vio-*
3 *lation of Section; Hearings on Refusing, Suspending, or*

4 *Revoking Licenses; Appeals from Decision of Board; Pen-*
5 *alty for Engaging in Business Without License; Purpose*
6 *of Act.*—No public officer, employee, physician or sur-
7 geon, or any other person having a professional relation-
8 ship with the deceased, shall send, or cause to be sent, to
9 any funeral director, undertaker, mortician or embalmer,
10 the body of any deceased person without having first
11 made due inquiry as to the desires of the next kin, or
12 any persons who may be chargeable with the funeral ex-
13 penses of such deceased person; and if any such kin or
14 person can be found, his authority and direction shall be
15 received as to the disposal of said corpse.

16 Any person who shall violate the provisions of this
17 section shall be deemed guilty of a misdemeanor, and,
18 upon conviction, shall be fined not less than twenty-five
19 dollars, nor more than three hundred dollars, or im-
20 prisoned not less than ten days nor more than ninety
21 days, or both.

22 The board may make investigations, subpoena wit-
23 nesses, administer oaths, and conduct hearings.

24 No order refusing, suspending, or revoking a license
25 shall be made until after a public hearing conducted by
26 the board.

27 At least twenty days prior to the date of hearing, the
28 board shall send a written notice of the time and place of
29 such hearing to the applicant, together with a statement
30 of the charges against him, by mailing the same to the
31 last known address of such person.

32 The testimony presented and the proceedings had at
33 such hearings shall be taken in shorthand, at the expense
34 of the board, and preserved as records of the board. The
35 board shall as soon thereafter as possible make its findings
36 in determination thereof, and send a copy to each inter-
37 ested party.

38 Any person who has been refused a license for any
39 cause or whose license has been revoked or suspended,
40 may file with the secretary of the board, within thirty
41 days after the decision of the board, a written notice of
42 appeal therefrom to the circuit court of the county within
43 which such person whose license has been refused, re-
44 voked or suspended resides. Upon the filing of such no-

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.
11. Provisions severable.
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
2 the term “face-amount certificate” shall mean any certifi-
3 cate, investment contract, or other security which repre-
4 sents an obligation on the part of its issuer to pay a stated
5 or determinable sum or sums at a fixed or determinable
6 date or dates more than twenty-four months after the
7 date of issuance in consideration of the payment of peri-
8 odic installments of a stated or determinable amount; or
9 any security which represents a similar obligation on the
10 part of its issuer, the consideration for which is the pay-
11 ment of a single lump sum.

12 All other terms used herein shall have their respective
13 meanings as provided in section two, article one of this
14 chapter.

Sec. 2. *When Certificates Exempt from Registration.*
2 —Face-amount certificates issued by a person licensed and
3 supervised by the insurance commissioner of this state
4 shall be exempt from registration under the provisions of
5 this article.

Sec. 3. *Restriction on Sale.*—No face-amount certifi-
2 cates, except those exempt under the provisions of sec-
3 tion two hereof, shall be sold within this state unless

4 such face-amount securities shall have been registered as
5 hereinafter provided.

Sec. 4. *Registration of Certificates.*—Face-amount cer-
2 tificates shall be registered hereunder by the filing of an
3 application with the commissioner by the issuer or by any
4 dealer properly registered under the provisions of section
5 twelve, article one of this chapter: *Provided*, That the
6 issuer of such certificates is registered under the provi-
7 sions of an act of Congress entitled "Investment Company
8 Act of 1940". Such application is to be in the form pre-
9 scribed by the commissioner. With each such application
10 there shall be filed a certified copy of the registration
11 statement which was filed by the issuer of such certifi-
12 cates with the securities and exchange commission pur-
13 suant to the provisions of section eight of the said "In-
14 vestment Company Act of 1940".

15 The commissioner may require that the applicant file
16 with him such additional data and information respecting
17 the issuer as he shall deem necessary and pertinent to
18 registration hereunder.

19 The commissioner shall have power and authority to
20 place such conditions, limitations and restrictions on any
21 registration as may be necessary to carry out the pur-
22 poses of this article.

Sec. 5. *Fees for Registration.*—At the time of filing
2 the application mentioned in section four of this article,
3 the applicant shall pay to the commissioner a fee of one-
4 twentieth of one per cent of the aggregate face-amount
5 of the certificates to be sold in this state for which the
6 applicant is seeking registration, but in no case shall such
7 fee be less than twenty-five dollars, nor more than three
8 hundred dollars.

Sec. 6. *Expiration of Registration; Re-registration.*—
2 Every registration under this article shall expire on the
3 thirtieth day of June in each year. New registrations for
4 the succeeding year shall be issued upon written appli-
5 cation, the applicant furnishing the commissioner, upon
6 request, information as hereinbefore provided, and paying
7 the commissioner a fee on the basis specified in section

8 five of this article on the aggregate face-amount of the
9 certificates to be sold in this state within the year to be
10 authorized by registration. Applications for renewal reg-
11 istration must be made not less than thirty days before
12 the first day of the ensuing registration year, otherwise
13 they shall be treated as original applications.

Sec. 7. *Nonresident Issuer to File with Application for
2 Registration Written Appointment of State Auditor as
3 Attorney in Fact; Service and Acceptance of Process.*—
4 When any issuer of face-amount certificates shall not be
5 domiciled in this state, he shall file with every applica-
6 tion for registration hereunder (whether such application
7 be made by the issuer in person or by or through a regis-
8 tered dealer) his irrevocable written appointment of the
9 state auditor, or his successor in office, to be his true and
10 lawful attorney in fact, who may accept, or upon whom
11 may be served, any lawful process or pleading in any ac-
12 tion or proceeding against him, in any court of record in
13 this state, and such filing shall constitute his consent that
14 any such process or pleading against him, which is prop-
15 erly served upon the state auditor or is accepted by the
16 state auditor, shall be of the same legal force and validity
17 as process or pleading duly served upon said issuer in this
18 state. In case any process or pleading is served upon the
19 state auditor, or accepted by him, such service shall be
20 made in duplicate, one copy of which shall be filed in the
21 office of the state auditor and the other immediately for-
22 warded by registered mail to the principal office of the
23 issuer against whom such process or pleading is directed.

Sec. 8. *Sales to Be Made Only by Registered Dealers.*—
2 Face-amount certificates shall be offered for sale and sold
3 in this state only by dealers and salesmen registered with
4 the commissioner under the provisions of section twelve,
5 article one of this chapter.

Sec. 9. *Violations; Penalties.*—Any person subject to
2 the provisions of this article, who shall sell or offer for
3 sale any face-amount certificates within this state without
4 complying with the provisions of this article, or who
5 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-
ter twenty of the code of West Virginia, one thousand nine
hundred thirty-one, as last amended by chapter sixty-four,
acts of the Legislature, regular session, one thousand nine
hundred thirty-nine, relating to the sale of game, birds,
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 and Frogs.

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
2 person shall purchase or offer to purchase, sell or offer to
3 sell, expose for sale, or have in his possession for the
4 purpose of sale:

5 1. Any, or any part of, elk, deer, raccoon, squirrel, rab-
6 bit, wild turkey, ruffed grouse, quail, woodcock, wild duck,
7 wild goose, wild swan, wild brant, snipe, sandpiper, or any
8 of the song or insectivorous birds of the state, except as
9 permitted by section twelve-a, article three of this
10 chapter.

11 2. Any, or any part of, trout of any species, salmon of
12 any species, pike of any species, pike, perch or wall-eyed
13 pike, bass of any species, perch of any species, pickerel of
14 any species, or any frogs, caught or captured within this
15 state, except as permitted by section thirteen, article
16 six of this chapter.

17 No person, including a common carrier, shall (except
18 as permitted by section thirteen, article six of this chap-
19 ter) transport, carry or convey, or receive for such pur-
20 pose, any of the animals or birds, or of the fish or frogs,
21 listed under (1) and (2) above, caught or killed in this
22 state, if such person knows, or has reason to believe, that
23 such animals, birds, fish or frogs have been or are to be
24 sold.

25 The selling or exposing for sale, having in possession
26 for sale, transporting or carrying in violation of this sec-
27 tion shall each constitute a separate offense.

28 The director may extend the application of this section
29 to animals, birds, fish or frogs not listed under (1) or (2)
30 above, if he finds that such additional species require the
31 protection accorded by this section.

32 The provisions of this section shall not apply to ani-
33 mals, birds, fish or frogs raised under the authority of a
34 license issued in accordance with section twelve-a of
35 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.
9. Provisions of act severable.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Citation of Act.*—This act may be referred to
- 2 as the "Housing Cooperation Law".

- Sec. 2. *Declaration of Legislative Purpose and Necessity for Act.*—It has been found and declared in the
- 3 "Housing Authorities Law" (chapter ninety-three, acts of
 - 4 the Legislature, second extraordinary session, one thou-
 - 5 sand nine hundred thirty-three) that there exist in the
 - 6 state unsafe and unsanitary housing conditions and a

7 shortage of safe and sanitary dwelling accommodations
8 for persons of low income; that these conditions neces-
9 sitate excessive and disproportionate expenditures of pub-
10 lic funds for crime prevention and punishment, public
11 health and safety, fire and accident protection, and other
12 public services and facilities; and that the public interest
13 requires the remedying of these conditions. It is hereby
14 found and declared that the assistance herein provided for
15 the remedying of the conditions set forth in the "Housing
16 Authorities Law" constitutes a public use and purpose and
17 an essential governmental function for which public
18 moneys may be spent, and other aid given; that it is a
19 proper public purpose for any state public body to aid any
20 housing authority operating within its boundaries or jur-
21 isdiction or any housing project located therein, as the
22 state public body derives immediate benefits and ad-
23 vantages from such an authority or project; and that the
24 provisions hereinafter enacted are necessary in the pub-
25 lic interest.

Sec. 3. *Definitions.*—The following terms, whenever
2 used or referred to in this act, shall have the following
3 respective meanings, unless a different meaning clearly
4 appears from the context:

5 "Housing authority" shall mean any housing author-
6 ity created pursuant to chapter ninety-three, acts of the
7 Legislature, second extraordinary session, one thousand
8 nine hundred thirty-three, and any amendments thereto.

9 "Housing project" shall mean any work or undertak-
10 ing of a housing authority pursuant to such chapter, and
11 any amendments thereto, or any similar work or under-
12 taking of the federal government.

13 "State public body" shall mean any city, town, village,
14 county, municipal corporation, commission, district, au-
15 thority, other subdivision or public body of the state.

16 "Governing body" shall mean the council, board, com-
17 mission, or other body having charge of the fiscal affairs
18 of a state public body.

19 "Federal government" shall include the United States of
20 America, the United States housing authority, or any

21 other agency or instrumentality, corporate or otherwise,
22 of the United States of America.

Sec. 4. *Powers Conferred Upon State Public Bodies.*—

2 For the purpose of aiding and cooperating in the plan-
3 ning, undertaking, construction or operation of housing
4 projects located within the area in which it is authorized
5 to act, any state public body may, upon such terms, with
6 or without consideration, as it may determine:

7 Dedicate, sell, convey or lease any of its interest in any
8 property, or grant easements, licenses or any other rights
9 or privileges therein to a housing authority or the federal
10 government;

11 Cause parks, playgrounds, recreational, community, ed-
12 ucational, water, sewer or drainage facilities, or any other
13 works which it is otherwise empowered to undertake, to
14 be furnished adjacent to or in connection with housing
15 projects;

16 Furnish, dedicate, close, pave, install, grade, regrade,
17 plan or replan streets, roads, roadways, alleys, sidewalks
18 or other places which it is otherwise empowered to un-
19 dertake;

20 Plan or replan, zone or rezone any part of such state
21 public body; make exceptions from building regulations
22 and ordinances; any city or town also may change its map;

23 Cause services to be furnished to the housing authority
24 of the character which such state public body is other-
25 wise empowered to furnish;

26 Enter into agreements with respect to the exercise by
27 such state public body of its powers relating to the repair,
28 closing or demolition of unsafe, insanitary, or unfit
29 dwellings;

30 Employ (notwithstanding the provisions of any
31 other law) any funds belonging to or within the
32 control of such state public body, including funds de-
33 rived from the sale or furnishing of property or facili-
34 ties to a housing authority, in the purchase of the
35 bonds or other obligations of a housing authority; and
36 exercise all the rights of any holder of such bonds
37 or other obligations;

38 Do any and all things necessary or convenient to aid

39 and cooperate in the planning, undertaking, construc-
40 tion or operation of such housing project;

41 Incur the entire expense of any public improvements
42 made by such state public body in exercising the powers
43 granted in this act; and

44 Enter into agreements (which may extend over any
45 period, notwithstanding any provision or rule of law to
46 the contrary), with a housing authority respecting ac-
47 tion to be taken by such state public body pursuant to
48 any of the powers granted by this act. Any law or
49 statute to the contrary notwithstanding, any sale, con-
50 veyance, lease or agreement provided for in this section
51 may be made by a state public body without appraisal,
52 public notice, advertisement or public bidding.

Sec. 5. *City or County May Lend or Donate Money to*
2 *Housing Authority.*—Any city or county located in whole
3 or in part within the area of operation of a housing au-
4 thority shall have the power from time to time to lend or
5 donate money to such authority. A housing authority,
6 when it has money available therefor, shall make reim-
7 bursements for all such loans made to it.

Sec. 6. *How Exercise of Powers Granted to State Pub-*
2 *lic Body Authorized.*—The exercise by a state public body
3 of the powers herein granted may be authorized by reso-
4 lution of the governing body of such state public body
5 adopted by a majority of the members of its governing
6 body present at a meeting of said governing body, which
7 resolution may be adopted at the meeting at which such
8 resolution is introduced. Such a resolution or resolutions
9 shall take effect immediately and need not be laid over
10 or published or posted.

Sec. 7. *Section Repealed.*—Section thirteen, chapter
2 ninety-three, acts of the Legislature of West Virginia, sec-
3 ond extraordinary session, one thousand nine hundred
4 thirty-three, is hereby repealed.

Sec. 8. *Additional Powers Conferred.*—The powers con-
2 ferred by this act shall be in addition and supplemental
3 to the powers conferred by any other law.

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 son or circumstances, is held invalid, the remainder of the
6 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 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-three, 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.
- 16. Repealed.
- 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.
- 29. Provisions severable.

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,
- 2 wherever used or referred to in this act, shall have the
 - 3 following respective meanings, unless a different mean-
 - 4 ing clearly appears from the context:
 - 5 (a) "Governing body" shall mean, in the case of a city,
 - 6 the council of the city, and in the case of a county, the
 - 7 commissioners of the county court.
 - 8 (b) "Clerk" shall mean the clerk of the city or city
 - 9 recorder or the clerk of the county, as the case may be,
 - 10 or the officer charged with the duties customarily imposed
 - 11 on such clerk or recorder.
 - 12 (c) "Area of operation": (1) In the case of a housing
 - 13 authority of a city, shall include such city and the area
 - 14 within five miles from the territorial boundaries thereof,

15 provided that the area of operation of a housing author-
16 ity of any city shall not include any area which lies
17 within the territorial boundaries of some other city; (2)
18 in the case of a housing authority of a county, shall in-
19 clude all of the county except that portion which lies
20 within the territorial boundaries of any city.

21 (d) "Persons of low income" shall mean persons or
22 families who lack the amount of income which is neces-
23 sary (as determined by the authority undertaking the
24 housing project) to enable them without financial assist-
25 ance to live in decent, safe and sanitary dwellings, with-
26 out overcrowding; and the term "persons of low income"
27 shall include "farmers of low income" as herein defined.

28 (e) "Farmers of low income" shall mean persons or
29 families who at the time of their admission to occupancy
30 in a dwelling of the authority: (1) Live under unsafe
31 and insanitary housing conditions; (2) derive their prin-
32 cipal income from operating or working upon a farm;
33 and (3) had an aggregate average annual net income for
34 the three years preceding their admission that was less
35 than the amount determined by the authority to be
36 necessary, within its area of operation, to enable them,
37 without financial assistance, to obtain decent, safe and
38 sanitary housing.

39 (f) "Bonds" shall mean any bonds, notes, interim
40 certificates, debentures, or other obligations issued by
41 an authority pursuant to this act.

42 (g) "Obligee of the authority" or "obligee" shall in-
43 clude any bondholder, trustee or trustees for any bond-
44 holders, or lessor demising to an authority property used
45 in connection with a housing project, or any assignee or
46 assignees of such lessor's interest or any part thereof, and
47 the federal government when it is a party to any con-
48 tract with the authority.

Sec. 3. *City and County Housing Authorities Created;*
2 *When to Transact Business or Exercise Powers; Deter-*
3 *mination of Need for Housing Authority; Resolution of*
4 *Governing Body Proof of Establishment; Appointment*
5 *of Commissioners; Term; Removal.*—In each city and in
6 each county there is hereby created a public body corpor-

7 ate and politic to be known as the "Housing Authority"
8 of the city or county: *Provided, however,* That such au-
9 thority shall not transact any business or exercise its
10 powers hereunder until or unless the governing body of
11 the city or the county, as the case may be, by proper reso-
12 lution, shall determine at any time hereafter that there
13 is need for an authority to function in such city or county:
14 *And provided further,* That nothing contained herein
15 shall be construed as creating an additional housing au-
16 thority in a city where a housing authority has been
17 created pursuant to the provisions of chapter ninety-
18 three, acts of the Legislature of West Virginia, second
19 extraordinary session, one thousand nine hundred thirty-
20 three, but each such housing authority created pursuant
21 to said chapter ninety-three shall continue as a public
22 body corporate and politic as though created pursuant to
23 this act and shall have the area of operation defined in
24 section one-a for a housing authority of a city.

25 With respect to the provisions of other sections of this
26 act and their application to housing authorities of coun-
27 ties, the term "city" shall be construed as referring to a
28 county unless a different meaning clearly appears from
29 the context.

30 The determination as to whether or not there is such
31 need for an authority to function (a) may be made by
32 the governing body on its own motion or (b) shall be
33 made by the governing body upon the filing of a peti-
34 tion signed by twenty-five residents of the city or county,
35 as the case may be, asserting that there is need for an
36 authority to function in such city or county and request-
37 ing that the governing body so declare. The governing
38 body shall adopt a resolution declaring that there is need
39 for a housing authority in the city or county, as the case
40 may be, if it shall find (a) that insanitary or unsafe in-
41 habited dwelling accommodations exist in such city or
42 county or (b) that there is a shortage of safe or san-
43 itary dwelling accommodations in such city or county
44 available to persons of low income at rentals they can
45 afford. In determining whether dwelling accommoda-
46 tions are unsafe or insanitary the governing body may

47 take into consideration the degree of overcrowding, the
48 percentage of land coverage, the light, air, space and ac-
49 cess available to the inhabitants of such dwelling accom-
50 modations, the size and arrangement of the rooms, the
51 sanitary facilities, and the extent to which conditions
52 exist in such buildings which endanger life or property
53 by fire or other cause.

54 In any suit, action or proceeding involving the validity
55 or enforcement of or relating to any contract of the au-
56 thority, the authority shall be conclusively deemed to
57 have become established and authorized to transact busi-
58 ness and exercise its powers hereunder upon proof of the
59 adoption of a resolution by the governing body declar-
60 ing the need for the authority. Such resolution shall be
61 deemed sufficient if it declares that there is such need for
62 an authority and finds in substantially the foregoing terms
63 (no further detail being necessary) that either or both
64 of the above-enumerated conditions exist in the city or
65 county, as the case may be. A copy of such resolutions
66 duly certified by the clerk shall be admissible in evidence
67 in any suit, action or proceeding.

68 When the governing body of a city adopts a resolution
69 as aforesaid, it shall promptly notify the mayor of such
70 adoption. Upon receiving such notice, the mayor shall ap-
71 point five persons as commissioners of the authority cre-
72 ated for said city. When the governing body of a county
73 adopts a resolution as aforesaid, said body shall appoint
74 five persons as commissioners of the authority created
75 for said county. The commissioners who are first ap-
76 pointed shall be designated to serve for terms of one,
77 two, three, four and five years, respectively, from the date
78 of their appointment, but thereafter commissioners shall
79 be appointed as aforesaid for a term of office of five years,
80 except that all vacancies shall be filled for the unexpired
81 term. No commissioner of an authority may be an officer
82 or employee of the city or county for which the author-
83 ity is created. A commissioner shall hold office until his
84 successor has been appointed and has qualified, unless
85 sooner removed according to this act. A certificate of
86 the appointment or reappointment of any commissioner

87 shall be filed with the clerk and such certificate shall be
88 conclusive evidence of the due and proper appointment
89 of such commissioner. A commissioner shall receive no
90 compensation for his services, but he shall be entitled to
91 the necessary expenses, including traveling expenses, in-
92 curred in the discharge of his duties.

93 For inefficiency or neglect of duty or misconduct in of-
94 fice, a commissioner of an authority may be removed by
95 the mayor (or in the case of an authority for a county,
96 by the governing body of such county), but a commis-
97 sioner shall be removed only after he shall have been
98 given a copy of the charges at least ten days prior to
99 the hearing thereon and had an opportunity to be heard
100 in person or by counsel. In the event of the removal of
101 any commissioner, a record of the proceedings, together
102 with the charges and findings thereon, shall be filed in
103 the office of the clerk. The powers of each authority shall
104 be vested in the commissioners thereof in office from
105 time to time.

2 *Sec. 5. Organization, Officers and Employees of the Au-*
3 *thority.*—As soon as possible after the establishment of
4 an authority the commissioners shall organize for the
5 transaction of business by choosing from among their
6 number a chairman and a vice chairman and by adopting
7 by-laws and rules and regulations suitable to the pur-
8 poses of this act. Three commissioners shall constitute a
9 quorum for the purpose of organizing the authority and
10 conducting the business thereof. The commissioners shall,
11 from time to time, select and appoint such officers and
12 employees, including engineering, architectural and legal
13 assistants, as they may require for the performance of
14 their duties, and shall prescribe the duties and compen-
sation of each officer and employee.

2 *Sec. 7-a. Power to Include in Contracts Requirements*
3 *as to Wages and Hours of Labor, and Compliance with*
4 *Conditions of Federal Government Attached to Financial*
5 *Aid.*—A housing authority, in addition to its other pow-
6 ers, shall have power (notwithstanding anything to the
contrary contained in this act or in any other provision

7 of law) to include in any contract let in connection with
8 a project, stipulations requiring that the contractor and
9 any subcontractors comply with requirements as to min-
10 imum wages and maximum hours of labor, and comply
11 with any conditions which the federal government may
12 have attached to its financial aid of the project.

Sec. 7-b. *Joint Undertakings by Authorities.*—Any two
2 or more authorities may join or cooperate with one an-
3 other in the exercise of any or all of their powers for the
4 purpose of financing, planning, undertaking, constructing
5 or operating a housing project or projects located within
6 the area of operation of any one or more such authorities.

Sec. 12. *Report to Mayor or County Governing Body*
2 —At least once a year, an authority shall file with the
3 mayor (or with the governing body in the case of a hous-
4 ing authority of a county) a report of its activities for
5 the preceding year, and shall make recommendations with
6 reference to such additional legislation or other action as
7 it deems necessary in order to carry out the purposes of
8 this act.

Sec. 16. *Repealed.*—Section sixteen is hereby repealed.

Sec. 20. *Policy of State as to Rentals.*—It is hereby de-
2 clared to be the policy of this state that each housing au-
3 thority shall manage and operate its housing projects in
4 an efficient manner so as to enable it to fix the rentals
5 for dwelling accommodations at the lowest possible rates
6 consistent with its providing decent, safe and sanitary
7 dwelling accommodations, and that no housing authority
8 shall construct or operate any such project for profit, or
9 as a source of revenue to the city or county. To this end
10 an authority shall fix the rentals for dwellings in its proj-
11 ects at no higher rates than it shall find to be necessary in
12 order to produce revenues which (together with all other
13 available moneys, revenues, income and receipts of the
14 authority from whatever sources derived) will be suffi-
15 cient to pay, as the same become due, the principal and
16 interest on the bonds of the authority; to meet the cost
17 of, and to provide for, maintaining and operating the proj-

18 ects (including the cost of any insurance) and the admin-
19 istrative expenses of the authority; and to create (during
20 not less than six years immediately succeeding its issu-
21 ance of any bonds) a reserve sufficient to meet the largest
22 principal and interest payments which will be due on
23 such bonds in any one year thereafter and to maintain
24 such reserve.

Sec. 21. *Duties of Authority as to Rentals and Tenant*
2 *Selection.*—In the operation or management of housing
3 projects an authority shall at all times observe the follow-
4 ing duties with respect to rentals and tenant selection:
5 (a) It may rent or lease the dwelling accommodations
6 therein only to persons of low income and at rentals
7 within the financial reach of such persons; (b) it may rent
8 or lease to a tenant dwelling accommodations consisting
9 of the number of rooms (but no greater number) which it
10 deems necessary to provide safe and sanitary accommo-
11 dations to the proposed occupants thereof, without over-
12 crowding; and (c) it shall not accept any person or per-
13 sons (other than farmers of low income, as herein de-
14 fined) as tenants in any housing project if the person or
15 persons who would occupy the dwelling accommodations
16 have an aggregate annual net income in excess of five
17 times the annual rental of the quarters to be furnished
18 such person or persons, except that in the case of such
19 person or persons with three or more minor dependents,
20 such ratio shall not exceed six to one; in computing the
21 rental for the purpose of selecting tenants, there shall
22 be included in the rental the average annual cost (as de-
23 termined by the authority) to occupants of heat, water,
24 electricity, gas, cooking range and other necessary serv-
25 ices or facilities, whether or not the charge for such serv-
26 ices and facilities is in fact included in the rental.

27 Nothing contained in this or the preceding section shall
28 be construed as limiting the power of an authority to vest
29 in an obligee the right, in the event of a default by the
30 authority, to take possession of a housing project or cause
31 the appointment of a receiver thereof, free from all the
32 restrictions imposed by this or the preceding section.

Sec. 22. Power to Issue Bonds; How Bonds Secured.—

2 An authority shall have power to issue bonds from time
3 to time, in its discretion, for any of its corporate purposes.
4 An authority shall also have power to issue or exchange
5 refunding bonds for the purpose of paying, retiring, ex-
6 tending or renewing bonds previously issued by it. An
7 authority may issue such types of bonds as it may deter-
8 mine, including (without limiting the generality of the
9 foregoing) bonds on which the principal and interest are
10 payable from income and revenues of the authority and
11 from grants or contributions from the federal government
12 or other source. Such income and revenues securing the
13 bonds may be: Exclusively the income and revenues of
14 the housing project financed in whole or in part with the
15 proceeds of such bonds; exclusively the income and rev-
16 enues of certain designated housing projects, whether or
17 not they are financed in whole or in part with the pro-
18 ceeds of such bonds; or the income and revenues of the
19 authority generally. Any such bonds may be addition-
20 ally secured by a pledge of any income or revenues of the
21 authority, or a mortgage of any housing project, proj-
22 ects or other property of the authority.

*Sec. 23. Bonds; Interest Rate and Life; Forms; Denom-
2 inations; Redemption; How Payable; Sale; Signatures of
3 Commissioners or Officers; Validity.—*Bonds of an author-
4 ity shall be authorized by its resolution and may be issued
5 in one or more series and shall bear such date or dates,
6 mature at such time or times, bear interest at such rate
7 or rates, not exceeding six per cent per annum, be in such
8 denomination or denominations, be in such form, either
9 coupon or registered, carry such conversion or registration
10 privileges, have such rank or priority, be executed in
11 such manner, be payable in such medium of payment, at
12 such place or places, and be subject to such terms of re-
13 demption (with or without premium) as such resolution,
14 its trust indenture or mortgage may provide.

15 The bonds shall be sold at not less than par at pub-
16 lic sale held after notice published once at least five days
17 prior to such sale in a newspaper having a general circu-
18 lation in the city or county and in a financial newspaper

19 published in the city of New York, New York: *Provided,*
20 *however,* That such bonds may be sold to the federal gov-
21 ernment at private sale at not less than par and, in the
22 event less than all of the bonds authorized in connection
23 with any project or projects are sold to the federal gov-
24 ernment, the balance of such bonds may be sold at pri-
25 vate sale at not less than par at an interest cost to the
26 authority of not to exceed the interest cost to the author-
27 ity of the portion of the bonds sold to the federal gov-
28 ernment.

29 In case any of the commissioners or officers of the au-
30 thority whose signatures appear on any bonds or coupons
31 shall cease to be such commissioners or officers before
32 the delivery of such bonds, such signatures shall, never-
33 theless, be valid and sufficient for all purposes, the same
34 as if they had remained in office until such delivery.
35 Any provisions of any law to the contrary notwithstand-
36 ing, any bonds issued pursuant to this act shall be nego-
37 tiable.

38 In any suit, action or proceedings involving the validity
39 or enforceability of any bond of an authority or the secur-
40 ity therefor, any such bond reciting in substance that it
41 has been issued by the authority to aid in financing a
42 housing project to provide dwelling accommodations for
43 persons of low income shall be conclusively deemed to
44 have been issued for a housing project of such character,
45 and said project shall be conclusively deemed to have
46 been planned, located and constructed in accordance with
47 the purposes and provisions of this act.

Sec. 24. *Powers of Authority in Connection with the*
2 *Issuance of Bonds, Incurring Obligations and Securing*
3 *Payment of Same.*—In connection with the issuance of
4 bonds or the incurring of obligations under leases and in
5 order to secure the payment of such bonds or obligations,
6 any authority, in addition to its other powers shall have
7 power:

8 To pledge all or any part of its gross or net rents, fees
9 or revenues to which its right then exists or may there-
10 after come into existence.

11 To mortgage all or any part of its real or personal prop-
12 erty, then owned or thereafter acquired.

13 To covenant against pledging all or any part of its rents,
14 fees and revenues, or against mortgaging all or any part
15 of its real or personal property, to which its right or
16 title then exists or may thereafter come into existence or
17 against permitting or suffering any lien on such revenues
18 or property; to covenant with respect to limitations on its
19 right to sell, lease or otherwise dispose of any housing
20 project or any part thereof; and to covenant as to what
21 other, or additional debts or obligations may be incurred
22 by it.

23 To covenant as to the bonds to be issued and as to the
24 issuance of such bonds or otherwise, and as to the issu-
25 ance of such bonds in escrow or otherwise and as to the
26 use and disposition of the proceeds thereof; to provide
27 for the replacement of lost, destroyed or mutilated bonds;
28 to covenant against extending the time for the payment
29 of its bonds or interest thereon; and to redeem the bonds,
30 and to covenant for their redemption and to provide the
31 terms and conditions thereof.

32 To covenant (subject to the limitations contained in
33 this act) as to the rents and fees to be charged in the
34 operation of a housing project or projects, the amount to
35 be raised each year or other period of time by rents, fees,
36 and other revenues, and as to the use and disposition to
37 be made thereof; to create or to authorize the creation of
38 special funds for moneys held for construction or operat-
39 ing costs, debt service, reserves, or other purposes, and to
40 covenant as to the use and disposition of the moneys held
41 in such funds.

42 To prescribe the procedure, if any, by which the terms
43 of any contract with bondholders may be amended or
44 abrogated, the amount of bonds the holders of which must
45 consent thereto and the manner in which such consent
46 may be given.

47 To covenant as to use of any or all of its real or per-
48 sonal property; and to covenant as to the maintenance of
49 its real and personal property, the replacement thereof,

50 the insurance to be carried thereon and the use and dis-
51 position of insurance moneys.

52 To covenant as to the rights, liabilities, powers and du-
53 ties arising upon the breach by it of any covenant, con-
54 dition, or obligation; and to covenant and prescribe as to
55 events of default and terms and conditions upon which
56 any or all of its bonds or obligations shall become or may
57 be declared due before maturity, and as to the terms and
58 conditions upon which such declaration and its conse-
59 quences may be waived.

60 To vest in a trustee or trustees or the holders of bonds
61 or any proportion of them the right to enforce the pay-
62 ment of the bonds or any covenants securing or relating
63 to the bonds; to vest in a trustee or trustees the right, in
64 the event of a default by said authority, to take possession
65 and (so long as the authority shall continue in default)
66 to retain such possession and to use, operate and manage
67 any housing project or part thereof, and to collect the
68 rents and revenues arising therefrom and to dispose of
69 such moneys in accordance with the agreement of the
70 authority with said trustees; to provide for the powers
71 and duties of a trustee or trustees and to limit the liabil-
72 ities thereof; and to provide the terms and conditions upon
73 which the trustee or trustees or the holders of bonds or
74 any proportion of them may enforce any covenant or
75 rights securing or relating to the bonds.

76 To exercise all or any part or combination of the pow-
77 ers herein granted; to make covenants other than and in
78 addition to the covenants herein expressly authorized, of
79 like or different character; to make such covenants and to
80 do any and all such acts and things as may be necessary
81 or convenient or desirable in order to secure its bonds, or,
82 in the absolute discretion of said authority, as will tend
83 to make the bonds more marketable notwithstanding that
84 such covenants, acts or things may not be enumerated
85 herein.

Sec. 25. *Actions by Obligee of Authority to Enforce Per-*
2 *formance of Contracts and Covenants, and to Enjoin Un-*
3 *lawful Acts.*—An obligee of an authority shall have the
4 right in addition to all other rights which may be con-

5 ferred on such obligee, subject only to any contractual
6 restrictions binding upon such obligee:

7 By mandamus, suit, action or proceeding at law or in
8 equity to compel said authority and the commissioners,
9 officers, agents or employees thereof to perform each and
10 every term, provision and covenant contained in any con-
11 tract of said authority with or for the benefit of such
12 obligee, and to require the carrying out of any or all such
13 covenants and agreements of said authority and the ful-
14 fillment of all duties imposed upon said authority by this
15 act.

16 By suit, action or proceeding in equity, to enjoin any
17 acts or things which may be unlawful, or the violation of
18 any of the rights of such obligee of said authority.

*Sec. 26. Possession of Project by Obligee Upon Default
2 by Authority; Appointment of Receiver; Accounting.—*
3 An authority shall have power by its resolution, trust in-
4 denture, mortgage, lease or other contract to confer upon
5 any obligee holding or representing a specified amount in
6 bonds, or holding a lease, the right (in addition to all
7 rights that may otherwise be conferred), upon the hap-
8 pening of an event of default as defined in such resolu-
9 tion or instrument, by suit, action or proceeding in any
10 court of competent jurisdiction:

11 To cause possession of any housing project or any part
12 thereof to be surrendered to any such obligee which pos-
13 session may be retained by such bondholder or trustee so
14 long as the authority shall continue in default.

15 To obtain the appointment of a receiver of any housing
16 project of said authority or any part thereof and of the
17 rents and profits therefrom. If such receiver be appointed,
18 he may enter and take possession of such housing project
19 or any part thereof and (so long as the authority shall
20 continue in default) operate and maintain same, and col-
21 lect and receive all fees, rents, revenues, or other charges
22 thereafter arising therefrom, and shall keep such moneys
23 in a separate account or accounts and apply the same in
24 accordance with the obligations of said authority as the
25 court shall direct.

26 To require said authority and the commissioners thereof

27 to account as if it and they were the trustees of an express
28 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.
9. Provisions of act severable.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Declaration of Legislative Purpose.*—It is
- 2 hereby found and declared that the national defense pro-
 - 3 gram involves large increases in the military forces and

4 personnel in this state, a great increase in the number of
5 workers in already established manufacturing centers,
6 and the bringing of a large number of workers and their
7 families to new centers of defense industries in the state;
8 that there is an acute shortage of safe and sanitary dwell-
9 ings available to such persons and their families in this
10 state which impedes the national defense program; that it
11 is imperative that action be taken immediately to assure
12 the availability of safe and sanitary dwellings for such
13 persons to enable the rapid expansion of national defense
14 activities in this state and to avoid a large labor turnover
15 in defense industries which would seriously hamper their
16 production; that the provisions hereinafter enacted are
17 necessary to assure the availability of safe and sanitary
18 dwellings for persons engaged in national defense activ-
19 ities which otherwise would not be provided at this time;
20 and that such provisions are for the public use and pur-
21 pose of facilitating the national defense program in this
22 state. It is further declared to be the purpose of this act
23 to authorize housing authorities to do any and all things
24 necessary or desirable to secure the financial aid of the
25 federal government, or to cooperate with or act as agent
26 of the federal government, in the expeditious develop-
27 ment and the administration of projects to assure the
28 availability when needed of safe and sanitary dwellings
29 for persons engaged in national defense activities.

2 *Sec. 2. Housing Authorities Authorized to Develop and*
3 *Administer Safe and Sanitary Housing for Persons En-*
4 *gaged in National Defense Activities.*—Any housing au-
5 thority may undertake the development and administra-
6 tion of projects to assure the availability of safe and san-
7 itary dwellings for persons engaged in national defense
8 activities whom the housing authority determines would
9 not otherwise be able to secure safe and sanitary dwell-
10 ings within the vicinity thereof, but no housing authority
11 shall initiate the development of any such project pursu-
12 ant to this act after December thirty-first, one thousand
13 nine hundred forty-three.

13 In the ownership, development or administration of
14 such projects, a housing authority shall have all the rights,

15 powers, privileges and immunities that such authority has
16 under any provision of law relating to the ownership, de-
17 velopment or administration of slum clearance and hous-
18 ing projects for persons of low income, in the same man-
19 ner as though all the provisions of law applicable to slum
20 clearance and housing projects for persons of low income
21 were applicable to projects developed or administered to
22 assure the availability of safe and sanitary dwellings for
23 persons engaged in national defense activities as provided
24 in this act, and housing projects developed or admin-
25 istered hereunder shall constitute "projects" as that term
26 is used in chapter ninety-three, acts of the Legislature of
27 West Virginia, second extraordinary session, one thousand
28 nine hundred thirty-three, and any amendments thereto:
29 *Provided*, That during the period (herein called the "Na-
30 tional Defense Period") that a housing authority finds
31 (which finding shall be conclusive in any suit, action or
32 proceeding) that within its authorized area of operation,
33 or any part thereof, there is an acute shortage of safe
34 and sanitary dwellings which impedes the national de-
35 fense program in this state, and that the necessary safe
36 and sanitary dwellings would not otherwise be provided
37 when needed for persons engaged in national defense ac-
38 tivities, any project developed or administered by such
39 housing authority (or by any housing authority cooperat-
40 ing with it) in such area pursuant to this act, with the
41 financial aid of the federal government (or as agent for
42 the federal government as hereinafter provided), shall
43 not be subject to the rentals and tenant selection limita-
44 tions contained in any other act: *And provided further*,
45 That during the national defense period, a housing au-
46 thority may make payments in such amounts as it finds
47 necessary or desirable for any services, facilities, works
48 privileges or improvements furnished for or in connec-
49 tion with any such projects. In the development or the
50 administration of projects hereunder, or in otherwise
51 carrying out the purposes hereof, a housing authority of
52 a city may exercise its powers within the territorial
53 boundaries of said city and an area within five miles from
54 said boundaries excluding the area within the territorial

55 boundaries of any other city which has heretofore estab-
56 lished a housing authority. After the national defense pe-
57 riod, any such projects owned and administered by a
58 housing authority shall be administered for the purposes
59 and in accordance with the provisions of chapter ninety-
60 three, acts of the Legislature of West Virginia, second
61 extraordinary session, one thousand nine hundred thirty-
62 three, and any amendments thereto, except as otherwise
63 provided in the preceding sentence of this section two.

Sec. 3. *Exercise of Housing Authority Powers in Coop-*
2 *erating with Federal Government in National Defense*
3 *Projects; Sale of Low Cost Housing Projects to Govern-*
4 *ment.*—A housing authority may exercise any or all of
5 its powers for the pupose of cooperating with, or acting
6 as agent for, the federal government in the development
7 or administration of projects by the federal government
8 to assure the availability of safe and sanitary dwellings
9 for persons engaged in national defense activities, and
10 may undertake the development or administration of any
11 such project for the federal government. In order to as-
12 sure the availability of safe and sanitary housing for per-
13 sons engaged in national defense activities, a housing au-
14 thority may sell (in whole or in part) to the federal gov-
15 ernment any housing project developed for persons of low
16 income but not yet occupied by such persons; such sale
17 shall be at such price and upon such terms as the housing
18 authority shall prescribe, and shall include provision for
19 the satisfaction of all debts and liabilities of the authority
20 relating to such project.

Sec. 4. *Rights and Powers of Public Bodies to Cooperate*
2 *with Housing Authorities.*—Any city, county or other
3 public body shall have the same rights and powers to co-
4 operate with housing authorities, or with the federal gov-
5 ernment, with respect to the development or administra-
6 tion of projects to assure the availability of safe and san-
7 itary dwellings for persons engaged in national defense
8 activities, that such city, county or other public body has
9 under any provisions of law for the purpose of assisting
10 the development or administration of slum clearance or
11 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-

5 partments assigned to duty at military or naval reserva-
6 tions, posts or bases; and workers engaged or to be en-
7 gaged in industries connected with and essential to the na-
8 tional defense program; and shall include the families of
9 the aforesaid persons who are living with them.

10 (b) "Development", as used in this act, shall mean any
11 and all undertakings necessary for the planning, land
12 acquisition, demolition, financing, construction or equip-
13 ment in connection with a project (including the nego-
14 tiation or award of contracts therefor), and shall include
15 the acquisition of any project (in whole or in part) from
16 the federal government.

17 (c) "Administration", as used in this act, shall mean
18 any and all undertakings necessary for management,
19 operation or maintenance, in connection with any project,
20 and shall include the leasing of any project (in whole or
21 in part) from the federal government.

22 (d) "Federal Government", as used in this act, shall
23 mean the United States of America or any agency or
24 instrumentality, corporate or otherwise, of the United
25 States of America.

26 (e) The development of a project shall be deemed to
27 be "initiated", within the meaning of this act, if a housing
28 authority has issued any bonds, notes or other obligations
29 with respect to financing the development of such project
30 of the authority, or has contracted with the federal gov-
31 ernment with respect to the exercise of powers hereunder
32 in the development of such project of the federal govern-
33 ment for which an allocation of funds has been made prior
34 to December thirty-first, one thousand nine hundred
35 forty-three.

36 (f) "Housing Authority", as used in this act, shall mean
37 any housing authority established or hereafter established
38 pursuant to chapter ninety-three, acts of the Legislature
39 of West Virginia, second extraordinary session, one thou-
40 sand nine hundred thirty-three, and any amendments
41 thereto.

Sec. 8. Additional and Supplemental Powers Conferred.

2 —The powers conferred by this act shall be in addition
3 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*
2 *by Life Insurance Companies.*—Life insurance companies,
3 organized or chartered under the laws of this state or
4 having their principal place of business herein, may main-
5 tain a deposit in securities with the state treasurer, the

6 par value of which shall not be less than two hundred
7 thousand dollars, in trust, for the protection of policy-
8 holders generally of such company. When such deposit
9 is maintained with the state treasurer, and upon applica-
10 tion by the company, the insurance commissioner shall
11 issue apt and proper certificates specifying the nature
12 and description of such securities and stating in such cer-
13 tificate that the deposit is held by the state treasurer, in
14 trust, for the protection of policyholders generally of such
15 company. The securities deposited as required herein
16 may be substituted by the company with others of like
17 kind and quality, or withdrawn, upon approval of such
18 substitution or withdrawal by the insurance commis-
19 sioner, in writing, and filed with the state treasurer. In-
20 terest or dividends accruing on such deposit shall be re-
21 leased by the state treasurer to the company making such
22 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
2 organized under the provisions of this chapter, or or-
3 ganized under the laws of any other state and having a

4 license to do business in this state, and which has com-
5 plied with the provisions of this article, may become
6 surety of any person for the performance of any official
7 duty required by law, or of any person or corporation on
8 any bond or undertaking required in any proceeding in
9 any court, and/or of any person, persons, corporation or
10 corporations on any bond, writing or obligation for the
11 performance of any promise, duty or undertaking of
12 whatsoever terms or description, and/or may make con-
13 tracts and issue policies of insurance guaranteeing title
14 of, and freedom from liens of, any property, real or per-
15 sonal, and/or issue policies of insurance against loss
16 from any cause, other than by death of any person or by
17 fire: *Provided*, That any indemnity company may by its
18 charter be restricted to engaging in any one or more of
19 the branches of business above outlined.

20 Except as otherwise provided by law, any indemnity
21 company may prescribe such terms and conditions for
22 entering into any contract or undertaking and make such
23 charges for any such service as the officers thereof shall
24 deem advisable: *Provided, however*, That in the exercise
25 of any of the powers enumerated above, including any
26 prescribed terms and conditions for entering into any
27 contract or undertaking, there shall be no distinction or
28 discrimination in favor of individuals of the same class
29 or between risks of essentially the same hazard in this
30 state on account of race, creed or color.

31 The insurance commissioner shall have such powers and
32 authority, in respect to enforcement of the provisions of
33 this section, as are conferred upon him in chapter thirty-
34 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
2 person who is not of the full age of twenty-one years
3 but who is of the age, as determined by the nearest
4 birthday, of not less than fifteen years, shall be deemed
5 competent to contract for life insurance upon the life of
6 such minor, for the benefit of such minor or for the
7 benefit of the father, mother, husband, wife, brother or
8 sister, child or children, or any grandparent of such
9 minor, and to exercise and enjoy every right, privilege
10 and benefit provided by any life insurance contract on
11 the life of such minor, subject to the foregoing limita-
12 tions 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.*—

- 2 (1) No policy of group accident or group health or group
3 accident and health insurance and no certificate there-
4 under, shall be issued or delivered in this state unless
5 the master policy contains in substance the provisions
6 specified in paragraphs (a) to (o) following:
7 (a) A provision that no statement made by the appli-
8 cant or applicants for insurance shall void the insurance
9 or reduce benefits thereunder unless contained in the
10 written application signed by the applicant; and a pro-
11 vision that no agent has authority to change the policy
12 or to waive any of its provisions and that no change in
13 the policy shall be valid unless approved by an officer
14 of the insurer and evidenced by endorsement on the
15 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

57 intervals as the insurer may reasonably require, and that
58 in the case of claim for any other loss, written proof
59 of such loss must be furnished to the insurer within
60 ninety days after the date of such loss. Failure to furnish
61 such proof within such time shall not invalidate nor
62 reduce any claim if it shall be shown not to have been
63 reasonably possible to furnish such proof and that such
64 proof was furnished as soon as was reasonably possible;
65

66 (j) A provision that the insurer will furnish to the
67 policyholder such forms as are usually furnished by it
68 for filing proof of loss. If such forms are not furnished
69 before the expiration of fifteen days after the insurer
70 receives notice of any claim under the policy, the person
71 making such claim shall be deemed to have complied with
72 the requirements of the policy as to proof of loss upon
73 submitting within the time fixed in the policy for filing
74 proof of loss, written proof covering the occurrence,
75 character and extent of the loss for which claim is
76 made;

77 (k) A provision that the insurer shall have the right
78 and opportunity to examine the person of the insured
79 when and so often as it may reasonably require during
80 the pendency of claim under the policy and also the
81 right and opportunity to make an autopsy in case of
82 death where it is not prohibited by law;

83 (l) A provision that all benefits payable under the
84 policy other than benefits for loss of time will be payable
85 not more than sixty days after receipt of proof, and
86 that, subject to due proof of loss, all accrued benefits
87 payable under the policy for loss of time will be paid
88 not later than at the expiration of each period of thirty
89 days during the continuance of the period for which the
90 insurer is liable, and that any balance remaining unpaid
91 at the termination of such period will be paid immediately
91-a upon receipt of such proof;

92 (m) In any master policy providing benefits payable
93 after death, a provision shall be contained in each certificate
94 issued thereunder that an employee or member insured
95 may designate a beneficiary; and change his designation
96 of beneficiary by written request filed with the

97 insurer: *Provided however*, That this requirement shall
98 not apply to group volunteer fire department policies and
99 other similar forms of group insurance where the premium
100 is payable annually in advance and such forms have been
101 approved by the insurance commissioner;

102 (n) A provision that no action at law or in equity
103 shall be brought to recover on the policy prior to the
104 expiration of sixty days after proof of loss has been filed
105 in accordance with the requirements of the policy and
106 that no such action shall be brought at all unless brought
107 within two years from the expiration of the time within
108 which proof of loss is required by the policy;

109 (o) A provision that if any time limitation in the
110 policy with respect to giving notice of claim or furnishing
111 proof of loss or bringing action on the policy is less than
112 that permitted by the laws governing the question of such
113 limitation, such limitation is extended to agree with the
114 minimum period permitted by such laws.

115 (2) No policy of group accident, or group health or
116 group accident and health insurance and no certificate
117 thereunder, shall be issued or delivered in this state, if
118 such policy or certificate contains any provision incon-
119 sistent with any of the provisions of this section, except
120 that the commissioner may approve any provision in any
121 such policy or certificate which in his opinion is more
122 favorable to policyholders or certificateholders than the
123 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
2 of such report, the commissioner shall make a valuation
3 of all outstanding policies, additions thereto, unpaid
4 dividends and all other obligations of such company. All
5 valuations made by him or by his authority shall be made
6 upon the net premium basis, according to the standard
7 of valuations adopted by the company for the obligations
8 to be valued: *Provided*, That in every case the standard
9 of valuation employed shall be stated in his annual report.
10 Any company may adopt different standards for obliga-
11 tions of different dates or classes, but if the total value
12 determined by any such standard for the obligations for
13 which it has been adopted shall be less than that de-
14 termined by the legal minimum standard hereinafter
15 prescribed, or if the company adopt no standard, said
16 legal minimum standard shall be used. The commis-
17 sioner may vary the standards of interest and mortality
18 in the case of corporations from foreign countries and in
19 particular cases of invalid lives and other extra hazards,
20 and value policies in groups, use approximate averages
21 for fractions of a year or otherwise, and calculate values
22 by net premiums or otherwise, and accept the valuation
23 of the department of insurance of any other state in place
24 of the valuation herein required if the insurance officer of
25 such state accepts as sufficient and valid for all purposes
26 the certificate of valuation of the insurance commissioner
27 of this state. Policies issued by companies doing business
28 in this state may provide for not more than one year pre-
29 liminary term insurance: *Provided, however*, That if the
30 premium charged for term insurance under a limited pay-
31 ment life preliminary term policy providing for the pay-
32 ment of all premiums thereof in less than twenty years
33 from the date of the policy, or under an endowment pre-
34 liminary term policy, exceeds that charged for like insur-
35 ance under twenty payment life preliminary term policies

36 of the same company, the reserve thereon at the end of
37 any year, including the first, shall not be less than the re-
38 serve on a twenty payment life preliminary term policy
39 issued in the same year and at the same age, together with
40 an amount which shall be equivalent to the accumulation
41 of a net level premium sufficient to provide for a pure en-
42 dowment at the end of the premium payment period,
43 equal to the difference between the value at the end of
44 such period of such a twenty payment life preliminary
45 term policy and a full reserve at such time of such a lim-
46 ited payment life or endowment policy. The legal mini-
47 mum standard for contracts issued before the first day of
48 January, in the year one thousand nine hundred one, shall
49 be actuaries' or combined experience table of mortality
50 with interest at four per cent per annum, and for con-
51 tracts issued on or after said date shall be the "American
52 Experience Table" of mortality with interest at three and
53 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 twenty-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.]

Article 1. Petit Jurors.

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.
2. Rules and regulations.
3. Pay and allowances.
4. Arms and equipment; use of state armories, etc.
5. Service limited to state; exception as to fresh pursuit; person apprehended in other state to be surrendered to authorities in that state.
6. Military forces of other states to continue fresh pursuit into this state.
7. Act not authority for drafting forces into federal service; enlistment not exemption.
8. Civil organizations, etc., not to be enlisted as unit.
9. Disqualifications.
10. Oath of officers.
11. Term of enlistment; oath of enlisted men.
12. Articles of war to apply as to court martial, etc.; freedom from arrest; jury duty.
13. Provisions of act severable.
14. Inconsistent acts repealed.
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-*

2 *tain West Virginia State Guard.*—Whenever any part of
3 the national guard of this state is in active federal serv-
4 ice, the governor is hereby authorized to organize and
5 maintain within this state during such period, under such
6 regulations as the secretary of war of the United States
7 may prescribe for discipline in training, such military
8 forces as the governor may deem necessary to defend this
9 state. Such forces shall be composed of officers commis-
10 sioned or assigned, and such able-bodied male citizens of
11 the state as shall volunteer for service therein, supple-
12 mented, if necessary, by men of the reserve militia en-
13 rolled by draft or otherwise as provided by law. Such
14 forces shall be additional to and distinct from the national
15 guard and shall be known as the "West Virginia State
16 Guard". Such forces shall be uniformed.

Sec. 2. *Rules and Regulations.*—The governor is hereby
2 authorized to prescribe rules and regulations not incon-
3 sistent with the provisions of this act governing the en-
4 listment, organization, administration, equipment, mainte-
5 nance, training and discipline of such forces: *Provided,*
6 That such rules and regulations, in so far as he deems
7 practicable and desirable, shall conform to existing law
8 governing and pertaining to the national guard and the
9 rules and regulations promulgated thereunder, and shall
10 prohibit the acceptance of gifts, donations, gratuities or
11 anything of value by such forces or by any member of
12 such forces from any individual, firm, association, or
13 corporation by reason of such membership.

Sec. 3. *Pay and Allowances.*—The pay for officers and
2 enlisted men of the West Virginia state guard for service
3 at camps of instruction, rifle practice, practice marches
4 and maneuvers, or other duties ordered by the governor,
5 shall be such as are provided in the national defense act
6 or amendments thereto. Officers and enlisted men, when
7 employed in the actual service of the state, as defined and
8 provided in this article, beginning on the day they as-
9 sembled at their armories or other designated places, until
10 the day they have returned thereto and been properly re-
11 lieved, inclusive, fractional parts of a day counting as a

12 full day, shall receive the same pay and allowances as
13 provided for officers and enlisted men in the West Vir-
14 ginia national guard.

Sec. 4. *Arms and Equipment; Use of State Armories, Etc.*—For use of such forces, the governor is hereby au-
2
3 thorized to requisition from the secretary of war such
4 arms and equipment as may be in possession of and can
5 be spared by the war department; and to make available
6 to such forces the facilities of state armories and their
7 equipment and such other state premises and property as
8 may be available.

Sec. 5. *Service Limited to State; Exception as to Fresh Pursuit; Person Apprehended in Other State to Be Surrendered to Authorities in That State.*—Such forces shall
2
3 not be required to serve outside the boundaries of this
4 state. Except that any organization, unit or detachment
5 of such forces, upon order of the officer in immediate com-
6 mand thereof, may continue in fresh pursuit of insurrec-
7 tionists, saboteurs, enemies or enemy forces beyond the
8 borders of this state into another state until they are ap-
9 prehended or captured by such organization, unit or de-
10 tachment or until the military or police forces of the other
11 state or the forces of the United States have had a reason-
12 able opportunity to take up the pursuit or apprehend or
13 capture such persons: *Provided*, That such other state
14 shall have given authority by law for such pursuit by such
15 forces of this state. Any such person who shall be ap-
16 prehended or captured in such other state by an organiza-
17 tion, unit or detachment of the forces of this state shall
18 without unnecessary delay be surrendered to the military
19 or police forces of the state in which he is taken or to the
20 United States, but such surrender shall not constitute a
21 waiver by this state of its right to extradite or prosecute
22 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
2
3 forces or organization, unit or detachment thereof, of an-
4 other state, who are in fresh pursuit of insurrectionists,
5 saboteurs, enemies or enemy forces, may continue such

6 pursuit into this state until the military or police forces
7 of this state or the forces of the United States have had
8 a reasonable opportunity to take up the pursuit or to ap-
9 prehend or capture such persons and are hereby author-
10 ized to arrest or capture such persons within this state
11 while in fresh pursuit. Any such person who shall be cap-
12 tured or arrested by the military forces of such other
13 state while in this state shall, without unnecessary delay,
14 be surrendered to the military or police forces of this
15 state to be dealt with according to law. This section shall
16 not be construed so as to make unlawful any arrest in
17 this state which would otherwise be lawful, and nothing
18 contained in this section shall be deemed to repeal any
19 of the provisions of the uniform act on the fresh pursuit
20 of criminals.

Sec. 7. *Act Not Authority for Drafting Forces into Fed-
2 eral Service; Enlistment Not Exemption.*—Nothing in this
3 act shall be construed as authorizing such forces, or any
4 part thereof, to be called, ordered or in any manner
5 drafted as such, into the military service of the United
6 States, but no person shall by reason of his enlistment or
7 commission in any such forces be exempted from military
8 service under any law of the United States.

Sec. 8. *Civil Organizations, Etc., Not to Be Enlisted as
2 Unit.*—No civil organization, society, club, post, order,
3 fraternity, association, brotherhood, body, union, league,
4 or other combination of persons or civil group shall be
5 enlisted in such forces as an organization or unit.

Sec. 9. *Disqualifications.*—No person shall be commis-
2 sioned or enlisted in such forces who is not a citizen of
3 the United States or who has been expelled or dishonor-
4 ably discharged from any military or naval organization
5 of this state, or of another state, or of the United States.

Sec. 10. *Oath of Officers.*—The oath to be taken by
2 officers commissioned in such forces shall be substantially
3 in the form prescribed for officers of the national guard,

4 substituting the words "West Virginia State Guard"
5 where necessary.

Sec. 11. *Term of Enlistment; Oath of Enlisted Men.*—

2 No person shall be enlisted for more than one year but
3 such enlistment may be renewed. The oath to be taken
4 upon enlistment in such forces shall be substantially in
5 the form prescribed for enlisted men of the national
6 guard, substituting the words "West Virginia State
7 Guard" where necessary.

Sec. 12. *Articles of War to Apply as to Court Martial,*

2 *Etc.; Freedom from Arrest; Jury Duty.*—(a) Whenever
3 such forces or any part thereof shall be ordered out for
4 active service the articles of war of the United States ap-
5 plicable to members of the national guard of this state
6 in relation to courts martial, their jurisdiction and the
7 limits of punishment and the rules and regulations pre-
8 scribed thereunder shall be in full force and effect with
9 respect to the West Virginia state guard.

10 (b) No officer or enlisted man of such forces shall be
11 arrested on any warrant, except for treason or felony,
12 while going to, remaining at, or returning from a place
13 where he is ordered to attend for military duty. Every
14 officer and enlisted man of such forces shall, during his
15 service therein, be exempt from service upon any posse
16 comitatus and from jury duty.

Sec. 13. *Provisions of Act Severable.*—If any provision

2 of this act or the application thereof to any person or cir-
3 cumstances is held invalid, such invalidity shall not affect
4 other provisions or applications of the act which can be
5 given effect without the invalid provision or application,
6 and to this end the provisions of this act are declared to
7 be severable.

Sec. 14. *Inconsistent Acts Repealed.*—All acts and parts

2 of acts inconsistent with the provisions of this act are
3 hereby repealed.

Sec. 15. *Citation of Act.*—This act may be cited as the

2 "West Virginia State Guard Act".

CHAPTER 60

(House Bill No. 115—By Mr. Hudson)

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.]

Article 11. Leave of Absence for Public Officers Entering Military Service.

Section

1. Persons entitled to leave.
2. Period of replacement appointment.
3. Limitations.
4. Provisions of article retroactive.
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 hold-
- 2 ing any office or position of public trust, responsibility or
 - 3 service, elective or appointive, in the government of this
 - 4 state or in any county, municipality or any other unit or
 - 5 combined unit of government therein, who may enter the
 - 6 military, naval, marine corps or coast guard service of the
 - 7 United States of America, may obtain a leave of absence
 - 8 from such office or position and, upon the completion of
 - 9 and discharge from any of such armed services, shall have
 - 10 the right to reassume for the unexpired or remaining term

11 thereof, the office or position held by such person at the
12 time of entering any of such armed services. The officer,
13 court, tribunal, board or person having the power to
14 make an original appointment to such office or position,
15 or to make an appointment to fill a vacancy therein, shall,
16 upon request, grant such leave of absence. The reas-
17 sumption of any office or position as herein provided
18 shall be without any prejudice whatsoever to the status,
19 merit rating or standing of the holder thereof by reason
20 of his absence therefrom while in the aforesaid armed
21 services of the United States.

Sec. 2. *Period of Replacement Appointment.*—When-
2 ever the holder of any such public office or position en-
3 ters any of the services mentioned in section one hereof
4 and another is named to perform the duties of said per-
5 son's office or position, such other person shall not be
6 named for a period longer than the period served by the
7 holder of such office in the aforesaid armed services of
8 the United States.

Sec. 3. *Limitations.*—This article shall not be construed:
2 (a) As any attempt to enlarge or to extend the length
3 of term of any such public office or position or to create
4 a definite term where no definite term with respect to
5 such office or position has heretofore existed.
6 (b) As providing that the salary or wages payable to
7 any person holding any such public office or position
8 and performing the duties thereof shall be paid to such
9 person when not performing said duties because of such
10 service in the armed forces of the United States.

Sec. 4. *Provisions of Article Retroactive.*—The provi-
2 sions of this article shall be retroactive as to all such per-
3 sons who have entered the armed services of the United
4 States since July one, one thousand nine hundred forty.

Sec. 5. *Provisions of Article Severable.*—If any part or
2 section of this article shall be declared unconstitutional
3 or invalid by any court, such declaration shall not affect
4 any other part or section hereof.

CHAPTER 61

(House Bill No. 369—By Mr. Speaker, Mr. Arnold)

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.]

Article 3. State Council of Defense.

Section

1. Establishment of state council of defense.
2. Appointment of members; governor chairman of council; employees; expenses; offices.
3. Powers and duties.
4. Utilization of existing services and facilities.
5. Local councils of defense.
6. District councils of defense.
7. Separability of provisions.

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 adding thereto a new article, to be designated article three, to read as follows:

Section 1. *Establishment of State Council of Defense.*—

- 2 The governor is hereby authorized and empowered in
- 3 time of emergency or public need in the nation or the
- 4 state to create by proclamation a "State Council of De-
- 5 fense", hereinafter designated as the "Council", for the
- 6 general purpose of assisting in the coordination of the
- 7 state and local activities related to national and state de-
- 8 fense. Whenever he deems it expedient, the governor may,
- 9 by proclamation, dissolve or suspend such council or re-
- 10 establish it after any such dissolution or suspension.

Sec. 2. *Appointment of Members; Governor Chairman of Council; Employees; Expenses; Offices.*—The council

3 shall consist of seven members to be appointed by and
4 with the advice and consent of the senate. The members
5 of the council shall hold office during the will and pleasure
6 of the governor. The governor shall serve as chairman
7 of the council. He shall designate one of the members of
8 the council as vice chairman. Appointment of members
9 shall be made without reference to political affiliation and
10 with reference to their special knowledge of industry,
11 agriculture, consumer protection, labor, education, health,
12 welfare, or other subjects relating to national or state de-
13 fense.

14 The council may, with the approval of the governor, em-
15 ploy such technical, clerical, stenographic, and other per-
16 sonnel, and fix their compensation, and may make such
17 expenditures within the appropriation therefor, or other
18 funds made available to it, as are necessary to carry out
19 the purposes of this act.

20 The members of the council shall serve without com-
21 pensation, but may be reimbursed for their actual and
22 necessary traveling and other expenses incurred in con-
23 nection with attendance upon meetings of the council.

24 The council shall be provided with appropriate office
25 space, furniture, equipment, supplies, stationery, and
26 printing in the same manner as other state agencies are
27 supplied.

Sec. 3. *Powers and Duties.*—The "Council" shall have
2 the following powers and duties:

3 (a) To adopt, amend, and repeal rules, regulations,
4 and by-laws governing its procedure and activities.

5 (b) To cooperate with the "Advisory Commission to
6 the Council of National Defense" through its division
7 of state and local cooperation, or with any similar federal
8 agencies hereafter created, and with any departments or
9 other federal agencies engaged in defense activities.

10 (c) To cooperate with similar councils of defense in
11 other states.

12 (d) To cooperate with local defense councils.

13 (e) To supervise and direct investigations, and report
14 to the governor with recommendations for legislation or
15 other appropriate action as it may deem necessary, with

16 respect to the following matters insofar as they are or
17 may be related to defense:

- 18 (1) Industrial materials and facilities.
- 19 (2) Production and manufacturing facilities.
- 20 (3) Agriculture, food supply, and land use.
- 21 (4) Transportation facilities.
- 22 (5) Labor supply and training, labor relations, and
23 human resources, professions, trades, and skills.
- 24 (6) Consumers and consumer protection.
- 25 (7) Housing and related facilities.
- 26 (8) Health, hospitals, and sanitation facilities.
- 27 (9) Welfare.
- 28 (10) Educational facilities.
- 29 (11) Recreational areas and facilities.
- 30 (12) Finance.
- 31 (13) Civil liberties, including but without limitation,
32 the protection thereof, maintenance of law and order,
33 and measures to guard against sabotage and subversive
34 activities.
- 35 (14) Civil defense, including police mobilization, co-
36 ordinated for fire protection, and disaster relief.
- 37 (15) Any other type of activity directly or indirectly
38 related to defense.
- 39 (f) To create committees, either within or without its
40 membership, to aid it in the discharge of its powers and
41 duties.
- 42 (g) To require and direct the cooperation and assist-
43 ance of state and local governmental agencies and of-
44 ficials.
- 45 (h) To make full investigation as to all questions di-
46 rectly or indirectly relating to the powers or duties vested
47 in it by this act, or by any other law.
- 48 (i) To do all acts and things, not inconsistent with
49 law, for the furtherance of defense activities.

Sec. 4. *Utilization of Existing Services and Facilities.*—

2 In order to avoid duplication of services and facilities
3 the "Council" and the local and district councils of de-
4 fense established under the authority of this act are:

- 5 (a) Directed to utilize the services and facilities of
6 existing officers, offices, departments, commissions,

7 boards, and bureaus, institutions and other agencies of
8 the state and of the political subdivisions thereof; and

9 (b) All such officers and agencies shall cooperate with
10 and extend their services and facilities to the council and
11 to the local and district councils of defense as they shall
12 request.

Sec. 5. *Local Councils of Defense.*—Each political sub-
2 division of the state may establish a local council of
3 defense by the proclamation of the executive officer or
4 governing body thereof. Local councils of defense, if
5 and when established, shall cooperate with and assist the
6 council, and shall perform such services as may be re-
7 quested by it. Local councils may act jointly with other
8 such councils. Insofar as applicable, local councils shall
9 have the same power and duties within their respective
10 jurisdictions as are vested in the council. Such local
11 councils shall terminate or cease activity whenever the
12 council is dissolved or suspended.

Sec. 6. *District Councils of Defense.*—In cooperation
2 with local officials the council is authorized to establish
3 district councils of defense in critical areas of the state
4 of especial importance in defense activities. Such dis-
5 trict councils shall act as coordinating agencies under
6 the supervision and direction of the council, and in
7 cooperation with local governmental agencies.

Sec. 7. *Separability of Provisions.*—If any provision of
2 this act, or the application of such provision to any per-
3 son or circumstance is held invalid, the remainder of
4 the act and the application of such provision to other
5 persons or circumstances shall not be affected thereby.

—C—

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

13 and under his immediate supervision and direction, as
14 apprentices, for the purposes of learning and being in-
15 structed in the duties and business of mining. For the
16 purposes of this act the term "coal miner" or "miner" shall
17 mean all underground workers in bituminous coal mines,
18 except as hereinafter provided. The term "captive coal
19 mine", for purposes of this act, shall include all mines
20 owned and operated by any person, firm or corporation
21 directly or through a subsidiary which consumes its own
22 production.

Sec. 2. *Miners' Examining Boards.*—The chief of the
2 department of mines with the approval of the governor,
3 shall appoint as many miners' examining boards as may be
4 deemed necessary, not exceeding five in number, each
5 board to be composed of two practical and experienced
6 miners, one of whom shall be a negro, and one coal mine
7 operator, and not more than two members of each board
8 shall belong to the same political party, who shall hold
9 office at the pleasure of the appointing power, and in
10 making such appointments consideration shall be given
11 to the various regions of the state in which bituminous
12 coal mines are located. The boards first appointed shall
13 have the authority to issue to their respective members
14 the certificates of competency required by this act without
15 examination: *Provided, however,* That an applicant who
16 has been engaged in the occupation of mining coal in this
17 state at least one year prior to the passage of this act, who
18 makes affidavit that he has been so employed before a
19 person authorized to administer oaths in this state and
20 files such affidavit together with written application for a
21 certificate by mail with the examining board, shall not
22 be required to pass such examination, but must pay a fee
23 of one dollar and be given a certificate, but no certificate
24 of service shall be issued after the first day of April, one
25 thousand nine hundred forty-two.

26 Each miners' examining board shall organize by the
27 selection of a chairman and a secretary from its member-
28 ship. All records, reports, books and papers of the board
29 shall be kept by the secretary, who shall also be furnished
30 with a seal of the chief of the department of mines. Each

31 member of a miners' examining board shall be entitled to
32 a compensation of ten dollars and hotel and traveling ex-
33 penses for each day of seven hours necessarily employed
34 in the discharge of his duties, which compensation shall
35 be paid out of the "miners' examining fund" provided for
36 under section four of this act.

37 The number of miners' examining boards may be re-
38 duced in the discretion of the chief of the department of
39 mines, after the first day of March, one thousand nine
40 hundred forty-two, when the miners now engaged in the
41 bituminous coal regions have been examined.

Sec. 3. *Examinations by Boards; Records.*—The several
2 miners' examining boards shall hold examinations at such
3 times and places prior to the thirty-first day of March, one
4 thousand nine hundred forty-two, as the chief of the de-
5 partment of mines may designate, and thereafter shall
6 meet at least once each month in each mine inspection
7 district at such places as the chief of the department of
8 mines may designate, so that all persons in the state, or
9 who wish to come into the state to engage in coal mining,
10 may be examined as to their competency and qualifica-
11 tions. Public notice of the time and place of examinations
12 shall be given through the press or otherwise, in the dis-
13 cretion of the board, not less than seven days in advance
14 of the date of examination.

15 Each board shall keep an accurate record of its proceed-
16 ings and meetings and in said record shall show a correct
17 detailed account of the examination of each applicant,
18 with questions asked and their answers. Such records
19 shall be open to the public inspection.

Sec. 4. *Fee for Examination.*—Each applicant for exam-
2 ination shall pay to the miners' examining board a fee of
3 one dollar. All fees collected by miners' examining boards
4 shall be promptly transmitted to the chief of the depart-
5 ment of mines and by him paid into the state treasury
6 and credited to a special fund to be known as the "miners'
7 examination certificate fund", and shall be expended for
8 the purpose of carrying out the provisions of this act upon
9 requisitions drawn by the chief of the department of
10 mines.

Sec. 5. *Examinations to Be Practical; Certificates Not*

2 *Transferable; How Certificates to Be Issued.*—All exam-
3 inations held by miners' examining boards shall be con-
4 ducted in the English language and shall be of a prac-
5 tical nature, so as to determine the competency and
6 qualifications of the applicant to engage in the mining of
7 bituminous coal. A board shall examine under oath all
8 applicants as to their previous experience in mines. Each
9 member of a board shall have power to administer oaths,
10 and any wilfully false statement made by an applicant
11 under oath shall be deemed perjury. Certificates granted
12 by a board shall entitle the holder thereof to be employed
13 as and to do the work of miners in the bituminous mines
14 of this state. No certificate shall issue unless the applicant
15 produces evidence of having had not less than one year's
16 practical experience as a miner or as an apprentice with a
17 miner. A certificate shall not be granted unless the appli-
18 cant appears in person before the board and answers
19 orally, intelligently and correctly at least twelve practi-
20 cal questions propounded to him.

21 A certificate granted by a board shall not be transfer-
22 able and a transfer shall be deemed a violation of this act.
23 Certificates shall issue only at meetings of a board and
24 shall be signed by at least two members of a board, and
25 sealed with the seal of the board.

Sec. 6. *After April First, One Thousand Nine Hundred*

2 *Forty-two, Miner Required to Have Certificate.*—No per-
3 son shall, after the first day of April, one thousand nine
4 hundred forty-two, engage as a miner, other than as an
5 apprentice, in any commercial or captive bituminous coal
6 mine in this state, without first having obtained a certifi-
7 cate of competency and qualification as provided for in
8 this act, except as hereinbefore stated, nor shall any per-
9 son, firm or corporation, or his, or its agent, employ as a
10 miner any person who does not hold such certificate, ex-
11 cept as aforesaid.

12 Any person feeling aggrieved by any ruling of the
13 miners' examining board, regarding the refusal, or grant-
14 ing of a coal miner's certificate, may appeal therefrom

15 by certiorari to the circuit court of the county where
16 the applicant resides.

17 All persons possessing certificates of qualification is-
18 sued by the department of mines of this state, entitling
19 them to act as mine foremen, assistant mine foremen,
20 or fire boss, shall be eligible to engage at any time as
21 miners in bituminous mines of this state. Supervisory
22 and technically trained employees of the operator, whose
23 work contributes only indirectly to mine operations,
24 shall not be required to possess a miners' certificate.

Sec. 7. *Rules and Regulations.*—The chief of the de-
2 partment of mines, together with the examining boards,
3 may adopt such rules and regulations as are deemed
4 necessary for the purpose of carrying out the provisions
5 of this act.

Sec. 8. *Penalties; Inconsistent Acts Repealed.*—Any
2 person, firm or corporation violating any of the provisions
3 of this act shall, upon conviction, be sentenced to pay a
4 fine of not less than twenty-five dollars, nor more than
5 one hundred dollars, and in default in the payment of
6 such fine and costs, shall be imprisoned in the county jail
7 for a period not exceeding thirty days.

8 Sections fifty-two-a, fifty-two-b, fifty-two-c and fifty-
9 two-d, article two, chapter twenty-two of the code of
10 West Virginia, one thousand nine hundred thirty-one,
11 as enacted by chapter eighty-two, acts of the Legisla-
12 ture, regular session, one thousand nine hundred thirty-
13 nine, and all other acts, or parts of acts inconsistent or in
14 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
2 inspectors shall report in writing, weekly, to the chief of
3 the department of mines, the number and condition of
4 all mines inspected by him during each week, and shall
5 deliver to the operator or operators of each mine inspected
6 a certificate of inspection, and shall post a duplicate cer-
7 tificate at a prominent place of the operating company
8 where it may conveniently be read by any of the mine
9 employees. The duplicate shall remain posted until a sub-
10 sequent certificate is issued by the mine inspector. A
11 mine inspector appointed for a particular district shall
12 visit each mine in his district at least once in every three
13 months unless prevented by unavoidable circumstances,
14 or oftener if called upon in writing by ten men engaged
15 in any one mine, or by the owner, operator or superin-
16 tendent of such mine, and make a personal examination
17 of each working place, and also entrances to abandoned
18 parts of the mine where gas is liberated, and outside of
19 the mine where any danger may exist to the workmen in
20 their respective districts, and shall particularly examine
21 into the condition of the mine as to ventilation, drainage
22 and general safety, and shall make a report of such ex-
23 amination, and he shall see that all provisions of the min-
24 ing statutes, requirements of the department of mines
25 and written instructions of the mine inspectors, are strictly
26 carried out.

Sec. 10. *Mine Rescue Stations; Equipment.*—The chief
2 of the state department of mines is hereby authorized to
3 purchase, equip and operate for the use of said depart-
4 ment such mine rescue stations and equipment as he may
5 deem necessary.

Sec. 11. *Mine Rescue Crews.*—The chief of the state
2 department of mines is hereby authorized to have trained
3 and employed at the rescue stations, operated by that de-
4 partment within the state, such rescue crews as he may
5 deem necessary. Each member of a rescue crew shall
6 devote four hours each month for training purposes,
7 and shall be available at all times to assist in rescue
8 work at explosions and mine fires. Regular members shall

9 receive for such services the sum of four dollars per
10 month and captains shall receive five dollars per month,
11 payable on requisition approved by the chief of the de-
12 partment of mines, and such other sums, to be paid by the
13 operating company, as may be agreed upon when engaged
14 in rescue work at explosions or mine fires. The chief of
15 the department of mines may remove any member of a
16 rescue crew at any time.

Sec. 12. *Directors of Mine Rescue Work.*—The chief of
2 the department of mines is hereby authorized to assign
3 mine rescue teams and such mine rescue and recovery
4 work to inspectors or other employees of the department
5 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-

42 one of this code, and all funds and moneys payable to or
43 received by the conservation commission of West Vir-
44 ginia;

45 (j) All moneys collected or received under any act
46 of the Legislature providing that funds collected or re-
47 ceived thereunder shall be used for specific purposes.

48 All moneys, excepted as aforesaid, shall be paid into
49 the state treasury in the same manner as collections not
50 so excepted, and shall be carried in separate accounts to
51 be used and expended only for the purposes for which
52 the same are authorized to be collected by law. The gross
53 amount collected in all cases shall be paid into the state
54 treasury, and commissions, costs and expenses of collec-
55 tion authorized by general law to be paid out of the
56 gross collection are hereby authorized to be paid out of
57 the moneys collected and paid into the state treasury in
58 the same manner as other payments are made from the
59 state treasury.

60 The official or employee making such deposits in the
61 state treasury shall prepare such deposit lists in such
62 manner and upon such report forms as may be pre-
63 scribed by the chief inspector of public offices. The origi-
64 nal of this report shall accompany the deposit to the state
65 treasurer's office. A duplicate copy shall be forwarded
66 by the official or employee making such deposit immedi-
67 ately to the state auditor, and a third copy shall be kept
68 by the official or employee making the report and shall
69 become a part of his permanent record.

2 Sec. 3. *Deposit of Moneys by Treasurer; Lists to Be*
3 *Transmitted from Treasurer to Auditor and Director of*
4 *the Budget.*—Promptly upon the receipt of the afore-
5 mentioned deposits, it shall be the duty of the treasurer
6 to check all items on such lists, and, if found correct, trans-
7 mit same together with a certificate of deposit in duplicate,
8 as soon as practicable, to the depository in which he
9 desires to make the deposit. A copy of each deposit
10 report received by the treasurer from the sources men-
11 tioned above, as well as any deposits received by him from
12 any other source, shall be sent to the auditor and the direc-
tor 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

2 *Operation of Powers.*—The council shall have plenary
3 power and authority therein by ordinance or resolution
4 as the case may require (so far as such power or author-

*Amended and reenacted by chapter sixty-six, acts of this session.

5 ity is not in conflict with the constitution and laws of this
6 state or the constitution of the United States) to lay off,
7 vacate, close, open, alter, curb, recurb, pave or repave
8 and keep in good repair roads, streets, alleys, sidewalks,
9 crosswalks, drains and gutters, for the use of the public,
10 and to improve and light the same, and have them kept
11 free from obstructions on or over them; to prevent by
12 proper fines and penalties the throwing, depositing or per-
13 mitting to remain on any street, sidewalk, alley, lane,
14 square or other public place any glass, scrap iron, nails,
15 tacks, wire, other litter, or any offensive matter or any-
16 thing likely to injure the feet of persons or animals or the
17 tires of vehicles; to regulate the use of streets, alleys,
18 lanes and sidewalks for vehicles propelled by man power,
19 and for other vehicles the use of which is not regulated
20 by general laws; to regulate the width of sidewalks
21 on the streets, and, subject to the provisions of ar-
22 ticle eight of this chapter, to order the sidewalks, foot-
23 ways and crosswalks to be curbed, recurbed, paved,
24 repaved and kept in good order, free and clean, by
25 the owners or occupants thereof, or of the real prop-
26 erty next adjacent thereto; to establish and regulate
27 markets, and prescribe the time of holding the same; to
28 prevent injury or annoyance to the public or individuals
29 from anything dangerous, offensive or unwholesome; to
30 prevent hogs, cattle, horses, sheep or other animals, and
31 fowls of all kinds, from going at large in such town; to
32 protect places of divine worship and to preserve peace
33 and order in and about the premises where held; to
34 arrest, convict and punish any person for keeping a house
35 of ill-fame, or for letting to another person any house or
36 other building for the purpose of being used or kept as a
37 house of ill-fame, or for knowingly permitting any house
38 owned by him, or under his control, to be kept or used as
39 a house of ill-fame, or for loafing, boarding or loitering
40 in a house of ill-fame, or frequenting same; to arrest,
41 convict and punish any person for importing, printing,
42 publishing, selling or distributing any pornographic pub-
43 lication; to arrest, convict and punish any person for
44 cruelly, unnecessarily or needlessly beating, torturing,

45 mutilating, killing or overloading or overdriving, or wil-
46 fully depriving of necessary sustenance, any horse or
47 other domestic animal; to arrest, convict, and punish any
48 person for gambling or keeping gaming tables, commonly
49 called "A, B, C", or "E, O," table or faro bank or keno
50 table, or table of like kind, under any denomination,
51 whether the gaming table be played with cards, dice or
52 otherwise, or any person who shall be a partner or con-
53 cerned in interest, in keeping or exhibiting such table or
54 bank, or keeping or maintaining any gaming house or
55 place, or betting or gambling for money or anything of
56 value; to license, or for good cause to refuse to license
57 in a particular case, or at its discretion to prohibit in all
58 cases, the operation of pool and billiard rooms and main-
59 taining for hire of pool and billiard tables, notwithstand-
60 ing the general law as to state licenses for such business.
61 When the council, in the exercise of its discretion, shall
62 have refused to grant a license to operate a pool or billiard
63 room mandamus shall not lie to compel the council to
64 grant such license, unless it shall clearly appear that the
65 refusal of the council to grant such license is discrimin-
66 atory or arbitrary. In the event that the council decides
67 to license any such business, the council shall have power,
68 and it shall be the duty of the council, to make and en-
69 force reasonable ordinances regulating the licensing and
70 operating of such businesses; the council shall also have
71 such power and authority to arrest, convict and punish
72 any person for carrying about his person any revolver or
73 other pistol, dirk, bowie-knife, razor, slung shot, billy, me-
74 tallic or other false knuckles, or any other dangerous or
75 other deadly weapon of like kind or character, within such
76 town; to arrest, convict and punish any person for driving
77 or operating, within such town, a motor vehicle when
78 intoxicated or under the influence of liquor, drugs or
79 narcotics; to provide penalties for the offenses and
80 violations of law mentioned herein in addition to the
81 penalties provided in section twenty-three of this ar-
82 ticle, but which shall not exceed the penalties provided
83 for like offenses and violations in this chapter, and
84 in chapter sixty-one of this code; to abate or cause

85 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

125 shall have the right to lay and collect charges for serv-
126 ice rendered to those served within and those served
127 without the town, and to prevent injury to such works or
128 the pollution of the water and its maintenance in a health-
129 ful condition for public use within the town; to regulate
130 and provide for the weighing of hay, coal and other
131 articles sold or for sale in the town; to provide a revenue
132 for the town and appropriate the same to its expenses,
133 which power shall include the power to tax dogs; to im-
134 pose a license tax on persons or companies keeping for
135 hire carriages, hacks, buggies or wagons, or for carrying
136 passengers for pay in any such vehicles, in such town;
137 to adopt rules for the transaction of business, and the
138 government and regulation of its own body.

139 Wherever the powers herein granted cannot be rea-
140 sonably and efficiently exercised by confining the exer-
141 cise thereof within the corporate limits, the powers of the
142 corporation shall extend beyond the corporate limits to
143 the extent necessary to the reasonably efficient exercise
144 of such powers within the corporate limits. But such
145 powers, unless otherwise provided, shall not extend more
146 than one mile beyond the corporate limits, but such extra-
147 territorial powers, unless otherwise provided, shall not
148 extend more than one mile beyond the corporate limits:
149 *Provided, however,* That extra-territorial powers are
150 hereby vested in municipal corporations for the purposes
151 of the installation, construction, repair, maintenance and
152 operation of water works, water mains, sewer lines and
153 sewage disposal plants within an area of not to exceed
154 ten miles beyond the corporate limits, except that such
155 powers shall in no event extend into the corporate limits
156 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

16 the feet of persons or animals or the tires of vehicles; to
17 regulate the use of streets, alleys, lanes and sidewalks for
18 vehicles propelled by man power, and for other vehicles
19 the use of which is not regulated by general laws; to regu-
20 late the width of sidewalks on the streets, and, subject to
21 the provisions of article eight of this chapter, to order the
22 sidewalks, footways and crosswalks to be curbed, paved,
23 repaved, and kept in good order, free and clean, by the
24 owners or occupants thereof, or of the real property next
25 adjacent thereto; to establish and regulate markets, and
26 prescribe the time of holding the same; to prevent injury
27 or annoyance to the public or individuals from anything
28 dangerous, offensive or unwholesome; to prevent hogs,
29 cattle, horses, sheep or other animals, and fowls of all
30 kinds, from going at large in such town; to protect places
31 of divine worship and to preserve peace and order in and
32 about the premises where held; to arrest, convict and
33 punish any persons for keeping a house of ill-fame, or for
34 letting to another person any house or other building for
35 the purpose of being used or kept as a house of ill-fame, or
36 for knowingly permitting any house owned by him or
37 under his control, to be kept or used as a house of ill-
38 fame, or for loafing, boarding or loitering in a house of
39 ill-fame, or frequenting same; to arrest, convict and punish
40 any person for importing, printing, publishing, selling or
41 distributing any pornographic publications; to arrest, con-
42 vict and punish any person for cruelly, unnecessarily or
43 needlessly beating, torturing, mutilating, killing or over-
44 loading or over-driving, or wilfully depriving of neces-
45 sary sustenance, any horse or other domestic animal; to
46 arrest, convict, and punish any person for gambling or
47 keeping gaming tables, commonly called "A, B, C", or
48 "E, O", table or faro bank or keno table, or table of like
49 kind, under any denomination, whether the gaming table
50 be played with cards, dice or otherwise, or any person who
51 shall be a partner or concerned in interest, in keeping or
52 exhibiting such table or bank, or keeping or maintaining
53 any gaming house or place, or betting or gambling for
54 money or anything of value; to license, or for good cause
55 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

96 maintain incinerator plants and equipment; to provide for
97 the regular building of houses or other structures, and for
98 making of division fences by the owners of adjacent prem-
99 ises and the drainage of lots by the proper drains and
100 ditches; to make regulations guarding against danger or
101 damage by fire; to prevent the illegal sale of intoxicating
102 liquors, drinks, mixtures and preparations therein; to pro-
103 tect the persons and property of the inhabitants of such
104 town, and to preserve peace and good order therein, and,
105 for this purpose, to appoint, when necessary, a police force
106 to assist the sergeant in the discharge of his duties; ex-
107 cept as otherwise provided, to prescribe the powers and de-
108 fine the duties of the officers appointed by the council, fix
109 their terms of service and compensation, and require and
110 take from them bonds, when deemed necessary, payable
111 to such town, in its corporate name, with such sureties and
112 in such penalty as the council may see fit, conditioned for
113 the faithful discharge of their duties; to require and take
114 from employees and contractors bonds in such penalties,
115 with such sureties and with such conditions, as council
116 may see fit; to erect, or authorize or prohibit the erection
117 of gas works, electric light works, water works, and sew-
118 age treatment and disposal works within or without the
119 town, or partly within and partly without the town, ex-
120 cept that it shall not erect or authorize the erection of any
121 such works partly without the town to serve persons al-
122 ready obtaining service from existing works of the charac-
123 ter proposed, and where such works are by the municipal-
124 ity erected, or have heretofore been so erected, partly
125 within and partly without the town, it shall have the right
126 to lay and collect charges for service rendered to those
127 served within and those served without the town, and to
128 prevent injury to such works or the pollution of the wa-
129 ter and its maintenance in a healthful condition for pub-
130 lic use within the town; to regulate and provide for the
131 weighing of hay, coal and other articles sold or for sale in
132 the town; to provide a revenue for the town and appropri-
133 ate the same to its expenses, which power shall include
134 the power to tax dogs; to impose a license tax upon per-
135 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 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, 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 municipal 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 hundred 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-

thorize 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 Favor-

ing 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

24 use of the street to be improved ends, though the recorded
25 plot shows public right of way of such street to extend
26 farther; specified and embraced within the project pro-
27 posed to be submitted to the governmental agency whose
28 assistance in the premises is sought, the governing body
29 of any such municipality, by a lawful majority thereof,
30 may, upon the approval of such project by such govern-
31 mental agency, order and cause such street, or alley, or
32 streets or alleys to be paved or repaved between the
33 property lines, with cobblestone, brick, Belgian blocks,
34 concrete, asphaltum or other material, and suitable curbs
35 to be constructed if requisite, and suitable sidewalks to be
36 constructed if requisite, and storm sewers and sanitary
37 sewers, or either of them or any one or more of such im-
38 provements without the others, as may be determined by
39 the governing body, to be constructed therein or in such
40 part or parts thereof as the governing body may de-
41 termine.

42 The purpose of this section is to permit the inclusion of
43 more than one street or alley, or block or portion of a
44 street or alley, in one project, in order to get for the
45 municipality and the property owners as advantageous
46 an agreement as possible with such governmental agency,
47 but at the same time to include within the streets or
48 alleys, or portions thereof to be improved under the
49 project, only such stated portions of such streets or alleys
50 as to which petition has been signed by the owners of as
51 much as fifty-one per cent of the property abutting on the
52 portion thereof to be improved, as specified under one of
53 the clauses (a), (b), (c), (d), or (e) above in this section:
54 *Provided, however,* That the governing body shall not
55 order any work to be done on any such improvements
56 planned pursuant to this act, and shall not incur any ex-
57 pense for, or enter into any contract for, materials to be
58 used in the making of such improvements, unless and
59 until bona fide and binding agreement or agreements has
60 or have been made between the municipality and some
61 bank or banks, or other corporation or corporations, or
62 some individual or individuals, for the purchase by such
63 banks, corporations or individuals, of the assessment lien
64 certificates to be issued in respect to such project as

65 provided for in section eight of this act. It is understood,
66 and it is hereby declared to be the purpose of this act,
67 that municipalities otherwise financially unable to effect
68 or secure desired street improvements may be enabled to
69 do so through the assistance of other governmental
70 agencies, and the provisions of this section are designed
71 to prevent a municipality from incurring debt or obliga-
72 tions for that part of the expense of any such project to be
73 borne by it unless and until it has been assured, as above
74 provided, that the assessment lien certificates related to
75 the particular project proposed, can be sold: *Provided*
76 *further*, That where any foreign railroad or other foreign
77 corporation is the owner of property abutting upon any
78 street or alley sought to be improved under the provisions
79 hereof, notice shall be given to such railroad or other
80 foreign corporation as prescribed by section one, article
81 ten, chapter eight of the code of West Virginia, one thou-
82 sand nine hundred thirty-one, before the adoption of any
83 ordinance or resolution relating to, and providing for,
84 such improvement.

Sec. 8. *Assessment Payable in Installments; Interest;*
2 *Release of Lien; Assessment Lien Certificates.*—(a) Such
3 assessment relating to any particular project shall be
4 payable in such number of installments as the governing
5 body of the municipality, before the making of said
6 assessments, may have determined: *Provided*, That such
7 installments shall not be spread over a period of more
8 than five years.

9 (b) Such assessments, and each installment thereof,
10 shall bear interest at the rate of five per cent per annum,
11 until the date due of the installment; thereafter, at the
12 rate of six per cent: *Provided*, That in case any property
13 owner shall pay the entire assessment against his prop-
14 erty within thirty days from the date of the assessment
15 he shall not be charged interest thereon for the time sub-
16 sequent to such date.

17 (c) The owner of any property against which any as-
18 sessment is made hereunder, who has not paid such assess-
19 ment in full within thirty days from its date, may pay at
20 any time thereafter the whole of such assessment, or the

21 whole of any installment thereof, with interest to the time
22 of payment; and upon payment of the whole of any assess-
23 ment, with its interest, if interest is chargeable hereunder,
24 the governing body of the municipality shall cause a re-
25 lease of the lien to be executed and delivered to the owner
26 of the particular property covered by such assessment.

27 (d) Each such assessment installment may be evi-
28 denced by an assessment lien certificate in such form as
29 the governing body of the municipality may adopt; the
30 municipality shall have power to sell any or all of such
31 certificates, without recourse, for cash, to any bank or
32 banks, or other corporation or corporations, or to any in-
33 dividual or individuals, for an amount not less than ninety
34 per cent of the principal thereof, and shall first apply the
35 proceeds to the payment of the expense and indebtedness
36 incurred by reason of such improvements.

37 (e) Each such assessment lien certificate shall be
38 signed by the mayor and the clerk or recorder of the
39 municipality; shall bear date of the day the council passed
40 the resolution provided for in section six hereof, and shall
41 state: The amount of the total assessment against the
42 property named therein and the amount of the particular
43 installment covered by the certificate, and that the
44 amount thereof may be paid on or before the date to be
45 named therein as the due date according to the schedule
46 of installments adopted by the governing body; that the
47 amount of the certificate bears interest at the rate of five
48 per cent per annum to maturity; and at the rate of six per
49 cent per annum thereafter; the name of the owner of the
50 lot or tract of real estate against whom and which the
51 assessment has been made, the location of said real estate,
52 with the name of the street or streets improved upon
53 which such real estate abuts, and shall also identify the
54 project under which were made the street improvements
55 on account of which said assessment was made, shall give
56 the date on which the municipal governing body passed
57 the resolution directing the work to be done and the date
58 on which the statement for lien was filed in the county
59 clerk's office pursuant to section six of this act; and shall
60 further state that if said certificate is sold by the munici-
61 pality, it is done without guarantee by, or recourse upon,

62 the municipality, but carrying to the legal owner thereof
63 all rights of the municipality arising hereunder against
64 the owner of the property described and against said
65 property itself.

Sec. 9. *Publication of Assessment; Notice to Prop-*
2 *erty Owners by Personal Service; Hearing on Assess-*
3 *ment.*—Immediately upon the completion and acceptance
4 of any work or improvement constructed pursuant to
5 this act and the passage by the governing body of the
6 resolution referred to in section six hereof, the govern-
7 ing body shall direct the clerk or the recorder of the
8 municipality to cause to be prepared a notice which
9 shall name and describe the location of the street or
10 streets or alley in or upon which said improvements
11 shall have been constructed, give the name of the owner
12 of each lot or fractional part of lot abutting or abound-
13 ing upon said street or streets or alley; the number of
14 feet of each lot or fractional part of lot abutting upon
15 said streets or alley; the number of feet embraced in
16 street or alley intersections, and the amount assessed
17 against each lot or fractional part of lot. Said notice
18 shall cite all owners of such lots or fractional parts of
19 lots abutting to appear before the governing body at
20 a regular meeting thereof to be held not less than ten
21 days nor more than twenty days from the publication,
22 or personal service, of such notice, to show cause, if any
23 they can, why the assessments aforesaid should not be-
24 come final. This notice shall be published once in one
25 or more newspapers of general circulation published
26 in said city, and the affidavits of the publishers show-
27 ing the publication thereof as herein provided shall be
28 recorded in the minutes of the governing body at its
29 next regular meeting, or in lieu of such publication such
30 notice may be given by personal service upon the owners
31 of the lots or fractional parts of lots affected, and proof
32 of such service shall be recorded in the same way as
33 above provided for recording proof of service by publi-
34 cation. The governing body shall, upon the request of
35 any one or more of the owners of lots or fractional parts
36 of lots, appoint a day for the hearing of any grievances

37 of such owner or owners and may correct or amend
38 any assessment made against them, or any of them, for
39 good cause shown. The clerk or recorder shall give
40 notice to all persons claiming to be aggrieved by any
41 such assessment of the time and place of such hear-
42 ing, which hearing shall be begun within ten days after
43 the regular meeting of the governing body held as
44 hereinabove provided for the purpose of determining
45 why said assessments should not become final. This
46 hearing may be adjourned from time to time. In case
47 any owner or owners of abutting property fail to com-
48 plain of any damages or injury by reason of the assess-
49 ments aforesaid or shall fail to appear for the purpose
50 of having the same corrected, the assessments as to such
51 owner or owners as laid by the governing body shall
52 be final. Said assessments shall be recorded in the
53 proper record book of the municipality, and notice and
54 statement as provided in section six thereof shall be
55 recorded in the county clerk's office.

Sec. 12. *Duration of Act.*—The provisions of this act
2 shall be operative and of full force and effect until June
3 thirtieth, one thousand nine hundred forty-five, only, and
4 thereafter they shall be null and void without effect:
5 *Provided, however,* That this act shall continue in effect
6 with respect to any project contracted for or provided for
7 by ordinance prior to June thirtieth, one thousand nine
8 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 governing 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.

2 Sec. 10-c. *Rules of Procedure.*—Any ordinance adopted
3 under this act shall provide fair and equitable rules of
4 procedure and any other standards deemed necessary to
5 guide the enforcement agency, or its agents, in investiga-
6 tion of dwelling conditions, and conducting hearings:
7 *Provided, however,* That any entrance upon premises for
8 purpose of making examinations shall be made in such
9 manner as to cause the least possible inconvenience to
the persons in possession.

2 Sec. 10-d. *Assessment of Costs of Repairs.*—Any ordi-
3 nance adopted under this act shall provide for the assess-
4 ment of costs of such repairs, alterations, improvements,
5 or vacating and closing and/or removal or demolition by
6 order of the enforcement agency; and said costs, after the
7 sale of salvaged material is credited to the account, shall
8 be a lien against the real property upon which such cost
was incurred.

2 Sec. 10-e. *Serving and Posting Orders of Enforcement*
3 *Agency; Right of Appeal; Costs.*—All complaints or orders
4 issued by the enforcement agency shall be served in ac-
5 cordance with the law of this state, and shall, in addition
6 thereto, be posted in a conspicuous place on premises
7 affected by the complaint or order: *Provided, however,*
8 That no ordinance shall be adopted without including
9 the right to appeal to the circuit court for a temporary in-
10 junction restraining the enforcement agency pending final
11 disposition of the cause, and hearings shall be had by
12 said courts within twenty days, or as soon thereafter as
13 possible, to enter such final order or decree as law and
14 justice may require. Costs shall be imposed in the dis-
cretion of the court.

C

CHAPTER 69

(House Bill No. 130—By Mr. Shinn, by request)

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 municipalities pertaining to the acquisition, establishment, improvement, operation, maintenance and repair of a municipal sewage system and/or of municipal public utilities; and may provide for the appointment and financial support 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 Virginia, 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

- 2 *Having Complete and Exclusive Jurisdiction Over Municipal*
3 *Sewage Systems and/or Municipal Public Utilities;*
4 *Library Board; Park Board.*—A home rule charter, in providing 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, establishment,
9 improvement, operation, maintenance and repair
10

11 of a municipal sewage system and/or of any one or more
12 of the municipal public utilities mentioned in section
13 twenty-six, article four of this chapter, and confer such
14 powers and duties upon one or more independent boards
15 created by said charter, whose members shall be elected
16 by the voters of the city, or appointed, in the manner
17 provided in said charter. Such board or boards shall
18 have complete and exclusive jurisdiction of the exercise
19 and discharge of the municipal powers and duties so
20 conferred upon it or them, independent of control by the
21 governing body and administrative authority of the city.

22 A home rule charter may also provide for the appoint-
23 ment and financial support of a board of directors for a
24 municipal public library in accordance with the provi-
25 sions of article one, chapter ten of the code of West Vir-
26 ginia, and of a board of park commissioners for municipal
27 public parks in accordance with the provisions of chapter
28 ninety-one, acts of the Legislature, regular session, one
29 thousand nine hundred thirty-nine. Such boards shall
30 have the powers and perform the duties conferred and
31 required by general law.

32 The provisions of this act shall be construed as con-
33 ferring additional authorization and powers upon muni-
34 cipal corporations enacting ordinances hereunder, and
35 shall not be construed as affecting any authorization or
36 power heretofore conferred upon any municipality by
37 the Legislature of the state of West Virginia by general,
38 special, local or municipal charters, or parts thereof.

39 All acts or parts of acts inconsistent herewith are
40 hereby expressly repealed.

— c —

CHAPTER 70

(House 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

18. Proceedings liberally construed and new method cumulative.

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.

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 commission, 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;*

2 *Disposition of Excess; Aid to Municipalities.*—All moneys
3 collected by the commission shall be credited to the oper-
4 ating fund until that fund reaches an amount sufficient
5 for the current and routine requirements of the depart-
6 ment, this amount to be fixed by the commission with the
7 approval of the governor, and not to exceed at any time
8 the sum of two hundred fifty thousand dollars. The re-
9 cepts in excess of the requirements of the operating fund
10 shall be paid into the reserve fund until the amount of the
11 reserve fund equals three hundred fifty thousand dollars.

12 From receipts in excess of the requirements of the
13 operating and reserve funds, the sum of fifty thou-
14 sand dollars shall, upon requisition of the governor, be
15 paid monthly into the state treasury and credited to a
16 special fund to be established for the purpose of state aid
17 to municipalities. The money in such fund shall be appor-
18 tioned by the treasurer among the incorporated munici-
19 palities of the state, on the basis of population as shown by
20 the last federal census or by any later census taken by the
21 state of West Virginia, and shall be distributed quarterly
22 by the treasurer upon warrants of the auditor. The
23 amount paid to each municipality, as the state's con-
24 tribution toward the expense of enforcement by the
25 municipality of state laws for the protection of life and
26 property, shall be for the purpose of reimbursing the
27 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.]

Article 5-b. Prison-Made Goods.

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 Legislature, 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 Market; Penalty.*—On and after the effective date of this act, it shall be unlawful to sell or offer for sale on the open market of this state any article or products manufactured or produced, wholly or in part, in this or any other state by convicts or prisoners of this state, or any other state, except convicts or prisoners on parole or probation: *Provided, however,* That the provisions of this section shall not apply to any articles or products manufactured or produced in the West Virginia penitentiary prior to June seven, one thousand nine hundred thirty-nine. Any person violating the provisions of this section shall be guilty

13 of a misdemeanor and, upon conviction, be punished by
14 a fine of not less than two hundred dollars nor more than
15 five thousand dollars, or by imprisonment in jail not less
16 than three months nor more than one year, or by both
17 such fine and imprisonment, in the discretion of the court.
18 Each such sale or offer for sale shall constitute a separate
19 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.
4. Crippled Children.
5. Juvenile Courts.
6. Procedure in Neglect Cases.
7. General Provisions.

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.
2. Child.
3. Neglected child.
4. Delinquent child.
5. Definitions.

Section 1. *Purpose*.—The purpose of this chapter is to
2 provide a comprehensive system of child welfare through-
3 out the state.

4 The child welfare services of the state shall be admin-
5 istered by the state department of public assistance and
6 the several county departments in accordance with the
7 provisions of this chapter.

8 The state department of public assistance is designated
9 as the agency to cooperate with the children's bureau of
10 the United States department of labor in extending and
11 improving child welfare services, to comply with regula-
12 tions of the children's bureau, and to receive and expend
13 federal funds for these services.

Sec. 2. *Child*.—"Child" means any minor who is crip-
2 pled or any minor under the age of eighteen years who,
3 because of lack of a home, inadequate care, neglect, ille-
4 gitimate birth, mental or physical disability or undesir-
5 able or delinquent conduct is in need of services, protec-
6 tion, or care.

Sec. 3. *Neglected Child*.—"Neglected child" means a
2 child under the age of eighteen years who:

- 3 (1) Is destitute, homeless, or abandoned.
- 4 (2) Has not proper parental care or guardianship.
- 5 (3) Habitually begs or receives alms.
- 6 (4) By reason of neglect, cruelty, or disrepute on the
7 part of parents, guardians, or other persons in whose care
8 the child may be, is living in an improper place.
- 9 (5) Is in an environment warranting the appointment
10 of a guardian under this article.

Sec. 4. *Delinquent Child*.—"Delinquent child" means a
2 person under the age of eighteen years who:

- 3 (1) Violates a law or municipal ordinance.
- 4 (2) Commits an act which if committed by an adult

5 would be a crime not punishable by death or life im-
6 prisonment.

7 (3) Is incorrigible, ungovernable, or habitually dis-
8 obedient and beyond the control of his parent, guardian,
9 or other custodian.

10 (4) Is habitually truant.

11 (5) Without just cause and without the consent of his
12 parent, guardian, or other custodian, repeatedly deserts
13 his home or place of abode.

14 (6) Engages in an occupation which is in violation of
15 law.

16 (7) Associates with immoral or vicious persons.

17 (8) Frequents a place the existence of which is in vio-
18 lation of law.

19 (9) Deports himself so as to wilfully injure or endan-
20 ger the morals or health of himself or others.

Sec. 5. *Definitions.*—For the purposes of this chapter:

2 (1) "State department" means the state department of
3 public assistance.

4 (2) "State board" means the state advisory board.

5 (3) "Director" means the director of the state depart-
6 ment of public assistance.

7 (4) "County department of public assistance" means
8 the county director, the county council, and the employees
9 and appointees of the county council.

10 (5) "Child welfare agency" means any agency or in-
11 stitution maintained by a municipality or county, or any
12 agency or institution maintained by a person, firm, corpor-
13 ation, association or organization to receive children for
14 care and maintenance or for placement in a family home,
15 or any institution that provides care for unmarried
16 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.
3. Development of standards of child care.
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.
10. Certificate for unsupervised foster home.
11. Visits; records.
12. Removal of child from undesirable foster home.
13. Parole to state department.
14. Admission to school for deaf and blind children.
15. Placement of children from other states.
16. County responsibility for child care.

Section 1. Care for Children Committed to the State

2 *Department.*—It shall be the responsibility of the state
3 department to provide care for neglected children who are
4 committed to its care for custody or guardianship. The
5 state department may provide care for such children in
6 family homes meeting required standards, at board or
7 otherwise, through a licensed child welfare agency, or in
8 a state institution providing care for dependent or neg-
9 lected children. The department in placing any child in
10 the care of a family or a child welfare agency shall select
11 as far as practicable a family holding the same religious
12 belief as the parents or relatives of the child or a child
13 welfare agency conducted under religious auspices of the
14 same belief as the parents or relatives.

Sec. 2. Duration of Custody or Guardianship.—A child

2 committed to the state department for guardianship, after
3 termination of parental rights, shall remain in the care
4 of the department until he attains the age of twenty-one
5 years, or is married, or is adopted, or guardianship is relin-
6 quished through the court.

7 A child committed to the state department for custody
8 shall remain in the care of the department until he attains
9 the age of twenty-one years, or until he is discharged be-
10 cause he is no longer in need of care.

Sec. 3. Development of Standards of Child Care.—The

2 state department shall be responsible for the development
3 of desirable standards for the care of children. To this
4 end, it shall cooperate with, advise and assist all child
5 welfare agencies, including state institutions, which care
6 for neglected, delinquent, or mentally or physically handi-
7 capped children, and shall supervise all such agencies.
8 The department, in cooperation with the state depart-
9 ment of health and with child welfare agencies, shall

10 formulate and make available standards of child care and
11 services for children, to which all child welfare agencies
12 must conform.

Sec. 4. License for Maintaining Child Welfare Agencies.

2 —No person, firm, corporation, association, organization,
3 municipality or county may establish or maintain a child
4 welfare agency unless licensed to do so by the state de-
5 partment. A county court may, however, subject to the
6 licensing authority of the state department, continue to
7 maintain any existing child shelter heretofore established
8 and operated by it, or may, in the case of any child shelter
9 under construction on or before the effective date of this
10 act, complete the construction, equip and maintain such
11 shelter, and may make the appropriations necessary for
12 any of these purposes. Application for such license shall
13 be made on forms provided by the department and in the
14 manner prescribed. Before issuing a license, the depart-
15 ment shall investigate the activities and standards of care
16 of the applicant. If satisfied as to the need for the agency,
17 as to the financial stability, equipment, good character and
18 intent of the applicant, and that the services are conducive
19 to the welfare of children, a license shall be issued.

20 A provisional license may be issued to any agency whose
21 services are needed but which is temporarily unable to
22 conform to all the provisions of the established standards
23 of care. All licenses shall be in force for one year from
24 the date of issuance unless revoked as authorized by sec-
25 tion seven of this article, and shall be reissued annually
26 on application of the agency.

27 Each license shall specify in general terms the kind of
28 child welfare work the licensee is authorized to under-
29 take, the number of children that can be received and
30 their ages and sex, and if authorized to place and super-
31 vise children in family homes, the area that the agency is
32 equipped to serve.

Sec. 5. Supervision, Records and Reports.—In order to
2 improve standards of child care, the state department
3 shall cooperate with the governing boards of child wel-
4 fare agencies, assist the staffs of such agencies through

5 advice on progressive methods and procedures of child
6 care and improvement of the service rendered, and assist
7 in the development of community plans of child care. The
8 state department of health, or its duly authorized agent,
9 may visit any child welfare agency to advise the agency
10 on matters affecting the health of children and to inspect
11 the sanitation of the buildings used for their care. Each
12 child welfare agency shall keep such records regarding
13 each child under its control and care as the state depart-
14 ment may prescribe, and shall report to the department,
15 whenever requested, such facts as may be required with
16 reference to such children, upon blanks furnished by the
17 department. All records regarding children and all facts
18 learned about children and their parents or relatives shall
19 be regarded as confidential and shall be properly safe-
20 guarded by the agency and the state department.

Sec. 6. *Approval of Articles of Incorporation.*—A child
2 welfare agency shall not be incorporated in this state
3 unless the articles of incorporation have first been ex-
4 amined and approved by the state department. Proposed
5 amendments to such articles of incorporation shall like-
6 wise be subject to the examination and approval of the
7 state department.

Sec. 7. *Revocation of License.*—The state department
2 may revoke the license of any child welfare agency in
3 case the licensee shall have wilfully and substantially
4 violated any provision of this article or has failed to main-
5 tain the established standards of care and service. No li-
6 cense of a child welfare agency shall be revoked or its
7 renewal refused unless the holder of the license shall have
8 notice in writing of the grounds of the proposed revoca-
9 tion or refusal. If such revocation or refusal is protested,
10 a hearing shall be held, upon at least thirty days' written
11 notice, and opportunity shall be given for presentation of
12 testimony and cross-examination of witnesses.

Sec. 8. *Violation.*—Whenever the state department shall
2 be advised, or shall have reason to believe, that any per-
3 son is conducting or maintaining a child welfare agency
4 without a license as required by this act, it shall have an

5 investigation made, and if the person is conducting a child
6 welfare agency, it shall either issue a license or take ac-
7 tion to prevent continued operation of the agency.

Sec. 9. *Unsupervised Foster Homes.*—Any family home,
2 not under the supervision of a county department of pub-
3 lic assistance or of a child welfare agency, in which one
4 or more children under eighteen years of age, separated
5 from parents or guardian and not related by blood or mar-
6 riage to the person maintaining the home, are received,
7 cared for and maintained for compensation, or otherwise,
8 shall be considered an unsupervised foster home. No per-
9 son shall conduct an unsupervised foster home without a
10 certificate from the state department.

Sec. 10. *Certificate for Unsupervised Foster Home.*—It
2 shall be the duty of the state department in cooperation
3 with the state department of health to establish reason-
4 able minimum standards for foster-home care to which all
5 certified foster homes must conform. No unsupervised
6 foster home shall be certified until an investigation of the
7 home and its standards of care has been made by the state
8 department or by a licensed child-welfare agency serving
9 as its representative. Any such home that conforms to
10 the established standards of care and to the prescribed
11 rules shall receive a certificate from the state department,
12 which shall be in force for one year from the date of iss-
13 uance and which may be renewed unless revoked because of
14 wilful violation of the provisions of this chapter. The
15 certificate shall show the name of the persons authorized
16 to conduct the home, its exact location and the number of
17 children that may be received and cared for at one time.
18 No certified foster home shall receive for care more chil-
19 dren than are specified in the certificate.

Sec. 11. *Visits; Records.*—The state department or its
2 authorized agent shall visit every certified foster home
3 as often as is necessary to assure that proper care is given
4 to the children. Every certified foster home shall main-
5 tain a record of the children received which shall include
6 such facts in regard to the children and their care, and

7 shall be in such form and manner as are prescribed by the
8 state department.

Sec. 12. *Removal of Child from Undesirable Foster Home.*—If at any time the state department shall find a
3 child in an unsupervised foster home where the child is
4 subject to undesirable influences or lacks proper or wise
5 care and management, it shall notify the county depart-
6 ment of the county in which the child is living to take
7 necessary action to remove the child and arrange for his
8 care.

Sec. 13. *Parole to State Department.*—Children paroled
2 from the state industrial schools and homes and children
3 paroled from institutions for mental defectives shall be
4 paroled to the state department. Thereafter, the state
5 department shall, notwithstanding any other provision
6 of this code, have exclusive supervisory control over every
7 child so paroled, and shall have exclusive authority to re-
8 voke the parole or to discharge the child from parole.
9 Upon the revocation of any parole and the return of the
10 parolee to the institution from which he was paroled, all
11 authority over the parolee, originally vested in such insti-
12 tution, shall again become operative.

Sec. 14. *Admission to School for Deaf and Blind Children.*—The state department shall require the county de-
3 partments to investigate applications for admission to
4 the state schools for deaf and blind children.

5 If the state department finds that a child should be ad-
6 mitted to a state school it shall certify the case to the
7 principal for admission. The principal shall admit a child
8 to the school only upon the certification of the state de-
9 partment.

Sec. 15. *Placement of Children from Other States.*—An
2 institution or organization incorporated under the laws
3 of another state shall not place a child in a private home
4 in this state without the approval of the state department,
5 and the agency so placing the child shall arrange for
6 supervision of the child through its own staff or through
7 a licensed child welfare agency in this state, and shall
8 maintain responsibility for the child until he is adopted

9 or discharged from care with the approval of the state
10 department.

Sec. 16. *County Responsibility for Child Care.*—The
2 county departments of public assistance are authorized
3 to provide care, support and protective services for chil-
4 dren who are handicapped by dependency, neglect, illegiti-
5 mate birth, mental or physical disability, or who for other
6 reasons are in need of public service. The county
7 departments of public assistance are hereby authorized
8 and empowered in their discretion to accept children for
9 care from their parent or parents, guardian or relatives
10 and to accept the custody of children committed to their
11 care by courts exercising juvenile jurisdiction.

12 The county departments of public assistance shall pro-
13 vide care in special boarding homes for children needing
14 detention pending disposition by a court having juven-
15 ile jurisdiction or temporary care following such court
16 action.

Article 3. Private Institutions and Organizations.

Section

1. Private child welfare agencies.
2. Approval of incorporation.

Section 1. *Private Child Welfare Agencies.*—Whenever
2 a child welfare agency licensed to place children for
3 adoption shall have been given the permanent care, cus-
4 tody and guardianship of any child and the rights of the
5 parents of such child shall have been terminated by order
6 of a court of competent jurisdiction or by a legally ex-
7 ecuted relinquishment of parental rights, the child welfare
8 agency may consent to the adoption of such child pur-
9 suant to the statutes regulating adoption proceedings.

10 The parents or the surviving parent of a child or the
11 mother of an illegitimate child may relinquish the child
12 to a child welfare agency licensed to place children for
13 adoption by a written statement signed before two wit-
14 nesses and acknowledged before a representative of the
15 child welfare agency. No such relinquishment shall be
16 valid unless a copy be filed in the office of the state depart-
17 ment and the relinquishment approved by the depart-
18 ment. Except in proceedings for adoption, no parent may

19 otherwise voluntarily assign or transfer to another his
20 rights and duties with respect to the permanent care, cus-
21 tody and control of a child under eighteen years of age.

Sec. 2. *Approval of Incorporation.*—Before issuing a
2 charter for the incorporation of any organization having
3 as its purpose the receipt of children for care or for place-
4 ment in family homes, the secretary of state shall pro-
5 vide a copy of the petition, together with any other in-
6 formation in his possession pertaining to the proposed
7 corporation, to the state department, and no charter for
8 any such corporation shall be issued unless the state de-
9 partment shall first certify to the secretary of state that it
10 has investigated the need for the services proposed and
11 the merits of the proposed charitable corporation and rec-
12 ommends the issuance thereof; applications for amend-
13 ments of any existing charter shall be similarly referred
14 and shall be granted only upon similar approval.

Article 4. Crippled Children.

Section

6. County departments to render services.

Section 6. *County Departments to Render Services.*—
2 County departments shall cooperate with the state de-
3 partment in rendering the services provided by this article.
4 They shall perform for the state department such investi-
5 gations, case supervision, and other services as the depart-
6 ment may request.

Article 5. Juvenile Courts.

Section

1. What courts have juvenile jurisdiction.
14. Disposition by court.

Section 1. *What Courts Have Juvenile Jurisdiction.*—The
2 circuit court of the county shall have original jurisdiction
3 in proceedings brought by petition under this article. If,
4 however, a court of record in addition to the circuit court,
5 has been or is subsequently created in a county, proceed-
6 ings under this article shall be held in the additional court
7 with right of appeal to the circuit court as follows:
8 (1) The domestic relations court, or if there is none,

- 9 (2) The court of common pleas or intermediate court
10 having chancery jurisdiction, or if there is none,
11 (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:

- 5 (1) Treat the child as a neglected child, in which case
6 the provisions of article six of this chapter shall apply.
7 (2) Order the child placed under the supervision of a
8 probation officer.
9 (3) If the child be over sixteen years of age at the time
10 of the commission of the offense the court may, if the
11 proceedings originated as a criminal proceeding in a court
12 other than a juvenile court, enter an order transferring
13 the case back to the court of origin, or to any court in the
14 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.
15
16 (4) Commit the child to an industrial home or correctional institution for minors.
17
18 (5) Commit the child to any public or private institution or agency permitted by law to care for children.
19
20 (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.
21
22 (7) Enter any other order which seems to the court to be to the best interests of the child.
23
24
25
26
27
28

Article 6. Procedure in Neglect Cases.

Section

1. Neglected children; petition to juvenile court.
2. Hearing.
3. Temporary custody.
4. Commitment to state department.
5. Dispositions other than commitment to the state department.

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

4 person may present a petition setting forth the facts to
5 the juvenile court in the county in which the child re-
6 sides, or to the judge of such court in vacation. The pe-
7 tition shall be verified by the oath of some credible per-
8 son having knowledge of the facts. Upon the filing of the
9 petition, the court or judge shall set a time and place for
10 a hearing.

Sec. 2. *Hearing.*—Notice of the time and place of hear-
2 ing shall be served upon the person having custody of the
3 child and shall be given to the state department. The per-
4 son having custody of the child, a parent or other person
5 standing in loco parentis, a relative, or any other person
6 having knowledge of the circumstances may appear and
7 be heard.

Sec. 3. *Temporary Custody.*—Until a hearing can be
2 held upon the petition, the court or judge may order that
3 the child be delivered into the custody of a county de-
4 partment, or into such other custody as the court or judge
5 may deem proper.

Sec. 4. *Commitment to State Department.*—If the court
2 finds that the interests and welfare of the child may best
3 be served by the state department, it may commit the child
4 to the custody and guardianship of the state department.
5 Before the commitment the court shall supply to the
6 state department all its information concerning the his-
7 tory, physical condition, and present situation of the child,
8 its parents, and forebears. This information shall be upon
9 the form provided by the state department. At its discre-
10 tion, the state department may accept or refuse to accept
11 a child for commitment.

Sec. 5. *Dispositions Other Than Commitment to the*
2 *State Department.*—In any case of a neglected child the
3 court may:

- 4 (1) Return the child to his own home under super-
5 vision of the county department;
- 6 (2) Commit the child to the custody of the county de-
7 partment or a licensed private child welfare agency;
- 8 (3) When necessary for the welfare of the child ter-
9 minate the parental rights and responsibilities of the par-

- 10 ent or parents of the child and commit the child to
11 the permanent care and guardianship of the state depart-
12 ment or of a licensed private child welfare agency;
13 (4) Appoint a suitable relative of the child as guardian
14 of the person of the child.

Article 7. General Provisions.

Section

7. Contributing to delinquency or neglect of a child; penalty.
26. Duty of prosecuting attorney.
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 delinquency or neglect of any child, shall be guilty of a misdemeanor, 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 prosecuting attorney shall render to the county department, without additional compensation, such legal services as the council may require.

Sec. 27. *Duty of County Superintendent of Schools.*—The superintendent of schools of the county shall, without additional compensation, cooperate with and render such assistance to the county 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 performance of its duties under the provisions of this chapter.

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 reenact 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.
2. State Advisory Board.
3. The Director of Public Assistance.
4. County Public Assistance Council.
5. Public Assistance.
10. Fiscal Provisions.
11. General Provisions.

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:

- 2 "State department" means the state department of public assistance.
- 3
- 4 "State board" means the state advisory board.
- 5 "Director" means the director of the state department
- 6 of public assistance.
- 7 "County council" means a county public assistance
- 8 council.

9 "County director" means a director appointed by a
10 county council.

11 "County department of public assistance" means the
12 county director, the county council, and the employees
13 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,
2 in addition to its functions as an advisory body, have
3 the following powers and duties to:

4 (1) Recommend to the governor persons to be ap-
5 pointed members of the county councils.

6 (2) Perform the functions devolving upon the board
7 under the provisions of article ten of this chapter.

8 (3) Keep minutes of the transactions of each session,
9 regular or special, which shall be public records and filed
10 with the state department.

Article 3. The Director of Public Assistance.

Section

6. Powers and duties.

8. Assistants and employees.

Section 6. *Powers and Duties.*—The director shall be
2 the executive and administrative head of the department,
3 and as such shall have the power and duty to:

4 (1) Exercise general supervision of, and make and
5 revise rules and regulations for, the government of the
6 department.

7 (2) Prescribe uniform regulations pertaining to in-
8 vestigations, reinvestigations, and case supervision by
9 county councils and directors.

10 (3) Prescribe uniform methods of recording and ac-
11 counting to be employed by the county councils and
12 directors.

13 (4) Sign and execute, in the name of the state, by
14 "The State Department of Public Assistance", and by
15 and with the consent and approval of the state board,
16 any contract or agreement with the federal govern-
17 ment or its agencies, other states, subdivisions of this
18 state, corporations, associations, partnerships or individ-
19 uals.

20 (5) Supervise the fiscal affairs and responsibilities of
21 the department.

22 (6) Organize the department so as to comply with the
23 requirements of this chapter and with the standards re-
24 quired by federal legislation.

25 (7) Adopt a merit system of personnel management
26 in conformity with federal legislation and promulgate in
27 connection therewith a classification and compensation
28 plan.

29 (8) Order, with the approval of the state board, two
30 or more counties to employ a single county director and
31 a joint staff of assistants and employees.

32 (9) Make such reports as will comply with the re-
33 quirements of federal legislation and with the provisions
34 of this chapter.

35 (10) Cooperate with federal and state governments
36 for the more effective attainment of the purposes of this
37 chapter.

38 (11) Keep a complete and accurate record of all pro-
39 ceedings; record and file all bonds or contracts; and
40 assume responsibility for the custody and preservation
41 of all papers and documents pertaining to his office.

42 (12) Make an annual report to the governor of the
43 condition, operation, and functioning of the department.

44 (13) Exercise any other powers necessary and proper
45 to standardize state and county work, to expedite business,
46 to assure fair consideration of application for aid, and
47 to promote the efficiency of the service.

48 (14) Invoke any legal, equitable or special remedies
49 for the enforcement of his orders or the enforcement of
50 the provisions of this chapter.

51 (15) Initiate programs for, or cooperate with other
52 agencies in, developing services for the prevention of
53 blindness, the conservation of vision, and the vocational
54 and social adjustment of the blind.

2 **Sec. 8. Assistants and Employees.**—The director shall
3 appoint the heads of the divisions of the department and
4 shall employ such assistants and employees as may be
5 necessary to the efficient operation of the department, in
accordance with the provisions of the merit system of

6 personnel management provided for in subsection seven,
7 section six of this article.

8 No such assistant or employee shall be a candidate for
9 or hold any other public office or trust, nor shall he be a
10 member of any political committee, nor shall he serve
11 as an election official.

Article 4. County Public Assistance Council.

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
2 county council shall appoint a "County Director of Public
3 Assistance" from the register of persons certified by
4 the state department as qualified to perform the duties
5 of that office. The county council shall fix the compen-
6 sation of the county director in accordance with the
7 compensation plan established by the state director.

8 The county director shall devote his entire time to
9 the duties of his office.

10 The county director shall be the ex officio secretary
11 of the county council.

Sec. 10. *Assistants and Employees.*—The county coun-
2 cil, upon the recommendation of the county director
3 and with the approval of the state department, shall
4 appoint or employ, from a register of persons certified
5 by the state department as qualified to perform the duties
6 of the position to be filled, such assistants and employees
7 as may be required. In counties having a negro popula-
8 tion of ten per cent or more of the total county population,
9 as determined by the last federal census, the county
10 council shall appoint an assistant director from the negro
11 race.

12 The compensation of appointees and employees of the
13 county council shall be fixed by the county council in
14 accordance with the compensation plan established by
15 the state director. In addition to their regular compen-
16 sation, the county director and his subordinates shall be
17 allowed their necessary traveling expenses. Requisitions
18 for traveling expenses shall be accompanied by a sworn

19 and itemized statement which shall be filed with the
20 county clerk and permanently preserved as a public re-
21 cord.

Sec. 12. *County Director, Powers and Duties.*—The
2 county director shall be the administrative officer in
3 charge of, and responsible for, the county activities pro-
4 vided by this chapter and, as such, shall have the follow-
5 ing powers and duties:

6 (1) Perform all duties imposed upon him by the pro-
7 visions of this chapter.

8 (2) Execute in accordance with the provisions of this
9 chapter the instructions of the state director and the
10 county council.

11 (3) Supervise and direct the work of his subordinates
12 and assistants.

13 (4) Prepare and submit such reports and information
14 as may be required by the state board, the state director,
15 or the county council.

16 (5) Observe standard administrative procedure and
17 methods required by the state director.

18 (6) Cooperate with charitable organizations, agencies
19 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
2 eligible for public assistance who:

3 (1) Has vision in the better eye, with correcting glas-
4 ses, of twenty two-hundredths or less or a disqualifying
5 field defect sufficient to incapacitate him for self-support.

6 (2) Has resided in the state for at least one year
7 immediately preceding the application.

8 (3) Has not made an assignment or transfer of prop-
9 erty for the purpose of qualifying for assistance.

10 (4) Is not an inmate of a public institution. An in-
11 mate may apply for assistance to begin after his dis-
12 charge from such institution.

- 13 (5) Is actually in need and has not sufficient income
14 or other resources to provide a subsistence compatible
15 with decency and health.

Sec. 5. *Dependent Children.*—A dependent child shall
2 be eligible for public assistance who:

3 (1) Has not attained the age of eighteen years.

4 (2) Is deprived of parental support or care by reason
5 of the death, continued absence from home, or physical
6 or mental incapacity of a parent.

7 (3) Is living with his father, mother, grandfather,
8 grandmother, brother, sister, stepfather, stepmother,
9 stepbrother, stepsister, uncle or aunt in a place of resi-
10 dence maintained by such relative as his own home.

11 (4) Has resided in the state for one year immediately
12 preceding application for assistance, or was born, within
13 one year immediately preceding application, of a mother
14 who resided within the state for one year immediately
15 preceding such birth.

16 (5) Is living in a suitable family home conforming
17 to the standards of care and health fixed by this chapter
18 and the regulations of the state department.

19 (5) Is needy because the person caring for him is
20 unable to support him, and, unless public assistance is
21 granted, will become a public charge.

Sec. 17. *Limitation of Amount.*—The amount of public
2 assistance granted from state funds to an aged person,
3 a blind person, or a dependent child, shall not in any
4 case exceed the amount which may be received for
5 matching from the federal government. Thus, the total
6 amount of public assistance from all sources shall not
7 in any case exceed twice the amount received for match-
8 ing from federal funds.

Sec. 29. *Agreement to Reimburse.*—As a condition of
2 receiving public assistance, an aged person shall submit
3 to the county council a properly acknowledged agreement
4 granting to the state a lien upon all or any part of his
5 real or personal property including that subsequently ac-
6 quired, as may be required by the rules of the state de-
7 partment. The lien shall attach upon the signing of the

8 agreement and shall be for the total amount of public
9 assistance paid to such person.

Sec. 31. *Insurance Policies.*—As a condition of receiving
2 public assistance, an aged person shall assign to the state
3 department any life insurance policy owned by him and
4 payable to him or to his estate, as security for the amount
5 of public assistance granted to him, subject, however, to
6 the personal property exemption provided for in section
7 thirty-six of this article.

Article 10. Fiscal Provisions.

Section

5. County funds.

Section 5. *County Funds.*—The amount of the county
2 fund provided each year by a county court shall not be
3 less than fifteen per cent of the total which the county is
4 legally authorized to levy for current purposes by section
5 ten, article eight, chapter eleven of the code of West Vir-
6 ginia, one thousand nine hundred thirty-one, as amended:
7 *Provided, however,* That the said fifteen per cent of such
8 total shall not be required to be provided by the county
9 court if it shall be determined, prior to the laying of the
10 county's levies, that an amount less than such per cent
11 will be sufficient to meet the reasonably anticipated gen-
12 eral needs of the county. Such a determination shall re-
13 quire the agreement of at least two of the following per-
14 sons: The tax commissioner, the state director, and the
15 member of the county court who is ex officio member of
16 the county council at the time such determination is made.
17 Such a determination shall be in writing; shall state the
18 specific amount determined upon as sufficient to meet the
19 reasonably anticipated general relief needs of the county;
20 shall be signed by the three persons designated or by at
21 least two of them; and shall be filed of record in the office
22 of the tax commissioner. Complete duplicates shall be
23 filed in the office of the state director and with the county
24 court, respectively. The county court shall levy for gen-
25 eral relief not less than the amount so determined and
26 agreed: *Provided further,* That if a county court finds
27 that expenditures mandatory under other provisions of
28 law aggregate in excess of eighty-five per cent of the total

29 amount which the county court is authorized by law to
30 levy for current purposes, the court may petition the tax
31 commissioner for authority to provide an amount less
32 than that required by the first paragraph of this section.
33 If the tax commissioner finds that other mandatory ex-
34 penditures for the county will exceed eighty-five per cent
35 of the authorized total levy for current purposes, he may
36 authorize the county court to provide a lesser amount
37 than that required by said first paragraph, but he shall
38 require the maximum amount possible under the circum-
39 stances.

Article 11. General Provisions.

Section

16. Confidential character of public assistance records; misuse of public assistance lists and records.

Section 16. *Confidential Character of Public Assistance*

2 *Records; Misuse of Public Assistance Lists and Records.*—

3 The regulatory power of the state director shall include
4 the power to establish and enforce reasonable rules and
5 regulations governing the custody, use, and preservation
6 of the records, papers, files, and communications of the
7 state department and county councils. Wherever, under
8 provisions of law, names and addresses of recipients of
9 public assistance are furnished to or held by any other
10 agency or department of government, such agency or
11 department of government shall be required to adopt
12 regulations necessary to prevent the publication of lists
13 thereof or their use for purposes not directly connected
14 with the administration of old-age assistance, aid to the
15 blind, or aid to dependent children.

16 It shall be unlawful, except for purposes directly con-
17 nected with the administration of old-age assistance, aid
18 to the blind, or aid to dependent children, and in ac-
19 cordance with the rules and regulations of the state di-
20 rector, for any person or persons to solicit, disclose, re-
21 ceive, make use of, or to authorize, knowingly permit,
22 participate in, or acquiesce in the use of, any list of or
23 names of persons applying for or receiving such assist-
24 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 thousand 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.]

Article 7. General Provisions.

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 extraordinary 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 Conviction and Not Bar to Civil Service Eligibility.*—Any evidence given in any cause or proceeding under this chapter, or any order, judgment or finding therein, or any adjudication upon the status of juvenile delinquent heretofore 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

nine hundred thirty-seven, relating to assistant attorneys general.

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

Article 3. Attorney General.

Section

3. Assistants to attorney general.

Be it enacted by the Legislature of West Virginia:

That section three, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, 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,

15 has been guaranteed by the United States, or of this state,
16 or of any county, city, town or village, or school district
17 of this state, or if such interest-bearing securities can-
18 not be obtained, then such fund shall be invested in
19 such other solvent interest-bearing securities as shall
20 be approved by such board. The governor shall be
21 president of the board, and in his absence the board shall
22 choose one of the number to preside temporarily in
23 his place. The auditor shall be secretary of the board.
24 The state treasurer shall be custodian of all investments
25 made by such board. A record shall be kept of all the
26 proceedings and be signed by the president and secre-
27 tary, and a copy thereof, certified by the secretary of
28 the board, shall be evidence in all cases in which the
29 original would be. A majority of the board shall con-
30 stitute a quorum for the transaction of business.

31 The board may acquire, own, hold, use, receive rents
32 and issues from, dispose of and convey, real estate, sub-
33 ject to the following limitations, and for the following
34 purposes:

35 (a) Such as shall have been mortgaged to it, or con-
36 veyed to trustees, as security for debts in its favor;

37 (b) Such as shall be conveyed to it in satisfaction of
38 debts, or in partial payment of debts, previously con-
39 tracted;

40 (c) Such as it has heretofore purchased, or shall here-
41 after purchase, at sales under judgments, decrees, trust
42 deeds or mortgages in its favor, or shall purchase at
43 private sale, to secure and effectuate the payment of
44 debts due to it.

45 Any real estate acquired by the board under clauses (b)
46 and (c) shall be disposed of by the board at the earliest
47 practicable date, but the board shall have a reasonable
48 discretion in the matter of the time to dispose of such
49 property in order to prevent unnecessary losses; and
50 such property, in the discretion of the board, may be sold
51 either at public sale or at private sale and for cash or on
52 such other terms as the board may deem expedient.

53 (d) The board shall have full power and authority
54 to extend the time for the payment of the principal or

55 interest, or both principal and interest or any part thereof,
56 of any interest-bearing securities in which the fund may
57 have been invested prior to March fourth, one thousand
58 nine hundred thirty-three, as in the discretion of the
59 board it may deem proper and expedient.

60 (e) The board shall have full power and authority to
61 make such adjustments, deductions, settlements and com-
62 promises as in its judgment may be deemed reasonably
63 equitable and expedient under all circumstances with
64 respect to any loans or investments made by it prior to
65 the fourth day of March, one thousand nine hundred
66 thirty-three. In the exercise of this power and authority,
67 the board shall give preference to such loans and invest-
68 ments as are not represented by the securities of the
69 United States, this state or any political subdivision of
70 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.
11. Report of board.

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; How Appointed.*—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.

Sec. 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.

Sec. 3. *Terms of Members.*—The members ex officio of the board shall hold office during their tenure as state officers by virtue of which they are members of the board.

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.

Sec. 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-

5 penses as may be incurred in the immediate discharge of
6 their duties as members of the board. Such expenses shall
7 be met out of any funds available for the purpose, and
8 shall be paid upon certification of the chairman of the
9 board, in such manner as the expenses of other state of-
10 ficials are paid.

Sec. 5. *Offices of Board; Meetings of Board; Quorum.*—

2 The board shall be supplied with necessary office space in
3 the state capitol or in some other state office building. It
4 shall meet upon the call of the chairman and upon such
5 other call and at such other times as it may determine. A
6 majority of the members shall constitute a quorum for the
7 transaction of business.

Sec. 6. *Rules of Board; Records; Employees.*—The board

2 shall provide rules for the conduct of its proceedings. It
3 shall keep permanent and complete public records of its
4 meetings, hearings, orders and decisions. It may employ
5 an executive secretary or secretary-engineer who shall be
6 qualified by special training and experience in the field of
7 state, local or national planning, and may employ such
8 other technical and clerical assistants as may be required.
9 It may fix their compensation, subject to the personnel
10 classification and salary schedules provided by law, and
11 may within the limits of the funds available, incur any
12 other expenses necessary to the effective discharge of its
13 powers and duties.

14 The board may request the assistance and advice of
15 other state departments and agencies in making its
16 studies and in formulating its plans.

Sec. 7. *Duties of Board.*—The board shall prepare and

2 from time to time perfect a state master plan for the
3 physical, social and economic development of the state,
4 and shall prepare and keep current a proposed long-term
5 program of major state improvements relating to the
6 comprehensive development of the natural and artificial
7 resources of the state. The board also may, and, at the
8 request of the governor, shall:

9 (1) Advise with the various federal, state and local
10 authorities, and particularly with out-of-state and intra-

11 state planning authorities, as to ways and means of co-
12 ordinating all plans for the physical development of the
13 state, including plans for highways, airways and air
14 terminals, parkways, parks, water supply developments,
15 flood control, land use, recreation area and forest reserva-
16 tions, and any other plans, projects or programs that may
17 be related to the purposes of this act.

18 (2) Make studies of rural land utilization with a view
19 to determining areas suitable for field crops, reforesta-
20 tion, watershed protection, reclamation, recreation, sum-
21 mer residence and industrial and urban expansion.

22 (3) Collect and publish information and prepare and
23 publish maps pertaining to soil conditions, land use and
24 classification, population distribution, schools, parks, play-
25 grounds, ports, waterways, parkways, highways, roads,
26 traffic, transportation, water supply, drainage, flood con-
27 trol, water power resources, sewage, building and housing
28 conditions, and other matters relating to the comprehen-
29 sive physical development of the state, and make such
30 recommendations to the governor and to the Legislature
31 as it may deem advisable.

32 (4) Collect and publish information pertaining to the
33 development and utilization of the mineral and other
34 natural resources of the state, and foster research therein.

35 (5) Make studies, collect and publish information per-
36 taining to the industrial and commercial development of
37 the state.

Sec. 8. *Public Hearings on Plans.*—Before submitting
2 any plan, or partial plan, to the governor and the Legis-
3 lature, the board may hold public hearings thereon. The
4 state master plan, or any part thereof, when approved by
5 the governor and endorsed by concurrent resolution of
6 the Legislature, shall become the "Official State Plan", or
7 a part thereof.

Sec. 9. *Board May Enter into Agreements.*—The board
2 may enter into agreements with counties or municipalities
3 of the state for the promotion of, and for the rendering
4 of consultative services with respect to, the planning of
5 the county or municipality. The agreement may provide

6 that the county or municipality shall pay part or all of the
7 expense of such services.

Sec. 10. *Board May Expend Funds.*—The board is au-
2 thorized to spend any funds made available for the pur-
3 poses of this act, and to accept and use funds provided for
4 the purposes of this act by the government of the United
5 States in accordance with federal requirements and under
6 such conditions as the laws of this state may provide.

Sec. 11. *Report of Board.*—The board shall submit a
2 report of progress to the governor and to the Legisla-
3 ture in January of each year, in addition to such other
4 recommendations, studies and plans as it may submit from
5 time to time.

CHAPTER 80

(House Bill No. 400—By Mr. Ross, of Mercer)

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 ses-
sion, 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.]

Section

2. Commissioner of labor; qualifications; appointment; term of office;
salary.

Be it enacted by the Legislature of West Virginia:

That section fourteen, chapter eighty-two, acts of the Legis-
lature, regular session, one thousand nine hundred thirty-seven,
as amended by article one, chapter eighty-nine, acts of the Leg-
islature, regular session, one thousand nine hundred thirty-
seven, be amended and reenacted to read as follows:

Section 2. *Commissioner of Labor; Qualifications; Ap-
2 pointment; Term of Office; Salary.*—The state commis-

3 sioner 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 commissions 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 control 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"; providing 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.
3. Provisions severable.

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

30 at the time he ceases to hold said office of commissioner
31 of health, and his successor as a commissioner shall be
32 his successor as said commissioner of health. Said ex
33 officio commissioner may delegate, from time to time, to
34 any deputy or other subordinate in his department or
35 office, the power to be present and participate, including
36 voting, as his representative or substitute at any meeting
37 of or hearing by or other proceeding of the commission.
38 The terms of each of the initial three members shall begin
39 at the date of the appointment of the two appointive com-
40 missioners, provided the compact hereinafter referred to
41 shall then have gone into effect, in accordance with
42 article five thereof, otherwise to begin upon the date said
43 compact shall become effective, in accordance with said
44 article five.

45 Any commissioner may be removed from office by the
46 governor.

47 The governor of the state of West Virginia is hereby
48 authorized and directed to execute a compact on behalf
49 of the state of West Virginia, with the other states and
50 the district hereinabove referred to, who may by their
51 legislative bodies so authorize a compact in form sub-
52 stantially 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.

15 The commission shall elect from its membership a
16 chairman and may also select a secretary who need not
17 be a member. The commission may employ such assist-
18 ants as it may deem necessarily required, and the duties
19 of such assistants shall be prescribed and their compen-
20 sation fixed by the commission and paid out of the state
21 treasury out of funds appropriated for such purposes
22 upon the requisition of said commission.

23 The commission shall meet at such times and places as
24 agreed upon by the commissioners or upon call of its
25 chairman.

Sec. 3. *Provisions Severable.*—If any section, sentence,
2 subdivision or clause of this act shall for any reason be
3 held invalid or unconstitutional, such decision shall not
4 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;*

2 *Transfers to Operating Fund.*—The following funds are
3 created in the state treasury for the purposes of this
4 chapter:

5 (1) The operating fund, which shall be a revolving
6 fund from which all expenses of operation and admin-
7 istration shall be paid except those authorized to be paid
8 from the reserve fund.

9 (2) The reserve fund, which shall be a reserve for
10 contingencies and depreciation. This fund may be used
11 for (a) the purchase of equipment and other property
12 having a useful life of more than one year from date of
13 purchase, and (b) transfer to the operating fund to meet
14 unusual requirements arising in the course of business.

15 Transfers from the reserve fund to the operating fund
16 shall be made as follows: The commission shall recom-
17 mend such transfer to the governor, and the governor
18 shall draw the requisition if he approves the transfer.
19 Moneys in the reserve fund not needed for cash reserve
20 shall, with the approval of the governor, be invested by
21 the board of public works in obligations of the United
22 States, of the state of West Virginia, or any of its sub-
23 divisions, or in revenue bonds of the state issued prior
24 to December thirty-first, one thousand nine hundred for-
25 ty-one, by the West Virginia board of control for self-
26 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,

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

2 **Claim of M. L. McNeely.**—The state road commission, by
3 and through the state road commissioner, is hereby
4 authorized and empowered to pay M. L. McNeely, the
5 father of Emma June McNeely, a sum not to exceed two
6 thousand five hundred dollars for permanent damages.
7 The sum herein authorized shall be paid from any moneys
8 now or hereafter appropriated to the state road commis-
9 sion.

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

1. State road commission authorized to make settlement with Ray Wildman, administrator of estate of H. L. Wildman, deceased.

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*
2 *Claim of Harry Love.*—That the state road commission is
3 hereby authorized and empowered, in its discretion, to

4 pay to Harry Love a sum not to exceed seven hundred
5 and fifty dollars as and for damages sustained by him in
6 the collapse of a public road or highway bridge near Gil-
7 mer Station in Gilmer county.

CHAPTER 86

(House Bill No. 301—By Mr. Boggs, by request)

AN ACT authorizing and empowering the state road commis-
sion 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
2 Clay County Board of Education for Damages to a School
3 Bus.*—That the state road commission of West Virginia is
4 hereby authorized and empowered to pay to the board of
5 education of the county of Clay not to exceed two hundred
6 sixty-nine dollars and one cent, to reimburse said board of
7 education for damages caused to a school bus owned and
8 operated by it when struck by a truck owned and oper-
9 ated by said state road commission on the twenty-seventh
10 day of September, one thousand nine hundred thirty-nine.

CHAPTER 87

(House Bill No. 8—By Mr. Paul)

AN ACT authorizing the state road commission to pay Nor-
wood Dingess for damage to his one and one-half ton
Chevrolet motor truck, August thirtieth, one thousand

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 employee of the said road commission, ran into and almost demolished said car; and

WHEREAS, The driver of the state road truck, in view of holding 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 Reimburse 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 Hamrick 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 commission 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, administrator 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 Tygarts 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

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*
2 *Claim of Lee Hill, Administrator of Lee Hill, Jr.*—The
3 state road commission is hereby authorized and empow-
4 ered, in its discretion, to pay to the said Lee Hill, admin-
5 istrator of Lee Hill, Jr., a sum not to exceed three thou-
6 sand dollars, in full settlement and discharge of said claim,
7 from any moneys available now or hereafter appropri-
8 ated for such purpose, upon conditon that the said Lee
9 Hill, administrator of Lee Hill, Jr., do execute and de-
10 liver upon receipt of said sum aforesaid a complete re-
11 lease from any obligations upon the state of West Vir-
12 ginia.

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.]

Article 3. State Sinking Fund Commission.

Section

4. Investment of sinking funds.

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
2 duty of said commission to keep all sinking funds, under
3 its control, invested. The sinking fund of each political
4 division shall be first invested in the political division's
5 own bonds, if the same are available for purchase. If
6 no such bonds can be purchased for investment or retire-
7 ment, then it shall be the duty of the commission to invest
8 the sinking funds in bonds issued by other political
9 divisions of the state. If bonds of the political division
10 cannot be purchased for investment or retirement and
11 there are no bonds of other political divisions of the state
12 available for purchase, then it shall be the duty of the
13 commission to invest the sinking funds in the bonds or
14 treasury certificates of the government of the United
15 States or bonds of this state. But any bonds so purchased
16 shall be bonds which mature before the bonds mature
17 for which the sinking fund was created. Before any
18 bond shall be purchased by the commission, either for
19 investment or retirement (unless the same be purchased
20 at maturity according to the condition of the bond), the
21 purchase must be authorized by a recorded vote of the
22 commission showing the approval of three-fourths of
23 all the members. No bond shall be purchased at a
24 greater rate than par and accrued interest. The interest
25 fund shall be used for the purpose of paying the interest
26 on the outstanding bonds as the same falls due.

Sec. 7. *Where and How Bonds and Interest Payable;*
2 *Substitute Paying Agent.*—Payment of bonds and interest
3 coupons hereafter issued shall be made from funds
4 specified in section eight of this article. The place or
5 places of payment of such bonds and coupons shall be
6 in accordance with the provisions of articles one and two
7 of this chapter. In the event of the insolvency, threat of
8 insolvency, death, or discontinuance from business of the
9 paying agent or in the case of discontinuance of the place
10 of payment as designated by the terms of such bonds, it
11 shall be the duty of the sinking fund commission to ap-
12 point another paying agent or designate another place of
13 payment. Such action by the commission shall be valid
14 only if sanctioned by the recorded votes of three-fourths

15 of the commission's membership. Upon appointment of a
16 substitute paying agent, it shall be the duty of the commis-
17 sion to publish notice of such action once a week for two
18 consecutive weeks in a newspaper of general circulation
19 in the county in which the former paying agent had resi-
20 dence. Upon designation of another place of payment,
21 publication of notice shall be made in the county in which
22 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.

CHAPTER 93

(House Bill No. 61—By Mr. Alexander)

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.*

- 2 —(a) The board of commissioners created by section
- 3 twenty, article two, chapter fifteen of the code of West
- 4 Virginia, one thousand nine hundred thirty-one, and the
- 5 superintendent of the department of public safety shall
- 6 constitute a pension fund board and shall have the power
- 7 to make awards or to revise awards previously made
- 8 for such times and under such terms and conditions as
- 9 are hereinafter provided for, and shall make all neces-
- 10 sary rules and regulations regarding the same not incon-
- 11 sistent with this act.
- 12 (b) Any member of the department of public safety

13 who has served in said department for a period of twenty
14 years, upon application by said member to the superin-
15 tendent of said department, together with certificate of
16 service and with the approval of the board of commis-
17 sioners, shall be retired and shall thereupon receive an-
18 nually, in monthly installments, from said pension fund
19 an amount equal to three per cent of the total salary
20 earned by him during his service in the department: *Pro-*
21 *vided, however,* That any member of the department who
22 has served in the department for a period of twenty years
23 and who in the opinion of the pension fund board is in-
24 capable of performing his duties as a member of the de-
25 partment due to physical or other handicaps or defects,
26 may be retired, and shall thereupon receive annually, in
27 monthly installments, from said pension fund an amount
28 equal to three per cent of the total salary earned by him
29 during his service in the department.

30 (c) Any member of said department of public safety
31 who has heretofore received or who may hereafter re-
32 ceive permanent disability in the performance of his
33 duty shall, upon certificate of disability of a physician
34 designated for the purpose by the board of commissioners,
35 be retired upon an annual pension of not less than two
36 nor more than five per cent of twenty years' salary based
37 on his average earnings while employed by the depart-
38 ment: *Provided,* That in no case shall the total amount
39 received be more than the total amount received when
40 regularly employed as a member of the department.

41 (d) The widow or children under the age of sixteen
42 years, or sole dependent parent of any member of the
43 department of public safety who shall have heretofore
44 or shall hereafter lose his life in the performance of his
45 duty, or where death results from injury received in the
46 performance of duty, shall receive an annual pension
47 that shall not exceed two per cent of twenty years' salary
48 based on his average earnings while employed by the
49 department: *Provided,* That in case of a widow and chil-
50 dren such pension shall be for the widow and the children
51 and shall be paid to the widow, and in case there are three
52 or more children under the age of sixteen years and no

53 widow, the said children shall receive the pension in
54 equal shares until they attain the age of sixteen years,
55 and in case there are two children under the age of six-
56 teen years and widow, they shall be paid such pension,
57 but not to exceed fifteen dollars monthly each, until they
58 attain the age of sixteen years, and in the case of only
59 one child and no widow, he or she shall be paid such pen-
60 sion, but not to exceed fifteen dollars monthly, until he
61 or she attains the age of sixteen years: *Provided further,*
62 That in case there is no widow and no children under the
63 age of sixteen years, then such pension shall be paid to
64 the parent or parents dependent upon the deceased mem-
65 ber: *Provided further,* That if any widow entitled to a
66 pension aforesaid dies or remarries, then such pensions
67 shall cease to be paid to such widow, or her estate, but
68 shall be paid to each of said children, or child, until they
69 reach the age of sixteen years. No such child shall receive
70 more than fifteen dollars per month.

71 (e) Any member of the department of public safety
72 who is released or who severs his connection with the
73 department of public safety and who has served two full
74 years or more with the department, shall, upon request,
75 be refunded all deductions made from his salary, but with-
76 out interest, on account of this fund. But in the event
77 that such refund is made, and such member subsequently
78 reenlists, no credit shall be allowed to him for any
79 former service. If any member is released or severs his
80 connection with the department before he has served two
81 full years, he shall forfeit his right to have refunded to
82 him any such deductions.

83 (f) All outstanding annuities shall be paid from the
84 current income to such fund and from the interest on
85 or income from an accumulated fund amounting to one
86 hundred seven thousand dollars.

87 (g) All future awards from such fund shall be valued
88 annually, and reserves based on sound actuarial prin-
89 ciples for their payment shall be carried on the funds
90 account as a liability against the general fund.

91 (h) An adequate system of accounting shall be installed
92 and kept so as to insure a proper record of all transac-

- 93 tions in a detailed record of all contributions and refunds,
94 dates of enlistments, time served, and all releases of
95 members.

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
- 2 appoint an inspector with the grade of captain, and a
 - 3 headquarters sergeant and a supply sergeant at the
 - 4 annual salaries provided in section three of this article.
 - 5 He shall also appoint such civilian employees as may be

7 necessary, whose salaries shall be fixed by the board of
8 public works. Such inspector, headquarters sergeant
9 and supply sergeant shall be enrolled and enlisted as mem-
10 bers of the department of public safety.

Sec. 3. *Companies or Platoons; How Constituted; Sal-*
2 *aries and Bonds of Members.*—The superintendent shall
3 create, appoint and equip a department of public safety
4 which shall consist of four companies or platoons. Each
5 company or platoon shall be composed of one captain,
6 one lieutenant, one first sergeant, five sergeants, eight
7 corporals, and such number of troopers as the superin-
8 tendent may decide best, but such number of troopers
9 shall not at any time be less than thirty, or more than
10 fifty-five, in any one company or platoon.

11 Members of the department shall receive salaries, as
12 follows:

13 The inspector shall receive an annual salary of thirty-
14 six hundred dollars, and shall receive an increase of sixty
15 dollars per annum during continuous service at the grade
16 of inspector until a maximum annual salary of three thou-
17 sand nine hundred sixty dollars is paid; captains shall
18 each receive an annual salary of twenty-four hundred
19 dollars, and shall receive an increase of sixty dollars
20 per annum during continuous service at the grade of
21 captain until a maximum annual salary of two thousand
22 seven hundred sixty dollars is paid; lieutenants shall each
23 receive an annual salary of twenty-one hundred dollars,
24 and shall receive an increase of sixty dollars per annum
25 during continuous service at the grade of lieutenant until
26 a maximum annual salary of twenty-four hundred dol-
27 lars is paid; first sergeants, the headquarters sergeant
28 and supply sergeant shall each receive an annual salary of
29 eighteen hundred dollars, and shall receive an increase of
30 sixty dollars per annum during continuous service at
31 their respective grades until a maximum annual salary
32 of one thousand nine hundred eighty dollars is paid;
33 sergeants shall each receive an annual salary of one
34 thousand six hundred eighty dollars, and shall receive an
35 increase of sixty dollars per annum during continuous
36 service at the grade of sergeant until a maximum annual

37 salary of eighteen hundred dollars is paid; corporals
38 shall each receive an annual salary of fifteen hundred
39 sixty dollars, and shall receive an increase of sixty dol-
40 lars per annum during continuous service at the grade of
41 corporal until a maximum annual salary of sixteen hun-
42 dred eighty dollars is paid; and each trooper shall re-
43 ceive a salary of seventy-five dollars per month for the
44 first three months of his service, one hundred dollars
45 per month for the next nine months, and thereafter shall
46 receive an increase of sixty dollars per annum during
47 continuous service at the grade of trooper until a maxi-
48 mum annual salary of one thousand five hundred sixty
49 dollars is paid.

50 In applying the foregoing salary schedule where salary
51 increases are provided for continuous service, all the
52 members of the department in service at the time this act
53 becomes effective shall be given credit for prior continu-
54 ous service in their respective grades, and shall be paid
55 such salaries as the same length of continuous service
56 would entitle them to receive under the provisions
57 hereof.

58 Each member of the department of public safety, ex-
59 cept the superintendent and civilian employees, shall,
60 before entering upon the discharge of his duties, execute
61 a bond with security in the sum of three thousand five
62 hundred dollars, payable to the state of West Virginia,
63 conditioned for the faithful performance of his duties as
64 such, and such bond shall be approved as to form by the
65 attorney general, and as to sufficiency by the board of
66 public works, and the same shall be filed with the sec-
67 retary 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, chap-
ter 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
2 public safety, heretofore established, shall be continued.
3 The executive and administrative head of the department
4 shall be a superintendent, who shall be appointed by the
5 governor, by and with the advice and consent of the sen-
6 ate, for a term of four years. The superintendent shall be
7 on the date of his appointment at least thirty years of age.
8 He shall receive an annual salary of six thousand dollars
9 to be paid as provided by law. He shall, before entering
10 upon the discharge of the duties of his office, execute a
11 bond in the penalty of ten thousand dollars, with security
12 thereon, payable to the state of West Virginia and con-
13 ditioned for the faithful performance of his duties. Such
14 bond both as to form and security shall be approved by
15 the board of public works. Before entering upon the
16 duties of his office the superintendent shall subscribe to
17 the oath hereinafter provided. The board of public works
18 shall provide suitable and adequate offices at the capital
19 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

hundred thirty-one, relating to custody of securities by the state treasurer.

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

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*

2 *to Companies for Care, etc., of Securities.*—The treasurer
3 of this state, unless otherwise expressly provided by law,
4 shall be custodian of all securities belonging to the state
5 of West Virginia or by law required to be deposited with
6 the state or held in legal custody by the state, and all de-
7 partments of this state, commissioners or agents of the
8 state, who hold any such securities, shall transfer and de-
9 liver the same to the state treasurer to be kept and held
10 by him as legal custodian thereof until released in the
11 manner provided by law.

12 The board of public works may by formal order of
13 record fix fair and reasonable charges for the care, cus-
14 tody, exchange and substitution of securities deposited by
15 insurance companies and companies issuing annuity con-
16 tracts, and such charges shall be collected from such com-
17 panies by the state treasurer and by him deposited in the
18 state fund general revenue: *Provided, however,* That no
19 such charge shall be made against any such company hav-
20 ing securities of the par value of less than three hundred
21 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.
2. The Director of Unemployment Compensation.
4. Board of Review.
5. Employer Coverage and Responsibility.
6. Employee Eligibility; Benefits.
9. Unemployment Compensation Administration Fund.
10. General Provisions.

Be it enacted by the Legislature of West Virginia:

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

Article 1. Department of Unemployment Compensation.

Section

3. Definitions.

Section 3. *Definitions.*—As used in this chapter, unless
2 the context clearly requires otherwise:
3 “Administration fund” means the unemployment com-

4 pensation administration fund, from which the admini-
5 strative expenses under this chapter shall be paid.

6 "Annual payroll" means the total amount of wages
7 for employment paid by an employer during one year.

8 "Average annual payroll" means the average of the
9 annual payrolls of an employer for the last three years.

10 "Base period" means the twelve consecutive month
11 period ending on the December thirty-first next pre-
12 ceding an individual's benefit year.

13 "Benefit unit" means the amount of benefit an eligible
14 individual will receive for each shift of no work avail-
15 able in excess of one-half normal shift expectancy.

16 "Benefit year" with respect to an individual means the
17 twelve-month period beginning with April first and end-
18 ing with March thirty-first, which includes the period for
19 which claim for benefit is made by such individual.

20 "Benefits" means the money payable to an individual
21 with respect to his unemployment.

22 "Board" means board of review.

23 "Calendar quarter" means the period of three con-
24 secutive calendar months ending on March thirty-one,
25 June thirty, September thirty, or December thirty-one,
26 or the equivalent thereof, as the director may by regula-
27 tion prescribe.

28 "Director" means the unemployment compensation di-
29 rector.

30 "Employing unit" means an individual, or type of or-
31 ganization, including any partnership, association, trust,
32 estate, joint stock company, insurance company, corpora-
33 tion (domestic or foreign), or the receiver, trustee in
34 bankruptcy, trustee or successor thereof, or the legal rep-
35 resentative of a deceased person, which has on January
36 first, one thousand nine hundred thirty-five, or subsequent
37 thereto, had in its employ one or more individuals per-
38 forming service within this state.

39 "Employer" means an employing unit which for some
40 portion of a day, not necessarily simultaneously, in each
41 of twenty different weeks, which weeks need not be con-
42 secutive within either the current year or the preceding
43 year, has had in employment eight or more individuals

44 (irrespective of whether the same individuals were or
45 were not employed on each of such days.)

46 "Employment", subject to the other provisions of this
47 subsection, means:

48 (1) Service, including service in interstate commerce,
49 performed for wages or under any contract of hire, writ-
50 ten or oral, express or implied.

51 (2) The term "employment" shall include an individ-
52 ual's entire service, performed within or both within and
53 without this state if: (a) The service is localized in this
54 state; or (b) the service is not localized in any state but
55 some of the service is performed in this state and (i) the
56 base of operations, or, if there is no base of operations,
57 then the place from which such service is directed or con-
58 trolled, is in this state; or (ii) the base of operations or
59 place from which such service is directed or controlled
60 is not in any state in which some part of the service is
61 performed but the individual's residence is in this state.

62 (3) Service not covered under paragraph (2) of this
63 subsection and performed entirely without this state, with
64 respect to no part of which contributions are required and
65 paid under an unemployment compensation law of any
66 other state or of the federal government, shall be deemed
67 to be employment subject to this act if the individual per-
68 forming such services is a resident of this state and the
69 director approves the election of the employing unit for
70 whom such services are performed that the entire service
71 of such individual shall be deemed to be employment
72 subject to this act.

73 (4) Service shall be deemed to be localized within a
74 state if: (a) The service is performed entirely within such
75 state; or (b) the service is performed both within and
76 without such state, but the service performed without such
77 state is incidental to the individual's service within the
78 state: For example, is temporary or transitory in nature
79 or consists of isolated transactions.

80 (5) Services performed by an individual for wages
81 shall be deemed to be employment subject to this act
82 unless and until it is shown to the satisfaction of the di-
83 rector that: (a) Such individual has been and will con-

84 tinue to be free from control or direction over the per-
85 formance of such services, both under his contract of
86 service and in fact; and (b) such service is either outside
87 the usual course of the business for which such service
88 is performed or that such service is performed outside of
89 all the places of business of the enterprise for which such
90 service is performed; and (c) such individual is custo-
91 marily engaged in an independently established trade,
92 occupation, profession, or business.

93 The term "employment" shall not include:

94 (1) Services performed in the employ of this state or
95 any political subdivision thereof, or any instrumentality
96 of this state or its subdivisions.

97 (2) Service performed directly in the employ of
98 another state, or its political subdivisions.

99 (3) Service performed in the employ of the United
100 States or an instrumentality of the United States exempt
101 under the constitution of the United States from the pay-
102 ments imposed by this law, except that to the extent that
103 the Congress of the United States shall permit states to
104 require any instrumentalities of the United States to
105 make payments into an unemployment fund under a state
106 unemployment compensation law, all of the provisions of
107 this law shall be applicable to such instrumentalities, and
108 to service performed for such instrumentalities, in the
109 same manner, to the same extent and on the same terms
110 as to all other employers, employing units, individuals and
111 services: *Provided*, That if this state shall not be certified
112 for any year by the Social Security Board under section
113 1603 (c) of the Federal Internal Revenue Code, the pay-
114 ments required of such instrumentalities with respect to
115 such year shall be refunded by the director from the fund
116 in the same manner and within the same period as is pro-
117 vided in section nineteen of article five of this law with
118 respect to payments erroneously collected.

119 (4) Service performed after June thirty, one thousand
120 nine hundred thirty-nine, with respect to which unem-
121 ployment compensation is payable under the Railroad
122 Unemployment Insurance Act (fifty-two Stat. one thou-
123 sand ninety-four), and service with respect to which un-
124 employment benefits are payable under an unemployment

125 compensation system for maritime employees established
126 by an act of Congress. The director may enter into
127 agreements with the proper agency established under
128 such act of Congress to provide reciprocal treatment to
129 individuals who, after acquiring potential rights to un-
130 employment compensation under an act of Congress, or
131 who have, after acquiring potential rights to unemploy-
132 ment compensation under an act of Congress, acquired
133 rights to benefits under this chapter. Such agreements
134 shall become effective ten days after such publication as
135 complies with the general rules of the department.

136 (5) Agricultural labor.

137 (6) Domestic service in a private home.

138 (7) Service performed as an officer or member of a
139 crew of a vessel on the navigable waters of the United
140 States.

141 (8) Service performed by an individual in the employ
142 of his son, daughter, or spouse.

143 (9) Service performed by a child under the age of
144 twenty-one years in the employ of his father or mother.

145 (10) Service performed in the employ of an employing
146 unit organized and operated exclusively for religious,
147 charitable, scientific, literary, or educational purposes or
148 for prevention of cruelty to children or animals, no part
149 of the net earnings of which inure to the benefit of any
150 private shareholder or individual.

151 "Employment office" means a free employment office or
152 branch thereof, operated by this state, or any free public
153 employment office maintained as a part of a state-
154 controlled system of public employment offices in any
155 other state.

156 "Fund" means the unemployment compensation fund
157 established by this chapter.

158 "Normal shift expectancy" means the customary num-
159 ber of shifts or their equivalent that constitute full time
160 operation of the business in which the claimant is
161 regularly employed.

162 "Normal shift" means the customary number of hours
163 constituting a full shift at the operation of the claimant's
164 regular employer.

165 "Payments" means the money required to be paid into
166 the state unemployment compensation fund as provided
167 by article five of this chapter.

168 "State" includes in addition to the states of the United
169 States, Alaska, Hawaii, and the District of Columbia.

170 "Total and partial unemployment":

171 (1) An individual shall be deemed "totally unem-
172 ployed" in any week in which such individual is separated
173 from employment for an employing unit and during which
174 he performs no services and with respect to which no
175 wages are payable to him.

176 (2) An individual shall be deemed "partially unem-
177 ployed" in any pay period in which the total number of
178 normal shifts available are less than one-half the normal
179 shift expectancy in such period. Odd job and/or sub-
180 sidiary work is deemed partial unemployment in any
181 week in which such service is performed and wages are
182 paid or payable for more than eight hours. In cases in-
183 volving partial unemployment as a result of odd job
184 and/or subsidiary work the pay period, normal shift,
185 normal shift expectancy and period for filing claim will
186 be such as the director may by regulation prescribe.

187 (3) An individual's week of unemployment shall be
188 deemed to commence only after his registration at an em-
189 ployment office, except as the director may by regulation
190 otherwise prescribe.

191 "Wages" means all remuneration for personal serv-
192 ice, including commissions and bonuses and the cash
193 value of all remuneration in any medium other than
194 cash; provided that the term "wages" shall not include:

195 (1) That part of the remuneration which, after re-
196 muneration equal to three thousand dollars has been paid
197 to an individual by an employer with respect to employ-
198 ment during any calendar year beginning with the
199 calendar year one thousand nine hundred forty, is paid
200 to such individual by such employer with respect to em-
201 ployment during such calendar year.

202 (2) The amount of any payment made to, or on behalf
203 of, an individual in its employ (without deduction from
204 the remuneration of the individual in its employ) under

205 a plan or system established by an employer which makes
206 provision for individuals in its employ generally or for a
207 class or classes of such individuals (including any amount
208 paid by an employer for insurance or annuities, or into a
209 fund, to provide for any such payment), on account of
210 (A) retirement, or (B) sickness or accident disability, or
211 (C) medical and hospitalization expenses in connection
212 with sickness or accident disability, or (D) death: *Pro-*
213 *vided*, That the individual in its employ (i) has not the
214 option to receive, instead of provision for such death bene-
215 fit, any part of such payment or, if such death benefit is
216 insured, any part of the premiums (or contributions to
217 premiums) paid by his employer, and (ii) has not the
218 right, under the provisions of the plan or system or policy
219 of insurance providing for such death benefit, to assign
220 such benefit, or to receive such consideration in lieu of
221 such benefit either upon his withdrawal from the plan or
222 system providing for such benefit or upon termination of
223 such plan or system or policy or of insurance of his serv-
224 ices with such employer.

225 (3) The payment by an employer (without deduction
226 from the remuneration of the individual in its employ) of
227 the tax imposed upon an individual in its employ under
228 section one thousand four hundred of the Federal Internal
229 Revenue Code; or

230 (4) Payments, not required under any contract of hire,
231 made to an individual with respect to his period of
232 training or service in the armed forces of the United
233 States by any employer by which such individual was
234 formerly employed.

235 Gratuities customarily received by an individual in the
236 course of his employment from persons other than his em-
237 ploying unit shall be treated as wages paid by his em-
238 ploying unit, if accounted for and reported to such em-
239 ploying unit.

240 The reasonable cash value of remuneration in any
241 medium other than cash shall be estimated and de-
242 termined in accordance with rules prescribed by the di-
243 rector.

244 "Week" means a calendar week, ending at midnight

245 Saturday, or the equivalent thereof, as determined in
246 accordance with the regulations prescribed by the di-
247 rector.

248 "Weekly benefit rate" means the maximum amount of
249 benefit an eligible individual will receive for one week of
250 total unemployment.

251 "Year" means a calendar year, or the equivalent
252 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
2 the executive and administrative head of the department
3 and shall have the power and duty to:

4 (1) Exercise general supervision of and make regu-
5 lations for the government of the department.

6 (2) Prescribe uniform rules pertaining to investi-
7 gations, departmental hearings, and promulgate rules and
8 regulations.

9 (3) Supervise fiscal affairs and responsibilities of the
10 department.

11 (4) Prescribe the qualifications of, appoint, remove, and
12 fix the compensation of the officers and employees of the
13 department, subject to the provisions of section ten, article
14 four of this chapter, relating to the board of review.

15 (5) Organize and administer the department so as to
16 comply with the requirements of this chapter and to
17 satisfy any conditions established in applicable federal
18 legislation.

19 (6) Make reports in such form and containing such
20 information as the federal social security board may
21 from time to time require, and comply with such pro-
22 visions as the federal social security board may from time
23 to time find necessary to assure the correctness and veri-
24 fication of such reports.

25 (7) Make available to any agency of the United States
26 charged with the administration of public works or assist-
27 ance through public employment, upon its request, the
28 name, address, ordinary occupation and employment
29 status of each recipient of unemployment compensation,

30 and a statement of the recipient's rights to further com-
31 pensation under this chapter.

32 (8) Keep an accurate and complete record of all de-
33 partmental proceedings; record and file all bonds and
34 contracts and assume responsibility for the custody and
35 preservation of all papers and documents of the depart-
36 ment.

37 (9) Sign and execute in the name of the state, by
38 "The state department of unemployment compensation",
39 any contract or agreement with the federal government,
40 its agencies, other states, their subdivisions, or private
41 persons.

42 (10) Prescribe a salary scale to govern compensation
43 of appointees and employees of the department.

44 (11) Make the original determination of right in
45 claims for benefits.

46 (12) Make recommendations, and an annual report
47 to the governor concerning the condition, operation, and
48 functioning of the department.

49 (13) Invoke any legal, equitable or special remedy for
50 the enforcement of orders or the provisions of this chap-
51 ter.

52 (14) Exercise any other power necessary to standard-
53 ize administration, expedite departmental business, as-
54 sure the establishment of fair rules and regulations and
55 promote the efficiency of the service.

Article 4. Board of Review.

Section

9. Powers and duties.
10. Appointment and supervision of personnel.

Section 9. *Powers and Duties.*—The board shall have
2 the following powers and duties, to:

3 (1) Hear and determine all disputed claims presented
4 to it in accordance with the provisions of article seven.

5 (2) Organize from salaried examiners such appeal tri-
6 bunals as are necessary for the expedition of disputed
7 claim procedure.

8 (3) Establish procedure for the hearing of disputed
9 claims.

10 (4) Take oaths, examine witnesses, and issue sub-
11 poenas.

12 (5) Establish the amount of witness fees.

13 (6) Keep such records and make such reports as are
14 necessary for disputed claims.

15 (7) Exercise such additional powers as may be neces-
16 sary for the proper conduct of a system of administrative
17 review of disputed claims.

Sec. 10. *Appointment and Supervision of Personnel.*

2 —By and with the consent and approval of the director,
3 the board shall appoint such examiners as are necessary
4 to hear appeals from determinations of deputies, and such
5 other personnel as is necessary for the proper conduct of
6 a system of administrative review of disputed claims.
7 Subject to the provisions of the merit system and with
8 the consent and approval of the director, the board
9 shall prescribe the qualifications of, fix the compensation
10 of, and remove the employees of the board. No person
11 who is identified with the interests of either employers
12 or employees shall be appointed examiner.

13 The administrative expense of the board of review shall
14 be paid from the administration fund. The board, with
15 the assistance of the fiscal officer of the department, shall
16 prepare and submit to the director the budget of the
17 board of review.

18 The chairman of the board shall fix the time and place
19 for hearing appeals and shall assign such hearings to
20 members of the board, appeal tribunals, or the full board,
21 as the case may require, subject, however, to the pro-
22 visions of article seven of this chapter.

Article 5. Employer Coverage and Responsibility.

Section

2. Duration.

3. Voluntary coverage.

4. Payments.

5. Rate of contribution.

7. Separate accounts.

10. Merit rating; decreased rates.

11. Repealed.

19. Refunds.

Section 2. *Duration.*—Except as provided in section
2 three of this article, an employing unit shall cease to be
3 an employer subject to this chapter only as of the first

4 day of January of any calendar year, and only if it files
5 with the director, during January of such year, a written
6 application for termination of coverage, and the director
7 finds that there were no twenty different days, each day
8 being in a different week within the preceding calendar
9 year, within which such employing unit employed eight
10 or more individuals in employment subject to this chap-
11 ter.

Sec. 3. *Voluntary Coverage.*—(1) An employing unit,
2 not otherwise subject to the provisions of this chapter,
3 which files with the director its written election to become
4 an employer subject hereto for not less than two calendar
5 years, shall, with the written approval of such election
6 by the director, become an employer subject hereto to the
7 same extent as all other employers, as of the date stated
8 in such approval, and shall cease to be subject hereto
9 as of January one of any calendar year subsequent to such
10 two calendar years, only if during January of such year
11 it has filed with the director a written notice to that
12 effect.

13 (2) Any employing unit for which services that do
14 not constitute employment as defined in this act are
15 performed, may file with the director a written election
16 that all such services performed by individuals in its
17 employ in one or more distinct establishments or places
18 of business shall be deemed to constitute employment for
19 all the purposes of this act for not less than two calendar
20 years. Upon the written approval of such election by the
21 director, such services shall be deemed to constitute em-
22 ployment subject to this act from and after the date
23 stated in such approval. Such services shall cease to be
24 deemed employment subject hereto as of January first
25 of any calendar year subsequent to such two calendar
26 years, only if during January of such year such employ-
27 ing unit has filed with the director a written notice to
28 that effect.

29 (3) An employing unit which is or becomes an em-
30 ployer subject to this act within any calendar year shall
31 be subject to this act during the whole of such calendar
32 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,

27 classify employers in accordance with their actual ex-
28 perience in the payment of contributions on their own
29 behalf and with respect to benefits charged against their
30 accounts, with a view to fixing such contribution rates
31 as will reflect such experience. For the purpose of
32 fixing such contribution rates for each calendar year the
33 books of the department shall be closed on January thirty-
34 one of such year and any contributions thereafter paid
35 with respect to wages paid for employment during pre-
36 ceding calendar years, as well as benefits thereafter paid
37 with respect to compensable weeks ending on or before
38 December thirty-one of the preceding year, shall not be
39 taken into account until the time for fixing contribution
40 rates for the succeeding calendar year.

Sec. 10. *Merit Rating; Decreased Rates.*—After the re-
2 quirements of section nine have been complied with, an
3 employer's payment shall remain two and seven-tenths
4 per cent, until: (1) There has elapsed three consecutive
5 years throughout which an individual in his employ
6 could have received benefits if unemployed and eligible.
7 (2) His payments credited to his account for all past
8 years exceed the benefits charged to his account by an
9 amount equal to at least seven and one-half per cent of
10 his average annual payroll, in which case his rate shall
11 be one and eight-tenths per cent.
12 (3) His payments credited to his account for all past
13 years exceed the benefits charged to his account by an
14 amount equal to at least ten per cent of his average
15 annual payroll, in which case his rate shall be nine-
16 tenths of one per cent.
17 The director shall determine an employer's compliance
18 with these requirements.

Sec. 11. *Repealed.*—This section is hereby repealed. *

Sec. 19. *Refunds.*—Within two years after the date
2 on which payment of contribution, or interest thereon,
3 is made, an employer, who has paid such payment or
4 interest, may make application for:
5 (1) An adjustment thereof in connection with sub-
6 sequent payments.

7 (2) A refund thereof if adjustment cannot be made.
8 If the director determines that payments and interest
9 were erroneously collected, he shall make the adjust-
10 ment without interest, in connection with subsequent
11 payments of the employer, or if such adjustment can-
12 not be made, refund the amount without interest from
13 the clearing account of the unemployment compensation
14 fund.

15 For like cause and within the same period the director,
16 on his own initiative, may make an adjustment or refund:
17 *Provided*, That nothing in this chapter shall be construed
18 as permitting a cash refund of any contribution required
19 under the law in effect when such contribution became
20 due.

Article 6. Employee Eligibility; Benefits.

Section

1. Eligibility qualifications.
2. Waiting period construed.
4. Disqualification for benefits.
10. Benefit rate; total unemployment.
11. Rate of benefit; partial unemployment.
13. Computation of wage credits; determination of maximum benefits.

Section 1. *Eligibility Qualifications.*—An unemployed
2 individual shall be eligible to receive benefits, only if
3 the director finds that:

- 4 (1) He has registered for work at and thereafter
5 continues to report at an employment office in accord-
6 ance with the regulations of the director.
- 7 (2) He has made a claim for benefits in accordance
8 with the provisions of article seven of this chapter.
- 9 (3) He is able to work, and is available for work.
- 10 (4) He has been totally unemployed during his benefit
11 year for a waiting period of one week prior to the week
12 for which he claims benefits for total unemployment.
- 13 (5) He has within his base period earned wages for
14 employment equal to not less than one hundred fifty
15 dollars, of which amount he had earned as much as
16 seventy-five dollars in each of two quarters or fifty dol-
17 lars in each of three quarters.

Sec. 2. *Waiting Period Construed.*—If the benefit year

2 ends during a period of total unemployment for any
3 individual, such individual shall serve a new wait-
4 ing period of one week before benefits accruing in the new
5 benefit year shall be payable.

6 During the waiting period, the individual must be
7 eligible in all respects, except for the requirements of
8 subsection (2) of section one of this article. No week
9 shall be counted as the waiting period week if benefits
10 have been paid with respect to such week.

Sec. 4. *Disqualification for Benefits.*—Upon the deter-
2 mination of the facts by the director an individual shall
3 be disqualified for benefits:

4 (1) For the six weeks immediately following the date
5 on which he left work voluntarily without good cause.
6 Such disqualification shall carry a reduction in the
7 maximum benefit amount equal to six times the indi-
8 vidual's weekly benefit rate. If he returns to work prior
9 to the expiration of the disqualification period, he will
10 be credited with such part of the unexpired portion as
11 his employment continues and an equivalent portion of
12 his maximum benefit reduction will be reinstated.

13 (2) For the three weeks immediately following the
14 date on which he was discharged for proved misconduct.
15 Such disqualification shall carry a reduction in the maxi-
16 mum benefit amount equal to three times the individual's
17 weekly benefit rate. If he returns to work prior to the
18 expiration of the disqualification period, he will be
19 credited with such part of the unexpired portion as his
20 employment continues and an equivalent portion of his
21 maximum benefit reduction will be reinstated.

22 (3) For the week in which he failed, without good
23 cause, to apply for available suitable work, accept suit-
24 able work when offered, or return to his customary self-
25 employment when directed to do so by the director and
26 for three weeks which immediately follow.

27 (4) For a week in which his total or partial unem-
28 ployment is due to a stoppage of work which exists be-
29 cause of a labor dispute at the factory, establishment, or
30 other premises at which he was last employed, unless the

31 director is satisfied that he was not (one) participating,
32 financing, or directly interested in such dispute, and
33 (two) did not belong to a grade or class of workers who
34 were participating, financing, or directly interested in
35 the labor dispute which resulted in the stoppage of
36 work. No disqualification under this subsection shall
37 be imposed if the employees are required to accept
38 wages, hours or conditions of employment, less favor-
39 able than those prevailing for similar work in the
40 locality, or if employees are denied the right of collective
41 bargaining under generally prevailing conditions, or if an
42 employer shuts down his plant or operation or dismisses
43 his employees in order to force wage reduction, changes
44 in hours or working conditions.

45 (5) For a week with respect to which he is receiving
46 or has received:

47 (a) Wages in lieu of notice;

48 (b) Compensation for temporary partial disability
49 under the workmen's compensation law of any state or
50 under a similar law of the United States;

51 (c) Old age benefits under title two of the social secur-
52 ity act or similar payments under any act of congress.

53 (d) Unemployment compensation benefits under the
54 laws of the United States or any other state.

Sec. 10. *Benefit Rate; Total Unemployment.*—Each eli-
2 gible individual who is totally unemployed in any week
3 shall be paid benefits with respect to that week at the
4 weekly rate appearing in column (C) in table A
5 in this paragraph, on line on which in column (A) there
6 is indicated the employee's wage class, except as other-
7 wise provided under the term "total and partial unem-
8 ployment" in section three, article one of this chapter.
9 The employee's wage class shall be determined by the
10 total amount of wages earned by him in covered em-
11 ployment in his base period as shown in column (B)
12 in table A. The right of an employee to receive
13 benefits shall not be prejudiced nor the amount thereof
14 be diminished by reason of failure by an employer to pay
15 either the wages earned by the employee or the contri-
16 bution due on such wages.

TABLE A

Wage Class	Wages in Base Period	Weekly Benefit Rate	Maximum Benefit in Benefit Year for Total and/or Partial Unemployment
(Column A)	(Column B)	(Column C)	Amount (Column D)
	Under—\$150.00	(Ineligible)	
1	\$ 150.00—399.99	\$ 6.00	\$ 96.00
2	400.00—499.99	7.00	112.00
3	500.00—599.99	8.00	128.00
4	600.00—699.99	9.00	144.00
5	700.00—749.99	9.50	152.00
6	750.00—799.99	10.00	160.00
7	800.00—849.99	10.50	168.00
8	850.00—899.99	11.00	176.00
9	900.00—949.99	11.50	184.00
10	950.00—999.99	12.00	192.00
11	1000.00—1049.99	12.50	200.00
12	1050.00—1099.99	13.00	208.00
13	1100.00—1149.99	13.50	216.00
14	1150.00—1199.99	14.00	224.00
15	1200.00—1249.99	14.50	232.00
16	1250.00 and over	15.00	240.00

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.

TABLE B

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.

WAGE CLASS	WAGES IN BASE PERIOD	BENEFIT UNIT	AMOUNT OF BENEFITS PAYABLE											
COLUMN A	COLUMN B	COLUMN C	1	2	3	4	5	6	7	8	9	10	11	12
1 \$ 160.....	399.99	1.20	1.20	2.40	3.60	4.80	6.00	7.20	8.40	9.00	10.80	12.00	13.20	14.40
2 400.....	499.99	1.40	1.40	2.80	4.20	5.60	7.00	8.40	9.80	11.20	12.60	14.00	15.40	16.80
3 500.....	599.99	1.60	1.60	3.20	4.80	6.40	8.00	9.60	11.20	12.80	14.40	16.00	17.60	19.20
4 600.....	699.99	1.80	1.80	3.60	5.40	7.20	9.00	10.80	12.60	14.40	16.20	18.00	19.80	21.60
5 700.....	749.99	1.90	1.90	3.80	5.70	7.60	9.50	11.40	13.30	15.20	17.10	19.00	20.90	22.80
6 760.....	799.99	2.00	2.00	4.00	6.00	8.00	10.00	12.00	14.00	16.00	18.00	20.00	22.00	24.00
7 800.....	849.99	2.10	2.10	4.20	6.30	8.40	10.60	12.60	14.70	16.80	18.90	21.00	23.10	25.20
8 850.....	899.99	2.20	2.20	4.40	6.60	8.80	11.00	13.20	15.40	17.60	19.80	22.00	24.20	26.40
9 900.....	949.99	2.30	2.30	4.60	6.90	9.20	11.60	13.80	16.10	18.40	20.70	23.00	25.30	27.60
10 960.....	999.99	2.40	2.40	4.80	7.20	9.60	12.00	14.40	16.80	19.20	21.60	24.00	26.40	28.80
11 1000.....	1049.99	2.50	2.50	5.00	7.50	10.00	12.50	15.00	17.50	20.00	22.50	25.00	27.50	30.00
12 1050.....	1099.99	2.60	2.60	5.20	7.80	10.40	13.00	15.60	18.20	20.80	23.40	26.00	28.60	31.20
13 1100.....	1149.99	2.70	2.70	5.40	8.10	10.80	13.50	16.20	18.90	21.60	24.30	27.00	29.70	32.40
14 1150.....	1199.99	2.80	2.80	5.60	8.40	11.20	14.00	16.80	19.60	22.40	25.20	28.00	30.80	33.60
15 1200.....	1249.99	2.90	2.90	5.80	8.70	11.60	14.50	17.40	20.30	23.20	26.10	29.00	31.90	34.80
16 1250 and over.....		3.00	3.00	6.00	9.00	12.00	15.00	18.00	21.00	24.00	27.00	30.00	33.00	36.00

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.
8. 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-

18 ated for such purpose from the general funds of this
19 state to the unemployment compensation administration
20 fund for expenditure as provided by the unemployment
21 compensation law. Upon receipt of notice of such a
22 finding by the Social Security Board, the director shall
23 promptly report the amount required for such replace-
24 ment to the governor and the governor shall, at the
25 earliest opportunity, submit to the Legislature a request
26 for the appropriation of such amount. This article shall
27 not be construed to relieve this state of its obligation with
28 respect to funds received prior to July one, one thousand
29 nine hundred forty-one, pursuant to the provisions of
30 title three of the Social Security Act.

Article 10. General Provisions.

Section

13. Criminal actions.

Section 13. *Criminal Actions.*—Criminal actions to en-
2 force the provisions of this chapter, or rules and regula-
3 tions issued thereunder, shall be prosecuted by the attor-
4 ney general, or at his request by the prosecuting attorney
5 of any county in which the defendant resides, or by an
6 attorney of the department.

7 The director may cause complaints to be made and pro-
8 ceedings to be instituted and prosecuted against any
9 person violating any provisions of this chapter, and in all
10 such cases no security for costs shall be required of the
11 director.

12 Justices of the peace shall have concurrent jurisdiction
13 with the circuit or other criminal courts of all mis-
14 demeanors arising under this chapter.

CHAPTER 98

(House Bill No. 407—By Mr. Huffman)

AN ACT authorizing the department of unemployment compen-
sation 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 employment 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 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, be amended by adding thereto a new article, designated article one-a, to read as follows:

Section 1. *Limitation on Contributions.*—Notwith-

2 standing any other provision of the law, the term "wages",
3 as used in the unemployment compensation law, shall not
4 include:

5 That part of the remuneration which, after remunera-
6 tion equal to three thousand dollars has been paid to an
7 individual by an employer with respect to employment
8 during any calendar year beginning with the calendar
9 year one thousand nine hundred forty, is paid to such
10 individual by such employer with respect to employ-
11 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 Turocy.

[Passed February 12, 1941; in effect from passage. Approved by the Governor.]

Section

1. Compensation commissioner authorized to reopen case of Alex Turocy.

WHEREAS, On February fifteenth, one thousand nine hundred thirty-six, Alex Turocy, 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 Turocy was, at the time of the aforesaid injury, a subscriber to the workmen's compensation fund; and

WHEREAS, The said Alex Turocy 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 Turocy 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 Turocy 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 disability 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 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 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 commissioner 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 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 A. F. Dean as the facts and conditions pertaining to the case may warrant.

C

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.

C

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 Virginia, 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 compensation upon a thirty-three per cent permanent partial disability 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 infection known as sympathetic ophthalmitis 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.

CHAPTER 108

(House Bill No. 135—By Mr. Simpson)

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.

CHAPTER 110

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

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.

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.

CHAPTER 113

(House Bill No. 348—By Mr. Ross, of Mercer, by request)

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 reopening the 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 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, chapter twenty-three 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-seven, relating to the payment by the state compensation commissioner of sums for medicine, hospital treatment, artificial limbs and other mechanical appliances.

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

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 Treat-

2 *ment, Artificial Limbs, etc.; Contracts with Hospitals for*
3 *Such Services Illegal; Penalties.*—The commissioner shall
4 disburse and pay from the fund for such personal injuries
5 to such employees as may be entitled thereto hereunder
6 as follows:

7 (a) Such sums for medicine, medical, surgical, dental,
8 hospital treatment, crutches, artificial limbs and such
9 other and additional approved mechanical appliances as
10 may be reasonably required, not, however, in any case
11 to exceed the sum of eight hundred dollars;

12 (b) Payment for such medicine, medical, surgical,
13 dental, hospital treatment, crutches, artificial limbs and
14 such other and additional approved mechanical appliances
15 authorized under subdivision (a) hereof may be made
16 to the injured employee, or to the person or persons who
17 have furnished such service, or who have advanced pay-
18 ment for same, as the commissioner may deem proper,
19 but no such payments or disbursements shall be made or
20 awarded by the commissioner unless duly verified state-
21 ments on forms prescribed by the commissioner shall be
22 filed with the commissioner within three months from

23 the time such services or appliances were authorized by
24 the commisisoner;

25 (c) No employer shall enter into any contract with
26 any hospital, its physicians, officers, agents or employees,
27 to render medical, dental or hospital service or to give
28 medical or surgical attention therein to any employee for
29 accidental injury compensable within the purview of
30 this act, and no employer shall permit or require any em-
31 ployee to contribute, directly or indirectly, to any fund
32 for the payment of such medical, surgical, dental or hos-
33 pital service within such hospital for such accidental com-
34 pensable injury. Any employer violating this section shall
35 be liable in damages to his or its employee, and shall not
36 avail himself of any of the common law defenses men-
37 tioned in section eight, article two of this chapter, and
38 any employer or hospital or agent or employee thereof
39 violating the provisions of this section shall be guilty of
40 a misdemeanor, and, upon conviction thereof, shall be
41 sentenced to pay a fine not exceeding one thousand dol-
42 lars or to undergo imprisonment not exceeding one year,
43 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.]

Article 7. State Aid for Fairs.

Section

9. Greenbrier Valley fair designated "The State Fair of West Virginia"; ex officio members of board of directors.

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.

Article

1. **Accrual and Collection of Taxes.**
2. **Delinquency and Methods of Enforcing Payment.**
3. **Sale of Land for Taxes.**
4. **Sale of Lands for School Fund.**

Article 1. Accrual and Collection of 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-

4 ing satisfactory evidence of full settlement of delinquent
5 taxes on that property for the previous year.

Sec. 8. *Notice of Time and Place for Payment.*—It shall
2 be the duty of the sheriff to give notice by posting at not
3 less than six public places in each magisterial district, for
4 at least ten days before the time appointed, that between
5 September fifteenth and November first he will attend
6 at one or more of the most public and convenient places
7 in each district, such places to be specified in the notice,
8 for the purpose of receiving taxes due by the people re-
9 siding or paying taxes in such district. The notice shall
10 also state that those who pay the first installment of their
11 taxes on or before November first will be entitled to a dis-
12 count of two and one-half per cent. Like notice shall be
13 given that between March fifteenth and May first he will
14 again appear in each district for the collection of taxes,
15 and that those who pay their second installment on or
16 before May first will be entitled to the same discount.
17 Any sheriff failing to post the notice herein required shall
18 forfeit one hundred dollars for each failure.

19 The county court of any county may order that the
20 above notice shall also be given by advertisement. Upon
21 such order, the sheriff shall, besides posting as required
22 above, insert the proper notice in two newspapers of
23 opposite politics, if such there be in the county, once a
24 week for two successive weeks next preceding the first
25 day of October or the first day of April as the case may be.
26 For every failure so to advertise, the sheriff shall forfeit
27 one hundred dollars.

Sec. 9. *Payment of Taxes by Co-owner or Other Inter-
2 ested Party; Lien.*—Any owner of real estate whose inter-
3 est is not subject to separate assessment, or any person
4 having a lien on the land, or on an undivided interest
5 therein, or any other person having an interest in the
6 land, or in an undivided interest therein, which he desires
7 to protect, shall be allowed to pay the whole, but not a
8 part, of the taxes assessed thereon. Any co-owner of real
9 estate whose interest is subject to separate assessment
10 shall be allowed at his election to pay the taxes either
11 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*
2 *Assessed to Another.*—Any person owning a part of a tract
3 or lot, the whole of which was assessed in the name of
4 another, shall be allowed to pay the taxes on such part
5 upon complying with the provisions of this section. He
6 must before payment obtain from the clerk of the county
7 court a certificate of the transfer of title to him, which
8 certificate shall contain such information concerning the
9 transfer as is required for each transfer included in the
10 certified list provided for in section eight, article four,
11 chapter eleven of this code. On the basis of the informa-
12 tion in this certificate, he must then have the assess-
13 ment split and must secure from the assessor and present
14 to the sheriff a certificate setting forth the changes made
15 in the assessment. The sheriff shall make the necessary
16 changes in his records, prepare new tax bills to conform
17 thereto, and then deliver the certificate to the clerk of
18 the county court who shall note the changes on his rec-
19 ords.

Sec. 11. *Payment by Fiduciary.*—When a tax is paid by
2 a fiduciary on any property under his control, or on the
3 income of such property, the tax shall be refunded out
4 of the property or its income.

Sec. 12. *Receipt for Taxes.*—The sheriff shall deliver to
2 the person paying any taxes a written or printed receipt
3 therefor, and shall retain for his records the stub or dupli-
4 cate of such receipt. The receipt and the stub or duplicate
5 shall specify the number of capitations; the total value of
6 personal property; the number of acres of land, and the
7 number of town lots, with the valuation of each tract or
8 lot separately charged. The receipt shall state distinctly
9 the amount of tax paid for state, school, county, municipal
10 and district purposes, and for any other purpose for which
11 a tax has been levied; and the whole amount so paid shall
12 be accurately totaled and set down in the receipt. The
13 officer receiving payment shall sign each receipt in his
14 own handwriting.

15 The tax commissioner may prescribe uniform tax state-
16 ments and receipts for use in all the counties of the state.

Sec. 13. *Accounts to Be Kept by Sheriff.*—The sheriff
2 shall keep separate accounts in a permanent book, in form
3 prescribed by the tax commissioner, of all the taxes re-
4 ceived and disbursed by him, for the different purposes
5 for which the taxes were levied. Each of such accounts
6 shall be kept so as to show the total receipts and disburse-
7 ments up to the close of business on each day; and in
8 a separate column opposite such totals the sheriff shall
9 ascertain and note in figures, at the close of each day's
10 transactions, the balance due from or to him, as the case
11 may be, on account of such funds. The account book shall
12 be subject to inspection at any time by the tax commis-
13 sioner, members of the county court, the clerk thereof,
14 the prosecuting attorney, or the mayor or treasurer of any
15 municipality.

Sec. 14. *Payment by Sheriff into State Treasury.*—All
2 taxes collected for the state shall be paid into the state
3 treasury by the sheriff as follows: On or before January
4 fifteenth, all such taxes collected before January first; on

5 or before July fifteenth, all collected before July first.
6 Every sheriff who fails to make any payment when due
7 shall be charged with interest at the rate of twelve per
8 cent per annum.

Sec. 15. *Payment by Sheriff to Municipal Treasurer.*—

2 Each month the sheriff shall pay all taxes collected for
3 any municipal corporation into the treasury of such cor-
4 poration, payment to be made on or before the fifth day
5 of each month of all taxes collected during the preceding
6 month. For the faithful performance of this duty, he shall
7 execute a bond, to be approved by the municipal council,
8 in the penalty to be fixed by the council not to exceed
9 the amount of municipal taxes which it is estimated he
10 will collect within any period of two months. The pre-
11 mium on such bond shall be paid by the municipality.
12 Every sheriff who fails to make any payment when due
13 shall be charged with interest at the rate of twelve per
14 cent per annum.

Sec. 16. *Sheriff Charged with All Levies; Final Settle-*

2 *ment.*—The sheriff shall be charged each year with all
3 taxes levied in his county. On or before August first
4 of the following year, he shall make a final settlement with
5 each taxing unit and account for all taxes assessed for
6 the preceding year. In the settlement, he shall be credited
7 with all such taxes collected and paid over by him to or
8 on account of the taxing unit. He shall also be credited
9 with all such taxes listed as delinquent as provided in the
10 following article. The remainder of the taxes assessed for
11 the preceding year shall be accounted for by him as if
12 they had been collected before the delinquent lists were
13 prepared.

Sec. 17. *Sheriff's Commission for Collection.*—After the

2 sheriff has collected eighty-five per cent of the combined
3 total of all taxes assessed on real and personal property,
4 he shall, in addition to the salary and compensation now
5 authorized by law, be allowed a commission of one and
6 one-half per cent on the remainder of the taxes actually
7 collected, exclusive of interest and charges thereon, if the
8 collection be made before the delinquent list has been

- 9 approved by the county court. The commission so allowed
10 shall be determined by the county court and charged
11 against the various funds for which the taxes are collected.

Article 2. Delinquency and Methods of Enforcing Payment.

Section

1. Duty of sheriff to enforce payment of delinquent taxes.
2. Collection by suit.
3. Distrain.
4. Abatement of distress.
5. Distrain of encumbered property.
6. Distrain where land lies in more than one county.
7. Summary procedure for collection out of money due from or property held by another.
8. Remedies against vendee in possession without deed.
9. Remedies of sheriff paying over taxes not collected.
10. Sale of real estate for taxes.
11. Delinquent lists; oath.
12. Penalty for inclusion of taxes paid in delinquent lists.
13. Publication and posting of delinquent lists.
14. Correction of delinquent lists by county court; certification to auditor; recordation.
15. Examination of lists by auditor; credit to sheriff.
16. Effect of irregularity as to delinquent lists on later tax enforcement procedure.
17. Presumption of payment based on omission from delinquent lists.
18. Redemption before sale; record; lien.

Section 1. *Duty of Sheriff to Enforce Payment of Delinquent Taxes.*—Whenever any taxes become delinquent, it shall be the duty of the sheriff to take immediate steps to enforce payment by use of the methods prescribed in sections two, three and seven of this article.

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. *Distrain.*—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
2 taxes are assessed wholly to one person or estate on a
3 tract or lot of land, part of which has become the freehold
4 of another, by a title recorded before January first of the
5 assessment year, the goods and chattels of the party or
6 estate so assessed shall not be liable to distraint for more
7 than a due proportion of such taxes.

Sec. 5. *Distraint of Encumbered Property.*—No trust
2 deed, mortgage or sale of goods and chattels shall prevent
3 their being distrained for all taxes assessed against the
4 grantor or former owner thereof, while such goods and
5 chattels remain in his possession; nor shall such deed,
6 mortgage or sale prevent their being distrained for taxes
7 assessed on such goods and chattels, no matter in whose
8 possession they may be found.

Sec. 6. *Distraint Where Land Lies in More Than One*
2 *County.*—Where taxes are assessed on land lying partly
3 in one county and partly in another, the sheriff of the
4 county in which the taxes are so assessed may distrain
5 goods or chattels on that part of the land lying in the
6 other county.

Sec. 7. *Summary Procedure for Collection Out of Money*
2 *Due from or Property Held by Another.*—Whenever there
3 is any person who is now indebted to, or who, as tenant,
4 lessee or otherwise, will for any rent, issue, delay rentals,
5 gas well rentals, or royalties of any kind, in the future
6 become indebted to, or who has in his possession property
7 belonging to, any delinquent taxpayer, the sheriff may
8 make written application to such person demanding pay-
9 ment of the taxes out of such money as is now or may
10 become due, or out of the property. No person so applied
11 to shall make any payment or deliver any of the property
12 to the delinquent taxpayer until the taxes are paid. From
13 the time of the making of such application the taxes shall
14 constitute a lien on any such money now or to become
15 due from the person applied to and on such property held
16 by him. The sheriff shall endorse upon the application
17 the time and the place application was made and shall
18 file it for record with the clerk of the county court.

19 Upon the failure of any person to comply with the appli-
20 cation, the sheriff may serve such person with a notice in
21 writing to appear and answer for his failure before a
22 court of competent jurisdiction. The notice shall designate
23 the court before which he is to appear, and shall state
24 the time for such appearance, which time shall not be
25 less than ten days after service of the notice, the name
26 of the delinquent taxpayer and the amount of the de-
27 linquency.

28 The sheriff shall endorse the time and place of service
29 on the original of such notice, and shall file it with the
30 court designated therein. If the person served does not
31 appear, judgment shall be entered against him in favor of
32 the sheriff for the amount of taxes due, with costs of the
33 proceeding. If he does appear, the court, upon proof that
34 he was a person to whom application might properly be
35 made, shall render judgment against him for the amount
36 of taxes due, with costs of the proceeding, which judgment
37 shall be payable only out of the money which is now or
38 is to become due to the delinquent taxpayer or out of
39 property held for him. Appeals and writs of error shall
40 lie as in other cases.

41 Payment of the taxes, in whole or in part, by the person
42 applied to, whether made upon application only or made
43 toward satisfaction of a judgment against him, shall en-
44 title him to a credit on any obligation he may owe the
45 delinquent taxpayer, or to a charge against any property
46 held for the taxpayer, and to a first lien on any such prop-
47 erty, for the amount paid, unless he was by an express
48 contract bound to pay the taxes.

Sec. 8. *Remedies Against Vendee in Possession Without*
2 *Deed.*—Any purchaser in possession of land, whether or
3 not he has obtained a deed therefor, shall be personally
4 liable for the taxes assessed against the land after he
5 obtained possession, unless the vendor has expressly con-
6 tracted to pay the taxes himself. The sheriff may collect
7 from the purchaser by any of the methods provided for in
8 this article.

Sec. 9. *Remedies of Sheriff Paying Over Taxes Not Col-*
2 *lected.*—If the sheriff has paid into the treasury of the

3 state, or of any county or municipality, taxes due from
4 any person before they were collected by him, he may in
5 order to reimburse himself collect from such person by
6 any of the methods provided for in this article, but he
7 shall not be subrogated to the state's lien for such taxes.

Sec. 10. *Sale of Real Estate for Taxes.*—In addition to
2 the methods for the collection of taxes provided for in this
3 article, real estate may be sold for the taxes assessed
4 thereon in the manner prescribed in article three of this
5 chapter.

Sec. 11. *Delinquent Lists; Oath.*—The sheriff, after
2 ascertaining which of the taxes assessed in his county are
3 delinquent, shall, on or before the first day of July next
4 succeeding the year for which the taxes were assessed,
5 prepare the following delinquent lists, arranged by dis-
6 tricts and alphabetically by name of the person charged,
7 and showing in respect to each the amount of taxes re-
8 maining delinquent at the end of the fiscal year on June
9 thirtieth: (1) A list of property in the land book im-
10 properly entered or not ascertainable. (2) A list of other
11 delinquent real estate. (3) A list of all other delinquent
12 taxes.

13 The sheriff on returning each list shall, at the foot there-
14 of, subscribe an oath, which shall be subscribed before
15 and certified by some person duly authorized to administer
16 oaths, in form or effect as follows:

17 I, _____, sheriff (or deputy sheriff or
18 collector) of the county of _____, do swear
19 that the foregoing list is, to the best of my knowledge
20 and belief, complete and accurate, and that I have received
21 none of the taxes listed therein.

22 Except for the oath, the tax commissioner shall pre-
23 scribe the form of the delinquent lists.

Sec. 12. *Penalty for Inclusion of Taxes Paid in Delin-*
2 *quent Lists.*—If a sheriff shall include in one of the de-
3 linquent lists any taxes which have been collected by him,
4 he shall forfeit to the person named in the list, if the
5 return was by design, ten times the amount of the taxes

6 so collected, or if the return was by mistake, twice the
7 amount.

Sec. 13. *Publication and Posting of Delinquent Lists.*—

2 A copy of each of the delinquent lists shall be posted at
3 the front door of the courthouse of the county at least
4 two weeks before the session of the county court at which
5 they are to be presented for examination. At the same
6 time a copy of each list shall be printed once in two news-
7 papers of opposite politics, if such there be in the county,
8 and the costs of printing shall be paid out of the county
9 treasury; but in such publication, only the aggregate
10 amount of the taxes owed by each person need be pub-
11 lished. To cover the costs of preparing, publishing and
12 posting the delinquent lists, a charge of one dollar shall
13 be added to the taxes and interest already due on each
14 item listed.

Sec. 14. *Correction of Delinquent Lists by County*

2 *Court; Certification to Auditor; Recordation.*—The sheriff
3 shall, at or before the session of the county court at which
4 the county levy is to be laid, present the delinquent lists
5 to the county court for examination. The court having
6 become satisfied that the lists are correct, or having cor-
7 rected them if erroneous, shall direct the clerk of the
8 court to certify a copy of each list to the auditor not later
9 than September first. The original lists shall be preserved
10 by the clerk in his office, and the list of delinquent real
11 estate shall be recorded in a permanent book to be kept
12 by him for that purpose.

Sec. 15. *Examination of Lists by Auditor; Credit to*

2 *Sheriff.*—It shall be the duty of the auditor to examine
3 each list, and if he has reason to believe that it is erro-
4 neous, he shall return it to the county court for correction,
5 stating his reasons why it should be corrected as to any
6 person or subject listed therein. The auditor shall credit
7 the sheriff with all state taxes mentioned in each list.

Sec. 16. *Effect of Irregularity as to Delinquent Lists on*

2 *Later Tax Enforcement Procedure.*—No irregularity, error
3 or mistake in respect to anything required by this article
4 to be done concerning the delinquent lists shall invalidate

5 any tax title based upon later tax enforcement procedure.
6 Nor shall any person be allowed to enjoin or otherwise
7 question the validity of any subsequent step in the tax
8 enforcement procedure by reason of such irregularity,
9 error or mistake, unless he shows that he was actually
10 prejudiced thereby.

Sec. 17. *Presumption of Payment Based on Omission*
2 *from Delinquent Lists.*—Whenever a tax is charged to
3 any person or assessed against any property, and the
4 name of the person charged or the property assessed does
5 not appear in the proper delinquent list, it shall be pre-
6 sumed, in the absence of evidence to the contrary, that
7 the tax so charged or assessed was paid before the time
8 when such list was required to be made.

Sec. 18. *Redemption Before Sale; Record; Lien.*—The
2 owner of any real estate returned delinquent, or any other
3 person entitled to pay the taxes thereon, may redeem at
4 any time before the sale provided for in the following
5 article by payment of the taxes, interest and charges due.
6 However, redemption of an undivided interest included
7 in a group assessment or of part of a tract or lot the whole
8 of which was assessed in the name of a person other than
9 the owner shall not be permitted until the applicable pro-
10 visions of section nine or of section ten, article one of this
11 chapter, have been complied with. The sheriff shall give
12 to the person redeeming a duplicate receipt, one of which
13 shall be filed with the clerk of the county court, who
14 shall note the fact of such redemption on his record of
15 delinquent lands. Whenever only part of a tract or lot,
16 or only an undivided interest therein, has been redeemed,
17 the clerk shall make the necessary changes in his record
18 of delinquent lands before noting the fact of redemption
19 on the record. Any person redeeming an interest of an-
20 other shall be subrogated to the lien of the state on such
21 interest as provided in section nine, article one of this
22 chapter.

Article 3. Sale of Land for Taxes.

Section

1. Declaration of legislative purpose and policy.
2. Second publication and posting of list of delinquent real estate;
notice.

3. Redemption after second publication and before sale.
4. Sale by sheriff.
5. Suspension from sale.
6. Purchase by state.
7. Title acquired by state.
8. Redemption from purchase by or forfeiture to the state.
9. Certificate of redemption issued by auditor; recordation.
10. Lien of person redeeming interest of another; record.
11. Revaluation and reclassification at request of auditor or person redeeming.
12. Compulsory redemption at election of auditor.
13. Redemption of part of a tract or lot; survey.
14. Auditor to report redemptions to county officers; disposition of redemption money; credit of state taxes to proper fund.
15. Purchase by individual at tax sale; receipt.
16. Co-owner free to purchase at tax sale; purchase by sheriff and clerk of the county court prohibited.
17. Redemption from purchase by individual; receipt; list of redemptions; lien.
18. Payment of redemption money to clerk.
19. Contest of redemption by payment to clerk.
20. What purchaser must do before he can secure deed.
21. Report or survey of real estate purchased.
22. Survey when part of tract is purchased.
23. Notice to redeem.
24. Service of notice.
25. Deed to purchaser; record.
26. Compelling service of notice or execution of deed.
27. One deed for separate purchases.
28. Title acquired by individual purchaser.
29. Effect of irregularity on title acquired by purchaser.
30. Right to set aside sale or deed when all taxes paid before sale.
31. Right to set aside deed improperly obtained.
32. Right to set aside deed when one entitled to notice not notified.
33. On whose behalf suits instituted; decree when deed set aside.
34. Subsequent tax sale of real estate purchased by individual.
35. Redemption by persons under disability from purchase by individual.
36. Sheriff's list of sales, suspensions and redemptions; oath.
37. Sheriff to account for proceeds.
38. Return of list of sales, suspensions and redemptions.
39. Penalty for failure to make such return; mandamus.
40. Amendment of such list.
41. Publication by sheriff of sales list.
42. Liability of officer failing to perform duty; penalty.

Section 1. Declaration of Legislative Purpose and

2 Policy.—In view of the paramount necessity of provid-
3 ing regular tax income for the state, county and municipal
4 governments, particularly for school purposes; and in
5 view of the fact that tax delinquency, aside from being
6 a burden on the taxpayers of the state, seriously impairs
7 the rendering of these essential services; and in view of
8 the further fact that delinquent land, with its attendant
9 problems made acute by the events of the past decade,

10 not only constitutes a public liability, but also represents
 11 a failure on the part of delinquent private owners to bear
 12 a fair share of the costs of government; now, therefore,
 13 the Legislature declares that its purpose in the enactment
 14 of this and the following article is threefold: First, to
 15 provide for the speedy and expeditious enforcement of
 16 the tax claims of the state and its subdivisions; second,
 17 to provide for the transfer of delinquent lands to those
 18 more responsive to, or better able to bear, the duties of
 19 citizenship than were the former owners; and third, in
 20 furtherance of the policy favoring the security of land
 21 titles, to establish an efficient procedure that will quickly
 22 and finally dispose of all claims of the delinquent former
 23 owner and secure to the new owner the full benefit of
 24 his purchase.

Sec. 2. *Second Publication and Posting of List of Delin-*
 2 *quent Real Estate; Notice.*—On or before November tenth
 3 of each year the sheriff shall prepare a second list of
 4 delinquent lands, which shall include all real estate in
 5 his county remaining delinquent as of November first,
 6 together with a notice of sale, in form or effect as follows:
 7 Notice is hereby given that the following described
 8 tracts or lots of land or undivided interests therein in the
 9 county of....., which are delinquent for the nonpay-
 10 ment of taxes for the year (or years) 19...., will be offered
 11 for sale by the undersigned sheriff (or collector) at public
 12 auction at the front door of the courthouse of the county,
 13 between the hours of ten in the morning and four in the
 14 afternoon on the.....day of....., 19.....

15 Each unredeemed tract or lot, or each unredeemed part
 16 thereof or undivided interest therein, or so much thereof
 17 as may be necessary, will be sold for the amount due
 18 thereon, as set forth in the following table:

19	Name of person	Quantity	Local	Total amount of taxes, interest
20	charged	of	description	and charges due to
21	with taxes	land		date of sale

22 Any of the aforesaid tracts or lots, or a part thereof
23 or an undivided interest therein, may be redeemed by
24 the payment to the undersigned sheriff (or collector)
25 before sale, of the total amount of taxes, interest and
26 charges due thereon up to the date of redemption.

27 Given under my hand this____day of_____,
28 19.....

29

30

Sheriff (or collector).

31 The sheriff shall publish the list and notice, once a
32 week for four successive weeks prior to the sale date
33 fixed in the notice, in two newspapers of opposite pol-
34 itics, if such there be in the county, and the costs of
35 printing shall be paid out of the county treasury. He
36 shall also post a copy of such list and notice at the front
37 door of the courthouse at least four weeks before the
38 sale. If there is no newspaper published in the county,
39 or if no such newspaper will publish the list and notice
40 for the compensation provided by law, then the sheriff
41 shall also post a copy of the notice, but not of the delin-
42 quent list, at some public place in each magisterial dis-
43 trict at least twenty days before the sale. In such case
44 the notice shall also state that the delinquent list has
45 been posted at the front door of the courthouse.

46 To cover the costs of preparing, publishing and posting
47 the delinquent list, a charge of two dollars shall be added
48 to the taxes, interest and charges already due on each
49 item listed. The sum of the taxes, interest to the date
50 of sale, and other charges shall be stated in the list as
51 the total amount due.

Sec. 3. *Redemption After Second Publication and Be-
2 fore Sale.*—Any of the real estate included in such list
3 may be redeemed at any time before sale as provided
4 in section eighteen, article two of this chapter.

Sec. 4. *Sale by Sheriff.*—Each unredeemed tract or
2 lot, or each unredeemed part thereof or undivided inter-
3 est therein, or so much of any unredeemed tract or part
4 thereof as may be necessary, shall be sold by the sheriff
5 at public auction, between the hours of ten in the morning
6 and four in the afternoon on the second Monday in

7 December, for the total amount of taxes, interest and
8 charges then due. If the sale is not completed on that day,
9 it shall be continued from day to day between the same
10 hours until all the land has been disposed of.

Sec. 5. *Suspension from Sale.*—Whenever it shall appear
2 to the sheriff that any real estate included in the list ought
3 not to be sold for the amount stated therein, he shall
4 suspend the sale thereof and report his reasons therefor
5 to the county court. If the court finds that the real estate
6 ought not to be sold, it shall so order; but if the court
7 finds that the real estate ought to be sold for the amount
8 stated, or for a greater or less amount, it shall order the
9 sheriff to include such real estate in his next November
10 list, unless sooner redeemed.

Sec. 6. *Purchase by State.*—If no person present bids the
2 amount of taxes, interest and charges due on any real
3 estate offered for sale, the sheriff shall purchase it on
4 behalf of the state for the amount so due.

Sec. 7. *Title Acquired by State.*—Upon such purchase
2 by the state, title to the real estate sold shall without any
3 deed be vested in the state, subject, however, to the
4 right of redemption provided for in the following section.

Sec. 8. *Redemption from Purchase by or Forfeiture to
2 the State.*—The former owner of any real estate purchased
3 by the state or forfeited to the state for nonentry, or any
4 other person who was entitled to pay the taxes thereon,
5 may redeem at any time until such real estate has been
6 sold as provided in article four of this chapter, and the
7 sale confirmed by the circuit court. In order to redeem,
8 he must pay to the auditor such of the following amounts
9 as may be due: (1) The taxes, interest and charges for
10 which the real estate was sold, with interest at the rate of
11 twelve per cent per annum from the date of sale. (2) All
12 taxes assessed thereon for the year in which the sale
13 occurred, with interest at the rate of twelve per cent
14 per annum from the date on which they became delin-
15 quent, except when such taxes are currently due and
16 payable to the sheriff. (3) All taxes except those for

17 the current year which would have been assessed thereon
18 since the sale had the sale not occurred, or which, in the
19 case of land forfeited for nonentry, would have been
20 assessed thereon had the land been properly entered,
21 with interest at the rate of twelve per cent per annum
22 from the date on which they would have become delin-
23 quent. (4) The fee provided by the following section
24 for the issuance by the auditor of the certificate of re-
25 demption.

26 In computing the amount due under number three on
27 real estate purchased by the state, the auditor shall use
28 as the basis for computation the classification and valua-
29 tion placed thereon by the assessor for each year since
30 the sale. If such valuation and classification have not been
31 made, he shall use the last valuation and classification
32 appearing on the property books. In computing the
33 amount due under number three on real estate forfeited
34 for nonentry, the auditor shall use as the basis for com-
35 putation such classification and valuation as may, at the
36 request of the auditor or the person redeeming, be cer-
37 tified to the auditor by the assessor as the classification
38 and valuation which in his opinion would be proper for
39 each year of nonentry.

40 In the case of partial redemption, he must pay only
41 that proportion of such taxes as are chargeable to the
42 part or interest redeemed, but must pay all of the other
43 charges and the fee required for redemption of the whole.
44 However, redemption of an undivided interest included
45 in a group assessment or of part of a tract or lot the whole
46 of which was assessed in the name of a person other than
47 the owner shall not be permitted until the applicable
48 provisions of section nine or of section ten, article one
49 of this chapter, have been complied with, except that
50 instead of presenting the assessor's certificate to the sheriff
51 as therein required, the person redeeming shall present
52 it to the auditor, who, after making the necessary changes
53 in the land book and in the record of delinquent lands
54 kept in his office, shall compute the taxes due on the part
55 or interest redeemed.

Sec. 9. *Certificate of Redemption Issued by Auditor;*

2 *Recordation.*—Upon payment of the sum necessary to
3 redeem, the auditor shall execute a certificate of redemp-
4 tion in triplicate, which certificate shall specify the real
5 estate redeemed, or the part thereof or the interest therein,
6 as the case may be, together with any changes in respect
7 thereto which were made in the land book and in the
8 record of delinquent lands, shall specify the year or
9 years for which payment was made, and shall state that
10 it is a receipt for the money paid and a release of the
11 state's title to the real estate redeemed. The original
12 certificate shall be retained in the files in the auditor's
13 office, one copy shall be delivered to the person redeem-
14 ing and the second copy shall be mailed by the auditor
15 to the clerk of the county court of the county in which
16 the real estate is situated, who, after making any neces-
17 sary changes in his record of delinquent lands, shall note
18 the fact of redemption on such record, and shall record
19 the certificate in a separate volume provided for the
20 purpose.

21 The fee for issuing the certificate of redemption shall
22 be one dollar if the total of taxes, interest and charges
23 due is twenty dollars or less; three dollars if such total
24 is more than twenty dollars and less than one hundred
25 dollars; and five dollars if such total is one hundred dol-
26 lars or more. All such fees collected by the auditor shall
27 be paid by him into the special operating fund provided
28 by the following article for the land department in his
29 office.

30 All certificates of redemption issued by the auditor in
31 each year shall be numbered consecutively and shall be
32 filed by the clerk of the county court in numerical order.
33 Reference to the year and number of the certificate shall
34 be included in the notation of redemption required of
35 the clerk of the county court. No fee shall be charged
36 by the clerk for any recordation, filing or notation required
37 by this section.

Sec. 10. *Lien of Person Redeeming Interest of Another;*

2 *Record.*—Any person redeeming an interest of another
3 shall be subrogated to the lien of the state on such inter-

4 est. He shall lose his right to the lien, however, unless
5 within thirty days after payment he shall file with the
6 the clerk of the county court his claim in writing against
7 the owner of such interest, together with a reference by
8 number to the certificate of redemption sent by the auditor
9 to the clerk, as provided in the preceding section. The
10 clerk shall docket the claim on the judgment lien docket
11 in his office and properly index the same. Such lien may
12 be enforced as other judgment liens are enforced.

Sec. 11. *Revaluation and Reclassification at Request of Auditor or Person Redeeming.*—The auditor, or the
2 person redeeming, if dissatisfied with the valuation and
3 classification which by section eight of this article are re-
4 quired to be used as the basis for computation by the
5 auditor of the amount necessary for redemption, may
6 request a revaluation or reclassification of the property
7 for any year or years since the sale. Such request must
8 be made to the assessor of the county in which the prop-
9 erty is situated, who shall pass upon the request. If,
10 because of damage to the property or the making of im-
11 provements thereon, or because of a general change in
12 property values in the county, or for any other reason, it
13 shall appear that the valuation complained of would have
14 been too high or too low for that year, then the assessor
15 shall place a new valuation thereon. Such revaluation
16 shall be made in accordance with the rule prescribed by
17 section one, article three, chapter eleven of this code, so
18 that the new valuation shall correspond to the values
19 placed by the assessor on other property in the county for
20 that year. If it shall appear that the classification com-
21 plained of failed to conform to the classification pre-
22 scribed in section five, article eight, chapter eleven of this
23 code, the assessor shall make the proper reclassification.
24 Any revaluation or reclassification made by the assessor
25 as provided in this section must be submitted to the
26 county court for review and approval. For this purpose
27 the county court shall act as a board of review and
28 equalization at any regular or special session throughout
29 the year. The decision of the county court may be re-
30 viewed by the circuit court as provided in section
31

32 twenty-five, article three, chapter eleven of this code.
33 All new valuations and reclassifications when approved
34 by the county court shall be certified by the assessor to
35 the auditor, and shall be used by him in computing the
36 amount necessary for redemption.

Sec. 12. *Compulsory Redemption at Election of Auditor.*

2 —The auditor, if he so elects, may compel redemption
3 of any real estate purchased by or forfeited to the state.
4 In order to collect from the former owner an amount
5 sufficient for redemption, he may use any of the methods
6 provided in article two of this chapter, for collection of
7 taxes by the sheriff.

Sec. 13. *Redemption of Part of a Tract or Lot; Sur-*

2 *vey.*—Any person having a right to redeem the whole of
3 any tract of land, or of any town or city lot, purchased
4 by or forfeited to the state, who desires to redeem only a
5 part of such tract or lot, must have the part he desires
6 to redeem surveyed and laid off by metes and bounds, and
7 must secure from the surveyor a plat showing the whole
8 tract or lot as well as the part to be redeemed. The part
9 to be redeemed shall be in one body, the length of which
10 shall, whenever practicable, be not more than twice the
11 breadth. He must also secure from the surveyor a descrip-
12 tion of the part to be redeemed and an affidavit by the
13 surveyor that the plat and description and the quantity
14 of land mentioned therein is, as he verily believes, cor-
15 rect. The person desiring to redeem must then present
16 the plat and description, with the affidavit attached, to
17 the assessor who, on the basis of the information contained
18 therein, shall prepare a certificate setting forth the present
19 value of the entire tract or lot, and the value at which
20 both the part to be redeemed and the remainder of the
21 tract or lot would probably be assessed in the future.
22 Upon presentation to the auditor of the assessor's certi-
23 ficate and the plat, description and affidavit, the auditor
24 shall determine whether in his opinion the state as
25 owner of the whole tract or lot would be prejudiced by
26 such partial redemption. If he is of opinion that the re-
27 demption should be allowed, he shall ascertain what
28 proportion of the amount necessary for redemption of the

29 whole tract is properly chargeable to the part redeemed.
30 Upon redemption, the auditor shall enclose the plat, de-
31 scription and affidavit with the copy of the certificate of
32 redemption which he is required to send to the clerk of
33 the county court. Such plat, description and affidavit shall
34 be recorded by the clerk in the deed book when he records
35 the certificate of redemption.

36 All surveys mentioned in this and the following article
37 shall be made by the county surveyor, or if he is inter-
38 ested or is unavailable, then by some other competent
39 surveyor.

Sec. 14. *Auditor to Report Redemptions to County
2 Officers; Disposition of Redemption Money; Credit of
3 State Taxes to Proper Fund.*—The auditor shall report
4 monthly to the sheriff, the assessor and the clerk of the
5 county court of each county all land in such county which
6 was redeemed in his office during the preceding month.
7 The assessor shall enter the fact of such redemption in
8 the land book in his office. The clerk shall file and
9 index the report in a separate volume provided for the
10 purpose.

11 Between October fifteenth and November first of each
12 year, the auditor shall report to the sheriff of each county
13 for inclusion in his next November delinquent list all
14 tracts of land redeemed from the auditor, which after
15 purchase by the state have been reported to him by the
16 sheriff as suspended from sale, if the taxes for the year
17 or years of suspension were not collected by the auditor.
18 The sheriff shall be charged with such taxes and shall
19 account for them as is required in the case of current
20 taxes. Instead of making this report, the auditor may
21 collect the taxes due for the year or years of suspension.
22 Upon collection thereof he shall issue a second certificate
23 of redemption, and such certificate shall be a release of
24 the state's lien for such taxes.

25 The auditor shall each month draw his warrant upon
26 the treasury, payable to the sheriff of each county, for
27 that part of the taxes, interest and charges, received by
28 him upon the redemption of the property included in
29 his report, which was owing to any of the taxing units

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.....
9on 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; Purchase by Sheriff and Clerk of the County Court Prohibited.—*Any co-owner, except a coparcener, in the absence of satisfactory proof of a fiduciary relationship, shall be entitled to acquire by tax purchase 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.

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; Receipt; List of Redemptions; Lien.—*After the sale, the

3 former owner of, or any other person who was entitled
4 to pay the taxes on, any real estate purchased by an in-
5 dividual, may redeem at any time before June first of
6 the second year following the sale. In order to redeem,
7 he must pay to the purchaser, his heirs or assigns, the
8 following amounts: (1) The amount of purchase money
9 paid to the sheriff, with interest at the rate of twelve
10 per cent per annum from the date of sale. (2) All other
11 taxes thereon, which have since been paid by the pur-
12 chaser, his heirs or assigns, with interest at the rate of
13 twelve per cent per annum from the date of payment.
14 (3) Such additional expenses as may have been incurred
15 in procuring the survey or report provided for in sections
16 twenty-one and twenty-two of this article and in prepar-
17 ing the list of those to be served with notice and giving
18 the notice required by sections twenty-three and twenty-
19 four of this article.

20 The person redeeming shall be given duplicate receipts
21 for the payment. If the purchaser, his heirs or assigns,
22 shall refuse or fail to sign and give such receipts when
23 lawfully required to do so, he or they shall pay to the per-
24 son redeeming twice the amount of such payment, which
25 may be recovered by action on the case in any court of
26 competent jurisdiction. One of such receipts shall be filed
27 with the clerk of the county court on or before the day on
28 which the right to redeem expires. The clerk shall endorse
29 on both receipts the fact and time of such filing, and shall
30 note the fact of redemption on his record of delinquent
31 lands. If the receipt is not filed on or before such date, the
32 redemption shall be void as to creditors and subsequent
33 bona fide purchasers from the purchaser, his heirs or as-
34 signs. If, however, the receipt is filed after the date re-
35 quired, it shall operate as notice from and after the date
36 of filing. In June of each year the clerk of the county
37 court shall prepare and certify to the auditor a list of all
38 redemptions from sales to individual purchasers, which
39 have not been included in any former list.

40 Any person who, by reason of the fact that no provision
41 is made for partial redemption of real estate purchased
42 by an individual, is compelled in order to protect him-

43 self to redeem all of such real estate when it belongs in
44 whole or in part to some other person, shall have a lien
45 on the interest of such other person for the amount
46 paid to redeem such interest. He shall lose his right to
47 the lien, however, unless within thirty days after pay-
48 ment he shall file with the clerk of the county court his
49 claim in writing against the owner of such interest, to-
50 gether with the receipt provided for in this or the fol-
51 lowing section. The clerk shall docket the claim on the
52 judgment lien docket in his office and properly index the
53 same. Such lien may be enforced as other judgment liens
54 are enforced.

Sec. 18. *Payment of Redemption Money to Clerk.*—

2 Whenever the purchaser, his heirs or assigns shall refuse
3 to accept payment of the redemption money, or cannot be
4 found or does not reside in the county, payment may be
5 made to the clerk of the county court at any time before
6 the right to redeem expires. The clerk shall issue dupli-
7 cate receipts, one to be filed by him in his office, and shall
8 note the fact of redemption on his record of delinquent
9 lands.

Sec. 19. *Contest of Redemption by Payment to Clerk.*—

2 If the purchaser, his heirs or assigns, dispute the right to
3 redeem of the person making payment to the clerk as
4 provided in the preceding section, he or they may,
5 within one year after payment to the clerk, give to such
6 person, or to his heirs, or personal representative, notice
7 in writing of such dispute, requiring him or them to ap-
8 pear before the circuit court of the county, on a day to
9 be named in the notice, and prove that the person who
10 made the payment had a right to redeem. Such notice
11 shall be served at least ten days before the day on which it
12 is returnable, and if the party served fails to appear, or
13 if he appears and fails to prove the right to redeem, the
14 court shall enter an order cancelling the redemption and,
15 if the period of redemption has then expired and all other
16 conditions of the following section have been complied
17 with, directing the clerk to execute and deliver to the
18 purchaser, or his heirs or assigns, a deed for the property.
19 If the other conditions have not been complied with, the

20 court may enter an order allowing reasonable additional
21 time for compliance, authorizing, as a substitute for the
22 notice required by section twenty-three, preparation and
23 service of a notice to redeem within ninety days, and di-
24 recting the clerk to execute the deed upon the expiration
25 of such period of redemption. Any deed executed pur-
26 suant to an order of the court provided for in this section
27 shall have the same force and effect as if executed and
28 delivered within the time specified in section twenty-five
29 of this article. The clerk of the county court shall enter
30 such order on his record of delinquent lands and shall
31 return the money to the person who made the payment,
32 or to his personal representative. If, however, the de-
33 cision is that such person had the right to redeem, the
34 clerk shall pay the money to the purchaser, or his heirs
35 or assigns.

36 If the purchaser, his heirs or assigns, admit the right to
37 redeem but claim that the sum paid the clerk was in-
38 sufficient, he or they may upon similar notice have the
39 sufficiency of the payment determined by the court. If
40 the person redeeming fails to appear or if the decision
41 is that the sum paid was insufficient, the court shall, un-
42 less such additional amount as may be found to be due
43 is paid within thirty days, enter an order cancelling the
44 redemption, and shall also enter such further appropriate
45 orders as are authorized to be entered under the pre-
46 ceding paragraph. If the sum is found to have been
47 sufficient, the court shall make such orders as are appro-
48 priate when the right to redeem is sustained under the
49 preceding paragraph.

Sec. 20. *What Purchaser Must Do Before He Can Se-
2 cure Deed.*—At any time after January first of the second
3 year following the sale, and on or before March first of
4 the same year, the purchaser, his heirs or assigns, in or-
5 der to secure a deed for the real estate purchased, must:
6 (1) Secure and file with the clerk of the county court the
7 survey or report provided for in sections twenty-one and
8 twenty-two of this article; (2) examine the title in order
9 to prepare a list of those to be served with notice to re-
10 deem and request the clerk to prepare and serve the no-

11 tice as provided in sections twenty-three and twenty-four
12 of this article; and (3) deposit, or offer to deposit, with
13 the clerk a sum sufficient to cover the cost of preparing
14 and serving the notice. For failure to meet these require-
15 ments, the purchaser shall lose all the benefits of his
16 purchase.

17 If the person requesting preparation and service of the
18 notice is an assignee of the purchaser, he shall, at the
19 time of the request, file with the clerk a written assign-
20 ment to him of the purchaser's rights, executed, acknowl-
21 edged and certified in the manner required to make a valid
22 deed.

Sec. 21. *Report or Survey of Real Estate Purchased.*—

2 Except as provided in the following section, an individual
3 purchaser at the tax sale, his heirs or assigns, must, at his
4 or their expense, have the county surveyor make either a
5 report or a survey of the real estate purchased. The re-
6 port shall contain such a description of the property as
7 will identify it, and shall specify the metes and bounds
8 thereof, if ascertainable without a survey, unless there is
9 a recorded plat of such property to which reference can
10 be made. If a survey is preferred, a plat of the property
11 and description thereof by metes and bounds must be ob-
12 tained from the surveyor. If the sale was of an undivided
13 interest in any property, the report or survey shall be of
14 the entire property. The report or the plat and descrip-
15 tion must be filed with the clerk of the county court
16 within the time specified in section twenty of this article.
17 The fact and time of such filing shall be endorsed by the
18 clerk on the report or on the plat and description, and
19 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
3 the entire tract, the purchaser of such part, his heirs or
4 assigns, must, at his or their expense, have the part so
5 purchased surveyed by the county surveyor and laid off
6 by metes and bounds. The area so laid off shall be
7 bounded in part by some one or more of the lines of the
8 tract, to be selected by the purchaser, his heirs or assigns.
9 The part chosen shall not include any of the improve-

10 ments on the tract, if this can be avoided, and shall be
 11 in one body, the length of which shall, whenever prac-
 12 ticable, be not more than twice the breadth. A plat of
 13 the part so laid off and a description thereof, to be pre-
 14 pared by the surveyor, must be filed with the clerk of
 15 the county court within the time specified in section
 16 twenty of this article. The fact and time of such filing
 17 shall be endorsed by the clerk on the plat and description,
 18 and shall be noted by him on his record of delinquent
 19 lands.

Sec. 23. *Notice to Redeem.*—Whenever the provisions
 2 of section twenty of this article have been complied with,
 3 the clerk of the county court shall thereupon prepare a
 4 notice in form or effect as follows:

5 To.....

6 You will take notice that....., the pur-
 7 chaser (or....., the assignee, heir or devisee of
 8, the purchaser) of the following real
 9 estate,, (here describe the real estate
 10 sold) located in, (here name the city,
 11 town or village in which the real estate is situated or, if
 12 not within a city, town or village, give the district and a
 13 general description) which was returned delinquent in
 14 the name of....., and was sold by the sheriff
 15 of..... County at the sale for delinquent
 16 taxes made on the ... day of, 19, has re-
 17 quested that you be notified that a deed for such real es-
 18 tate will be made to him on or after the first day of June,
 19 19....., as provided by law, unless before that day you
 20 redeem such real estate. The amount you will have to
 21 pay to redeem on the last day, May thirty-first, will be
 22 as follows:

23	Amount paid sheriff at sale, with interest to May	
24	31st	\$.....
25	Amount of taxes paid on the property, since	
26	the sale, with interest to May 31st.....	\$.....
27	Amount paid for survey and report.....	\$.....
28	Amount paid for preparation of list of those to be served,	
29	and for preparation and service of the notice	\$.....
30	Total.....	\$.....

31 You may redeem at any time before May thirty-first by
32 paying the above total less any unearned interest.

33 Given under my hand this.....day of....., 19.....

34

35 Clerk of the County Court of
36County.

37 State of West Virginia

38 The clerk for his service in preparing the notice shall
39 receive a fee of fifty cents for the original and twenty-five
40 cents for each copy required.

Sec. 24. *Service of Notice.*—As soon as the clerk has
2 prepared the notice provided for in the preceding section,
3 he shall cause it to be served upon the following persons:
4 (1) The person in whose name the real estate was re-
5 turned delinquent and sold, or, in case of his death, his
6 heir or devisee and his personal representative, if such
7 there be; (2) any grantee of such person, or his heir or
8 devisee and his personal representative, if such there
9 be, if a conveyance of such real estate is recorded or filed
10 for record in the office of the clerk; (3) any person having
11 a lien upon such real estate disclosed by any paper re-
12 corded in the clerk's office; and (4) any other person
13 having such an interest in the property as would entitle
14 him to redeem, if the existence of such interest appears
15 of record.

16 The notice shall be personally served upon all such
17 persons residing or found in the state in the manner pro-
18 vided for serving process commencing a suit, on or before
19 the fifteenth day of March following the request for such
20 notice. If any person entitled to notice is a nonresident of
21 the state or if his residence is unknown to the clerk and
22 cannot by due diligence be discovered, the notice shall be
23 served by publication once a week for three successive
24 weeks in some newspaper published in the county in
25 which such real estate is located, or if no newspaper is
26 published in the county, then in some newspaper of
27 general circulation in the county. If service by publica-
28 tion is necessary, publication shall be commenced within
29 one week after March fifteenth, and a copy of the notice
30 shall at the same time be sent by registered mail, return

31 receipt requested, to the last known address of the per-
32 son served. The return of service of such notice and the
33 affidavit of publication, if any, shall be in the manner
34 provided for process generally and shall be filed and
35 preserved by the clerk in his office, together with any re-
36 turn receipts for notices sent by registered mail.

Sec. 25. *Deed to Purchaser; Record.*—If the real estate
2 described in the notice is not redeemed within the time
3 specified therein, the clerk of the county court shall
4 thereupon make and deliver to the person entitled thereto
5 a deed for such real estate in form or effect as follows:

6 This deed made this _____ day of _____, 19____, by and
7 between _____, clerk of the county court of
8 _____ County, West Virginia, (or by and between
9 _____, a commissioner appointed by the Circuit
10 Court of _____ County, West Virginia, or by
11 and between _____, a commissioner appointed
12 by the Judge of the Circuit Court of _____ County,
13 West Virginia, in vacation,) grantor, and _____,
14 purchaser, (or _____, heir, devisee or assignee of
15 _____, purchaser,) grantee, witnesseth, that

16 Whereas, In pursuance of the statutes in such case made
17 and provided, _____, Sheriff of _____ County,
18 (or _____, deputy for _____, Sheriff
19 of _____ County, or _____, collector
20 of _____ County,) did, in the month of _____,
21 in the year 19____, sell the real estate, hereinafter men-
22 tioned and described, for the taxes delinquent thereon
23 for the year (or years) 19____, and _____, (here in-
24 sert name of purchaser) for the sum of \$ _____, that
25 being the amount of purchase money paid to the sheriff,
26 did become the purchaser of such real estate (or of _____
27 acres, part of the tract or land, or of an undivided _____
28 interest in such real estate) which was returned delin-
29 quent in the name of _____; and

30 Whereas, The report or the plat and description re-
31 quired by law has been duly filed with the clerk of the
32 county court; and

33 Whereas, The clerk of the county court has caused the

34 notice to redeem to be served on all persons required by
35 law to be served therewith; and

36 Whereas, The real estate so purchased has not been re-
37 deemed in the manner provided by law and the time for
38 redemption set in such notice has expired;

39 Now, therefore, the grantor, for and in consideration
40 of the premises and in pursuance of the statute, doth
41 grant unto....., grantee, his heirs and as-
42 signs forever, the real estate so purchased, situate in the
43 county of....., bounded and described as fol-
44 lows:.....

45 Witness the following signature:

46

47

48

Clerk of the County Court of
.....County

49 Except when ordered to do so, as provided in sections
50 nineteen and twenty-six of this article, no clerk of the
51 county court shall execute and deliver such a deed more
52 than six months after the purchaser's right to the deed
53 accrued.

54 For the execution of the deed and for all the recording
55 required by this section, a fee of five dollars shall be
56 charged, to be paid by the grantee upon delivery of the
57 deed. The deed, when duly acknowledged or proven,
58 shall be recorded by the clerk of the county court in the
59 deed book in his office, together with the report or plat
60 and description, the assignment from the purchaser, if
61 one was made, the notice to redeem, the return of service
62 of such notice, the affidavit of publication, if the notice
63 was served by publication, and any return receipts for
64 notices sent by registered mail.

Sec. 26. *Compelling Service of Notice or Execution of*
2 *Deed.*—If the clerk of the county court fails or refuses to
3 prepare and serve the notice to redeem as required in
4 sections twenty-three and twenty-four of this article, the
5 person requesting the notice may, at any time within
6 two weeks after such failure or refusal, apply by petition
7 to the circuit court of the county, or to the judge thereof
8 in vacation, for an order compelling the clerk to prepare
9 and serve the notice or appointing a commissioner to do

10 so. If the person requesting the notice fails to make such
11 application within the time allowed, he shall lose his
12 right to the notice, but his rights against the clerk under
13 the provisions of section forty-two of this article shall not
14 be affected. Notice given pursuant to an order of the
15 court or judge shall be as valid for all purposes as if
16 given within the time required by section twenty-four
17 of this article.

18 If the clerk fails or refuses to execute the deed as re-
19 quired in the preceding section, the person requesting
20 the deed may, at any time after such failure or refusal,
21 but not more than six months after his right to the deed
22 accrued, apply by petition to the circuit court of the
23 county, or to the judge thereof in vacation, for an order
24 compelling the clerk to execute the deed or appointing a
25 commissioner to do so. If the person requesting the deed
26 fails to make such application within the time allowed, he
27 shall lose his right to the deed, but his rights against the
28 clerk under the provisions of section forty-two of this ar-
29 ticle shall not be affected. Any deed executed pursuant
30 to an order of the court or judge shall have the same
31 force and effect as if executed and delivered by the clerk
32 within the time specified in the preceding section.

33 Ten days' written notice of every such application must
34 be given to the clerk. If, upon the hearing of such applica-
35 tion, the court or judge is of the opinion that the appli-
36 cant is not entitled to the notice or deed requested, the
37 petition shall be dismissed at his costs; but if the court or
38 judge is of the opinion that he is entitled to such notice or
39 deed, then, upon his deposit with the clerk of the circuit
40 court of a sum sufficient to cover the costs of preparing
41 and serving the notice, unless such a deposit has al-
42 ready been made with the clerk of the county court, an
43 order shall be made by the court or judge directing the
44 clerk to prepare and serve the notice or execute the deed,
45 or appointing a commissioner for the purpose, as the
46 court or judge shall determine. The order, if made in
47 vacation, shall be filed with the clerk of the court and
48 entered by him in the chancery order book. If it appear
49 to the court or judge that the failure or refusal of the
50 clerk was without reasonable cause, judgment shall be

51 given against him for the costs of the proceedings, other-
52 wise the costs shall be paid by the applicant.

53 Any commissioner appointed under the provisions of
54 this section shall be subject to the same liabilities as are
55 provided for the clerk. For the preparation of the notice
56 to redeem, he shall be entitled to the same fee as is pro-
57 vided for the clerk. For the execution of the deed, he
58 shall also be entitled to a fee of five dollars, to be paid by
59 the grantee upon delivery of the deed.

Sec. 27. *One Deed for Separate Purchases.*—Whenever
2 one purchaser at the tax sale has purchased two or more
3 pieces of real estate, or undivided interests therein,
4 charged to the same person, or persons, with taxes for the
5 same year, or years, he, his heirs or assigns, may request
6 the clerk of the county court to execute a separate deed
7 for each piece of real estate, or undivided interest therein,
8 or separate deeds for some and one deed for the re-
9 mainder, or one deed for all, as he or they may prefer.
10 Every deed for two or more pieces of real estate, or un-
11 divided interests therein, shall describe each piece of real
12 estate and each undivided interest separately.

Sec. 28. *Title Acquired by Individual Purchaser.*—
2 Whenever the purchaser of any real estate sold at a tax
3 sale, his heirs or assigns, shall have obtained a deed for
4 such real estate from the clerk of the county court or from
5 a commissioner appointed to make the deed, he or they
6 shall thereby acquire all such right, title and interest, in
7 and to the real estate, as was, at the time of the execu-
8 tion and delivery of the deed, vested in or held by any
9 person who was entitled to redeem, unless such person is
10 one who, being required by law to have his interest
11 separately assessed and taxed, has done so and has paid
12 all the taxes due thereon, or unless the rights of such
13 person are expressly saved by the provisions of sections
14 sixteen, thirty, thirty-one, thirty-two or thirty-five of
15 this article. The tax deed shall be conclusive evidence of
16 the acquisition of such title. The title so acquired shall re-
17 late back to January first of the year in which the taxes,
18 for nonpayment of which the real estate was sold, were
19 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

13 the provisions of this section, except in the case of re-
14 demption, until payment has been made or tendered to
15 the purchaser, or his heirs or assigns, of the amount
16 which would have been required for redemption, together
17 with any taxes which have been paid on the property
18 since delivery of the deed, with interest at the rate of
19 twelve per cent per annum.

Sec. 32. *Right to Set Aside Deed When One Entitled to*
2 *Notice Not Notified.*—If any person entitled to be notified
3 under the provisions of section twenty-four of this ar-
4 ticle is not served with the notice as therein required,
5 and does not have actual knowledge that such notice has
6 been given to others in time to protect his interests by
7 redeeming the property, he, his heirs and assigns, may,
8 on or before December thirty-first of the third year fol-
9 lowing the sale, institute a suit in equity to set aside the
10 deed. No deed shall be set aside under the provisions of
11 this section until payment has been made or tendered to
12 the purchaser, or his heirs or assigns, of the amount
13 which would have been required for redemption, together
14 with any taxes which have been paid on the property
15 since delivery of the deed, with interest at the rate of
16 twelve per cent per annum.

Sec. 33. *On Whose Behalf Suits Instituted; Decree*
2 *When Deed Set Aside.*—Any suit instituted under the
3 provisions of the three preceding sections by a person
4 other than the former owner, his heirs or assigns, must
5 be brought on his or their behalf. Whenever the deed in
6 such case is set aside, the decree shall be that all the right,
7 title and interest of the former owner, his heirs or as-
8 signs, is revested in him or them.

Sec. 34. *Subsequent Tax Sale of Real Estate Purchased*
2 *by Individual.*—Whenever any real estate has been sold
3 at a tax sale to an individual purchaser, and the taxes on
4 such real estate for the year of the sale or for any sub-
5 sequent year have become delinquent, the sheriff shall
6 include the real estate in the delinquent lists of the proper
7 year and shall again sell the whole or a part thereof for
8 taxes as if the former sale had not occurred. The pur-

9 chaser at the first sale may, however, prevent the second
10 sale by paying the amount due, or he may redeem from
11 the second sale. If the purchaser bought only a part of
12 the land at the first sale, he may prevent a second sale
13 thereof by paying the proportionate part of the taxes
14 assessed against the whole which are chargeable to the
15 part purchased.

Sec. 35. *Redemption by Persons under Disability from*
2 *Purchase by Individual.*—In addition to and notwith-
3 standing any other provisions of this article, any infant
4 or insane person whose real estate was, during such dis-
5 ability, sold at a tax sale to an individual purchaser, may
6 redeem such real estate by paying to the purchaser, or
7 his heirs or assigns, before the expiration of one year
8 after removal of the disability, but in no event more than
9 twenty years after the deed was obtained, the amount of
10 the purchase money, together with the necessary charges
11 incurred in obtaining the deed, and any taxes paid on the
12 property since the sale, with interest on such items at
13 the rate of six per cent per annum from the date each
14 was paid. If such person was the owner of an undivided
15 interest in the real estate sold, he may redeem such in-
16 terest by paying that proportion of the purchase money,
17 charges, taxes and interest chargeable to his interest; but
18 after a deed has been delivered to the purchaser, he shall
19 not have the right to redeem more than his own undivided
20 interest. If improvements have been made on such real
21 estate after the deed was obtained and before the offer
22 to redeem as herein provided, the person redeeming shall
23 pay to the purchaser, or his heirs or assigns, the value
24 of the improvements at the time of such offer, after de-
25 ducting therefrom the value of the use of such real
26 estate without the improvements, from the date of the
27 deed to the date of the offer. Upon payment or tender
28 of payment, the purchaser, his heirs or assigns, shall, at
29 the expense of the person redeeming, convey to him by
30 quitclaim deed the real estate so redeemed.
31 One entitled to redeem under the provisions of this
32 section may, if he is unable or is not willing to pay for
33 the improvements made by the purchaser, elect to re-

34 linquish his interest in the property. If he so elects, he
35 shall be entitled to an amount equal to the estimated
36 present value of the land without the improvements less
37 what he would have had to pay to redeem the land had
38 no improvements been made. Upon payment to him of
39 such amount, he shall by quitclaim deed convey the land
40 to the purchaser, his heirs or assigns.

41 If in any case provided for in this section the parties
42 cannot agree on the amount to be paid, any of them may
43 upon ten days' notice in writing to the other, or others,
44 apply by petition, to the circuit court of the county in
45 which the real estate is situated, or to the judge thereof
46 in vacation, to have the matter referred to a commis-
47 sioner to ascertain the proper amount to be paid. Upon
48 confirmation by the court or judge of the report of the
49 commissioner, and upon payment or tender of the
50 amount, if any, so ascertained to be due, the person to
51 whom payment or tender was made, shall execute the
52 quitclaim deed as provided above. In the event of his re-
53 fusals to do so, the court, or judge, may appoint a commis-
54 sioner to execute the deed.

55 If there is a refusal to execute the deed in any case in
56 which there was no dispute as to the amount necessary
57 for redemption, the person entitled to the deed may, upon
58 ten days' notice in writing to the other party or parties,
59 apply by petition to the circuit court, or to the judge
60 thereof in vacation, for the appointment of a commis-
61 sioner to execute the deed.

Sec. 36. *Sheriff's List of Sales, Suspensions and Redemp-
2 tions; Oath.*—As soon as the sale provided for in section
3 four of this article has been completed, the sheriff shall
4 prepare a list of all delinquent real estate purchased at
5 the sale, or suspended from sale, or redeemed before sale.
6 The heading of the list shall be in form or effect as fol-
7 lows:

8 List of real estate in the county of _____,
9 returned delinquent for nonpayment of taxes thereon for
10 the year (or years) 19____, and sold in the month (or
11 months) of _____, 19____, or suspended from
12 sale, or redeemed before sale.

13 The sheriff shall, at the foot of such list, subscribe an
14 oath, which shall be subscribed before and certified by
15 some person duly authorized to administer oaths, in form
16 or effect as follows:

17 I, _____, sheriff (or deputy sheriff or
18 collector) of the county of _____, do swear
19 that the above list contains a true account of all the real
20 estate within my county returned delinquent for nonpay-
21 ment of taxes thereon for the year (or years) 19____,
22 which was sold by me or which was suspended from sale
23 or redeemed before sale, and that I am not now, nor have
24 I at any time been, directly or indirectly interested in the
25 purchase of any such real estate.

26 Except for the heading and the oath, the tax commis-
27 sioner shall prescribe the form of the list.

Sec. 37. *Sheriff to Account for Proceeds.*—The sheriff
2 shall account for the proceeds of all sales and redemptions
3 included in such list in the same way he accounts for
4 other taxes collected by him, except that if the purchase
5 money paid for any property sold is in excess of the
6 amount of taxes, interest and charges due thereon, the
7 surplus shall be paid to the person or persons charged
8 with the taxes. All real estate included in the first de-
9 linquent list sent to the auditor, and not accounted for
10 in the list of sales, suspensions and redemptions, shall be
11 deemed to have been redeemed before sale, and the taxes,
12 interest and charges due thereon shall be accounted for
13 by the sheriff as if they had been received by him before
14 the sale.

Sec. 38. *Return of List of Sales, Suspensions and Re-*
2 *demptions.*—Within one month after completion of the
3 sale, the sheriff shall deliver the original list of sales,
4 suspensions and redemptions, with a copy thereof, to the
5 clerk of the county court. The clerk shall bind the origi-
6 nal of such list in a permanent book to be kept for the
7 purpose in his office, and shall note each sale and sus-
8 pension, and each redemption not previously noted, on
9 his record of delinquent lands. The clerk, within ten
10 days after delivery of the list to him, shall transmit the
11 copy to the auditor, who shall note each sale, suspension

12 and redemption on the record of delinquent lands kept in
13 his office.

Sec. 39. *Penalty for Failure to Make Such Return;*
2 *Mandamus.*—Any sheriff who fails to prepare and return
3 the list of sales, suspensions and redemptions within the
4 time required by the preceding section, shall forfeit not
5 less than fifty nor more than five hundred dollars, for the
6 benefit of the general school fund, to be recovered by the
7 auditor or by any taxpayer of the county on motion in a
8 court of competent jurisdiction. Upon the petition of any
9 person interested, the sheriff may be compelled by man-
10 damus to make out and return such list, and the proceed-
11 ings thereon shall be at his cost.

Sec. 40. *Amendment of Such List.*—If the sheriff shall
2 make any error or omission in the list of sales, suspen-
3 sions and redemptions returned to the clerk of the county
4 court, he or any person interested may, within six months
5 after the sale, apply by petition to the county court for
6 an order permitting or requiring amendment of the list.
7 Any person who might be prejudiced by the proposed
8 amendment must, if found within the county, be given
9 at least ten days' notice of such application. Upon proof
10 of the error or mistake the court shall make an order per-
11 mitting or requiring the sheriff to file an amended list
12 with the clerk of the court. The sheriff shall thereupon
13 prepare and deliver to the clerk of the court the amended
14 list and a copy thereof, with a copy of the order of the
15 court permitting or requiring it to be filed attached to
16 the list and to the copy. The clerk shall substitute the
17 original of the amended list for the list already in his
18 office, and make the necessary corrections on his record
19 of delinquent lands. The clerk shall transmit the copy of
20 the amended list to the auditor who shall note the correc-
21 tions on his record of delinquent lands.

Sec. 41. *Publication by Sheriff of Sales List.*—Within
2 one month after completion of the sale, the sheriff shall
3 prepare and publish for two successive weeks in two
4 newspapers of opposite politics, if such there be in the
5 county, otherwise in some newspaper published in the

6 county, a list of all the sales made by him, in form or
7 effect as follows:

8 List of real estate sold in the county of _____,
9 in the month (or months) of _____, 19____,
10 for nonpayment of taxes thereon for the year (or years)
11 19____, and purchased by individuals or by the State of
12 West Virginia:

13	Name of	Local	Quantity	Quantity	Name	Whole
14	Person	Descrip-	of Land	of Land	of	Amount
15	Charged	tion of	Charged	Sold	Purchaser	Paid by
16	with	Lands				Purchaser
17	Taxes					

18 The owner of any real estate listed above, or any other
19 person entitled to pay the taxes thereon, may, however,
20 redeem such real estate as provided by law.

21 Given under my hand this _____ day of _____,
22 19_____.

23 In addition to the publication required above, the sheriff
24 shall post a copy of such list at the front door of the court-
25 house. If no newspaper will publish the list for the com-
26 pensation provided by law, or if there is no newspaper
27 published in the county, the sheriff shall also post a
28 copy of the list at some public place in each magisterial
29 district in the county. The costs of printing the sales list
30 shall be paid out of the county treasury. To cover the
31 costs of preparing, publishing and posting such list, a
32 charge of two dollars shall be added to the taxes, interest
33 and charges already due on each item listed.

Sec. 42. *Liability of Officer Failing to Perform Duty;*
2 *Penalty.*—If any officer mentioned in this article shall
3 fail or refuse to perform any duty required of him, he
4 and the sureties on his official bond shall be liable in an
5 action on the bond for such damages as may be sustained
6 by any person by reason of such failure. In addition to
7 this liability, he shall forfeit not less than twenty-five nor
8 more than one hundred dollars for each failure or refusal,

9 unless a different penalty is imposed by the provisions of
10 this article.

Article 4. Sale of Lands for School Fund.

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; recordation.
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.

9 The auditor is empowered, and it shall be his duty,
10 through the land department in his office, to administer
11 and carry into execution the laws with reference to such
12 lands. The auditor, on behalf of the state, shall have
13 power to hold and manage such lands, and to exercise
14 other powers incident to the general ownership of land.

Sec. 5. *Deputy Commissioners of Forfeited and Delin-*
2 *quent Lands; Compensation; Bond.*—There shall be for
3 each county in the state a deputy commissioner of for-
4 feited and delinquent lands. The auditor shall appoint
5 such deputies as soon as may be after this act takes effect,
6 and shall make new appointments from time to time
7 thereafter whenever vacancies occur, or when in his
8 judgment it is deemed advisable. The auditor may make
9 rules respecting the tenure of deputy commissioners. In
10 the absence of such rules, the deputy for each county
11 shall, so long as he satisfies the requirements of this sec-
12 tion in respect to professional qualifications and bond-
13 ing, continue to act without reappointment until the
14 auditor designates his successor.

15 Appointments shall be limited to persons duly licensed
16 to practice law in the state, and so far as possible shall be
17 made for each county from among attorneys residing and
18 practicing law therein. If, however, there is in the
19 opinion of the auditor no suitable person in a county avail-
20 able for appointment, he shall designate a member of the
21 bar of another county in the same judicial circuit. When-
22 ever in respect to any land the deputy commissioner, in
23 his own judgment or in the opinion of the auditor, is
24 disqualified because of his personal interest, or because
25 of his representation of clients in matters affecting such
26 land, the auditor may appoint a special deputy to deal
27 with that land. All provisions of this article in respect
28 to the rights, duties, liabilities and qualifications of the
29 deputy commissioner, shall be applicable to the special
30 deputy.

31 The deputy commissioner shall be subject to the orders
32 and control of the auditor, shall be accountable to him,
33 and shall serve as his local agent within the county. It

34 shall be his duty to do whatever is required of him by the
35 auditor or by the provisions of this article. As compen-
36 sation for his services he shall receive the sum of one
37 dollar for every tract certified to the circuit court of the
38 county of his appointment, and such additional compen-
39 sation and fees as are provided for in this article.

40 To insure the faithful performance of his duties and
41 the payment of any forfeitures incurred, the deputy com-
42 missioner before entering upon his duties shall give a
43 bond, with satisfactory corporate surety, in the penalty
44 of not less than two thousand dollars, nor more than ten
45 thousand dollars, to be fixed by the auditor. The pre-
46 mium for such bond shall be paid by the auditor out of
47 the operating fund for the land department in his office.

Sec. 6. *Auditor's Record of Delinquent Lands.*—The
2 auditor shall prepare and keep in his office a permanent
3 record of all delinquent, forfeited, escheated, and waste
4 and unappropriated lands. The record shall, as to every
5 tract listed, set forth the information available as to
6 quantity, local description, and, except in the case of
7 waste and unappropriated lands, the name of the former
8 owner and the respective dates of nonentry and forfei-
9 ture, or nonpayment and delinquency, or escheat, as the
10 case may be. The record shall be prima facie evidence
11 of all matters required by this section to be set forth
12 therein, including the propriety of the description of
13 lands as delinquent, forfeited, escheated, or waste and
14 unappropriated.

Sec. 7. *Operating Fund for Land Department in Aud-
2 itor's Office.*—The auditor shall set up a special operating
3 fund for the land department in his office. He shall pay
4 into such fund all redemption fees, all publication or
5 other charges collected by him, if such charges were paid
6 by or were payable to him, and all payments made to him
7 by sheriffs under the provisions of section fifty-one of
8 this article, except such part thereof as represents state
9 taxes and interest received by the sheriff for redemptions
10 after certification and before sale. The fund shall be
11 used by the auditor to pay any sums owing by him to

12 deputy commissioners for services rendered under the
13 provisions of this article, and to pay for the operation
14 and maintenance of the land department in his office.
15 The surplus remaining in the fund at the end of any
16 fiscal year shall be paid by the auditor into the general
17 school fund.

Sec. 8. *Officers to Report Lands Subject to Sale.*—

2 Whenever an assessor, or clerk of the county court, or
3 county surveyor learns of the existence within his county
4 of any forfeited land, he shall promptly report that fact
5 to the deputy commissioner for the county, together with
6 his information relating thereto. The county surveyor
7 shall also report all waste and unappropriated lands
8 within his county, except lands lying under the bed of a
9 navigable stream, and shall in his report specify the quan-
10 tity, the local description, and any claims of title thereto.
11 The assessor, as escheator, shall likewise report all lands
12 which escheat to the state. The deputy commissioner
13 shall transmit to the auditor all such reports as upon in-
14 vestigation he finds to be correct.

Sec. 9. *Auditor to Certify List of Lands to Be Sold.*—On

2 and after the first day of January, one thousand nine
3 hundred forty-two, and during the month of January each
4 year thereafter, the auditor shall certify to the circuit
5 court of each county a list of all lands in the county sub-
6 ject to sale under this article which have been under his
7 control as state commissioner of forfeited and delinquent
8 lands for at least one year before certification. He shall
9 note the fact of certification on his record of delinquent
10 lands.

11 Each of the four classes of land subject to sale shall be
12 listed separately. The list shall be arranged by districts
13 and, except in the case of waste and unappropriated
14 lands, alphabetically by name of the former owner. The
15 list shall state as to each item listed, the information re-
16 quired by section six of this article to be set forth in the
17 auditor's record of delinquent lands and shall specify as
18 to each tract listed as delinquent or forfeited, the amount
19 of taxes and interest due for each year prior to certifica-
20 tion, the publication and other charges due, with interest,

21 and the total currently due, which total shall, except for
22 the redemption fee, correspond to the sum required for
23 redemption from the auditor on the date of certification.
24 The specification of taxes due shall as to delinquent land
25 commence with those for nonpayment of which it was
26 sold, and as to forfeited land with those properly charge-
27 able to it for the first year of nonentry.

28 The items listed shall be numbered consecutively, and
29 all subsequent orders, entries, applications or proceedings
30 under this article in respect to any item shall refer to
31 its number and to the year of certification. All tracts,
32 lots, or parcels sold to the state as a unit shall be treated
33 by the auditor as a single item for purposes of certifica-
34 tion. Subject to the provisions of this section, the auditor
35 shall prescribe a form for the list and shall provide in
36 such form adequate space to show the subsequent history
37 and final disposition of each item certified.

38 The list shall be made in quadruplicate. The auditor
39 shall keep the original and shall send one copy to the
40 clerk of the circuit court, one to the clerk of the county
41 court, and one to the deputy commissioner. The clerk
42 of the county court shall bind his copy in a permanent
43 book to be labeled "Report of State Commissioner of For-
44 feited and Delinquent Lands" and shall note the fact of
45 the certification of each item on his record of delinquent
46 lands. The clerk of the circuit court shall preserve his
47 copy in a suitable and convenient manner until each item
48 therein certified has been finally disposed of.

Sec. 10. *Redemption After Certification and Before*
2 *Sale.*—In order to redeem after certification and before
3 sale, any person having a right of redemption under the
4 provisions of section eight, article three of this chapter,
5 must apply to the deputy commissioner. The deputy com-
6 missioner shall thereupon compute the amount required
7 for redemption by adding to the amount stated in the
8 auditor's list as the total due on the date of certification,
9 interest on such amount at the rate of twelve per cent
10 per annum from such date to the date of redemption,
11 and such of the following fees and charges as may be
12 due: (1) Such fee for the certificate of redemption as is

13 provided by section nine, article three of this chapter, for
14 redemption from the auditor. (2) A charge of one dollar
15 for preparation and certification of the list. (3) A fee of
16 one dollar for compensation of the deputy commissioner.
17 (4) A charge of one dollar for costs of the proceedings in
18 the circuit court, if redemption is after application to the
19 court as provided in section fourteen of this article. (5) A
20 charge of one dollar for publication and posting of the
21 list and the notice of sale, if redemption is after publica-
22 tion has begun.

23 The amount so found to be due shall be entered by the
24 deputy commissioner on a blank order, to be signed by
25 him, directing the sheriff to receive and give his receipt
26 for such amount. The order, thus filled in and signed,
27 shall be presented to the sheriff when payment is made.
28 The auditor shall prescribe the form of the order and
29 shall furnish copies thereof to each deputy commissioner.

30 Partial redemption, as provided for in sections eight
31 and thirteen, article three of this chapter, shall not be
32 allowed at any time after certification.

Sec. 11. *Certificate of Redemption Issued by Deputy*
2 *Commissioner; Recordation.*—Upon presentation to him
3 of the sheriff's receipt for the amount found to be due
4 under the preceding section, the deputy commissioner
5 shall issue a certificate of redemption in the same form
6 as the auditor's certificate required by section nine, ar-
7 ticle three of this chapter. All certificates issued by the
8 deputy commissioner in each year shall be numbered con-
9 secutively. The original certificate shall be sent to the
10 auditor for filing in his office, one copy shall be delivered
11 to the person redeeming, and the other copy shall be de-
12 livered by the deputy commissioner to the clerk of the
13 county court who in respect to this certificate shall do
14 everything required of him by section nine, article three
15 of this chapter, in respect to the auditor's certificate.

Sec. 12. *Lien of Person Redeeming Interest of Another;*
2 *Record.*—Any person redeeming an interest of another
3 shall be subrogated to the lien of the state on such in-
4 terest. He shall lose his right to the lien, however, unless
5 within thirty days after payment he shall file with the

6 clerk of the county court his claim in writing against the
7 owner of such interest, together with a reference by
8 number to the certificate of redemption delivered by the
9 deputy commissioner to the clerk, as provided in the pre-
10 ceding section. The clerk shall docket the claim on the
11 judgment lien docket in his office and properly index the
12 same. Such lien may be enforced as other judgment liens
13 are enforced.

Sec. 13. *Revaluation and Reclassification.*—One redeem-
2 ing from the deputy commissioner may request such a
3 revaluation or reclassification as is provided for in sec-
4 tion eleven, article three of this chapter. Any new valua-
5 tion or reclassification shall, however, be certified by the
6 county court to the deputy commissioner and shall be
7 used by him in computing the taxes due.

Sec. 14. *Upon Application of Deputy Commissioner*
2 *Circuit Court to Order Sale and Publication of Notice.*—
3 At any time after certification by the auditor, the deputy
4 commissioner may apply to the circuit court, or to the
5 judge thereof in vacation, for an order fixing a date for
6 the sale and for the first publication of the list and the
7 notice of sale. If the deputy commissioner fails to make
8 such application within thirty days after certification, he
9 shall forfeit one hundred dollars. When such application
10 is made, the court or judge, after fixing the dates, shall
11 order the deputy commissioner: (1) To prepare, as pro-
12 vided in section sixteen of this article, the list of lands
13 to be sold; (2) to publish, on the date fixed, the list and
14 the notice of sale as required by section sixteen of this
15 article; and (3) to sell, on the date fixed for the sale, each
16 unredeemed item for the amount stated in the published
17 list as the amount then due thereon.

18 In applying for the order, the deputy commissioner
19 shall give to the court or judge his estimate as to the time
20 necessary for making the computation of the amount due,
21 and the court or judge shall consider that estimate in
22 fixing the date of first publication. The date fixed for the
23 sale shall be not less than sixty nor more than ninety
24 days after the date named in the order for the first publi-
25 cation of the notice.

Sec. 15. *Separate Order Book to Be Kept by Clerk;*

2 Costs.—All orders, whether administrative or judicial,
3 made by the court or judge in respect to proceedings for
4 the sale of lands under this article shall be entered by
5 the clerk of the court in a separate order book, to be
6 labeled "Order Book for Sales of Lands for School Fund".
7 Every order shall specify the certification number of
8 each item to which the order is applicable. The clerk of
9 the court shall index the order book by certification num-
10 ber of each tract.

11 The costs of the proceedings in the circuit court shall
12 be one dollar for each item certified by the auditor in
13 respect to which any order is made by the court or judge.
14 Unless otherwise expressly provided by this article, no
15 additional costs shall be taxed.

Sec. 16. *Publication and Posting of List of Lands to Be*

2 Sold; Notice.—Before the date set by the court or judge
3 for the first publication of the notice of sale, the deputy
4 commissioner shall prepare, from the list certified by the
5 auditor, a list of all lands thereon which have not been
6 redeemed by such date. The list shall state in respect to
7 each item the amount which, exclusive of the redemption
8 fee, will be due on the date fixed for the sale. The form
9 of such list shall be determined by the auditor.

10 The deputy commissioner shall also prepare a notice
11 of sale in form or effect as follows:

12 Notice is hereby given to all interested parties that,
13 pursuant to the order of the Circuit Court of _____
14 County, (or of _____, Judge of the Circuit Court
15 of _____ County, in vacation,) the following de-
16 scribed tracts or lots of land, or undivided interests there-
17 in, will be offered for sale by the undersigned deputy
18 commissioner of forfeited and delinquent lands at public
19 auction at the front door of the courthouse of the county,
20 between the hours of ten in the morning and four in the
21 afternoon on the _____ day of _____, 19____,
22 unless sooner redeemed or by order of the court or judge
23 suspended from sale.

24 All delinquent lands and all forfeited lands will be

25 offered for sale for the amount due thereon as stated in
26 the following list.

27 All escheated and all waste and unappropriated lands
28 will be sold to the highest bidder, subject to approval of
29 the bid by the court or judge.

30 Commencing on the date fixed by the order of the court
31 or judge for the first publication, the deputy commis-
32 sioner shall publish the list and notice, once a week for
33 two successive weeks, in two newspapers of opposite
34 politics, if such there be in the county, and the costs of
35 printing shall be paid out of the operating fund for the
36 land department in the auditor's office. There shall not
37 be allowed or paid as such costs a greater sum than
38 twenty-five cents per item for each insertion in each
39 newspaper. The deputy commissioner shall also post a
40 copy of the list and notice at the front door of the court-
41 house on the date ordered for the first publication. If
42 there is no newspaper published in the county, or if no
43 such newspaper will publish the list and notice for the
44 compensation provided, then he shall also post a copy of
45 the notice, but not of the list, at some public place in
46 each magisterial district at least sixty days before the
47 sale. In such case, the notice shall also state that the list
48 of lands to be sold has been posted at the front door of
49 the courthouse.

Sec. 17. *Application for Reduction of Amount Due.*—

2 Any person substantially interested, who claims that the
3 amount rightfully due on any item is less than the
4 amount for which it is advertised for sale, may apply to
5 the circuit court, or to the judge thereof in vacation, for
6 an order reducing such amount. The deputy commis-
7 sioner may also apply for such an order whenever, be-
8 cause of a revaluation under section thirteen of this ar-
9 ticle or for any other reason, he is satisfied that the
10 amount should be reduced.

Sec. 18. *Application for Suspension from Sale.*—Any

2 person substantially interested may apply to the circuit
3 court, or to the judge thereof in vacation, for an order
4 suspending from sale any land as to which he makes one
5 of the following claims: (1) That all taxes due thereon

6 were paid before sale to the state. (2) That the land was
7 redeemed after sale to the state. (3) That the land has
8 not escheated. (4) That the land has not been forfeited
9 for nonentry. (5) That the land was sold to him at a
10 former circuit court sale for the benefit of the school
11 fund and has not thereafter been sold to the state for
12 nonpayment of taxes nor forfeited for nonentry. (6) That
13 he has acquired title to the land by transfer under the
14 provisions of section three, article thirteen of the con-
15 stitution. The application shall state briefly the facts on
16 which the claim is based. The deputy commissioner may
17 also apply for such an order whenever on any of these
18 grounds he is satisfied that the land should not be sold.

Sec. 19. *Procedure upon Application for Reduction or*
2 *Suspension; Order.*—Whenever application under either
3 of the two preceding sections is by the deputy commis-
4 sioner, he shall state briefly the reasons for his applica-
5 tion, and the court or judge, if satisfied therewith, shall
6 enter the order applied for. No costs shall be taxed in
7 connection with applications by the deputy commissioner.

8 Whenever the application is by a person substantially
9 interested, the court or judge shall enter an order tem-
10 porarily suspending sale of the land involved and fixing
11 the date for a hearing upon the application, which date
12 shall be not less than ten nor more than thirty days af-
13 ter the application was made. At least ten days' notice
14 of the hearing shall be given to the deputy commissioner,
15 who shall attend as representative of the state. The costs
16 in connection with such applications shall be taxed to the
17 applicant.

18 At the hearing upon an application under section seven-
19 teen, the court or judge shall determine the amount
20 properly due and shall order the land sold for such
21 amount on the date originally fixed for the sale, or if
22 that has passed, then on some new date. At the hearing
23 upon an application under section eighteen, the court or
24 judge, if satisfied that the applicant has established his
25 claim, shall enter an order permanently suspending sale
26 of the land and directing the deputy commissioner to
27 execute to the former owner or to the applicant, as the

28 case may be, a quitclaim deed of the state's title to the
29 land or interest claimed. If not so satisfied, the court or
30 judge shall order that the sale proceed on the date or-
31 iginally fixed, or if that has passed, then on some new
32 date.

33 Whenever a new date is fixed for the sale, the court or
34 judge shall order a republication of the notice of sale re-
35 quired by section sixteen of this article. In any case in
36 which the applicant was unsuccessful, the cost of such
37 republication shall be borne by the applicant and shall be
38 taxed to him as part of the costs; otherwise, it shall be
39 paid out of the operating fund for the land department in
40 the auditor's office.

41 All oral testimony presented at the hearing shall be
42 reduced to writing and shall, together with all papers
43 and documents so presented, be made a part of the record
44 of the proceeding before the circuit court or judge.

Sec. 20. *Review of Refusal by Court or Judge to Enter*
2 *Administrative Order.*—A private applicant, who is
3 aggrieved by the refusal of the circuit court or judge to
4 enter any administrative order applied for under the pro-
5 visions of this article, may, at any time within four
6 months after entry of the order refusing such application,
7 present a petition in writing to the supreme court of
8 appeals, or to a judge thereof in vacation, praying for a
9 review of such refusal. The petitioner shall, before pre-
10 senting the petition to the supreme court or judge, de-
11 liver one copy thereof to the circuit judge who signed the
12 order refusing the application, and one copy to the
13 auditor. After the circuit judge receives his copy and
14 until the petition has been withdrawn, or has been dis-
15 posed of by the supreme court, the land in respect to
16 which the application was made shall be suspended from
17 sale, or if it was sold before the petition was filed, the
18 sale thereof shall not be confirmed.

19 The supreme court or judge shall fix a time for the
20 hearing upon the petition, but the hearing, unless by
21 agreement of the parties, shall not be held sooner than
22 ten days after presentation of the petition. Notice of the
23 time and place of such hearing shall immediately be given

24 to the circuit judge so that he may be represented at
25 the hearing, and such notice shall also be given to the
26 auditor. If the circuit judge does not designate counsel to
27 represent him, it shall be the duty of the attorney general,
28 upon request of the auditor, to appear for that purpose
29 at the hearing.

30 The circuit judge shall, before the hearing on the
31 petition, file with the clerk of the supreme court a written
32 statement of his reasons for refusing the order applied
33 for. He shall at the same time file with the clerk all the
34 papers, documents and evidence presented at the hearing
35 which resulted in such refusal. The supreme court shall
36 hear the case and dispose of the petition solely upon the
37 record of the proceeding before the circuit court or judge.

Sec. 21. *Sale by Deputy Commissioner; Report to Circuit Court.*—On the day fixed by order of the court or
2 judge, the deputy commissioner shall sell, in the manner
3 specified in the notice of sale and for the amount stated
4 to be due in the published list of lands to be sold, each
5 unredeemed item included in such list, unless the sale
6 thereof has been suspended. If the sale is not completed
7 on that day, it shall be continued from day to day until
8 all the land has been disposed of. For the purpose of re-
9 ceiving the proceeds of the sale, it shall be the duty of the
10 sheriff to attend all such sales conducted by the deputy
11 commissioner in his county.

12 The deputy commissioner shall prepare a report for the
13 circuit court which shall show what was done with respect
14 to all lands ordered to be sold. The report shall state as to
15 each item whether it was redeemed before sale, was sus-
16 pended from sale, or was sold, and if sold, the name of the
17 purchaser. The report shall, within ten days after the
18 sale, be filed with the clerk of the circuit court who shall
19 note on his certified list the information given with re-
20 spect to each tract.

Sec. 22. *Purchase by Individual; Receipt.*—If any per-
2 son, being the highest bidder at the sale, bids and pays
3 at least the amount for which any land is offered for
4 sale, the sheriff shall issue to him a receipt for the pur-

5 chase money. The auditor may prescribe the form of the
6 receipt.

Sec. 23. *Purchase by Deputy Commissioner for Public Land Corporation.*—The deputy commissioner shall
2 purchase for the public land corporation, for the amount
3 stated to be due in the published list, all forfeited and
4 delinquent lands on which no bid of such amount is
5 made. He shall also purchase for the public land cor-
6 poration, for the amount of the publication and other
7 charges due, all escheated or waste and unappropriated
8 lands on which no bids are made. If the highest bid on
9 any escheated or waste and unappropriated land is not
10 approved by the court or judge, such land shall be sold
11 to the deputy commissioner in open court, for the public
12 land corporation, for the amount of the publication and
13 other charges due. In such case, the sheriff shall be or-
14 dered to restore to the bidder the amount of purchase
15 money paid at the sale.
16

Sec. 24. *Co-owner Free to Purchase at Sale; Purchase by Deputy Commissioner and Other Officers Prohibited.*—
2 Any co-owner, except a coparcener, in the absence of sat-
3 isfactory proof of a fiduciary relationship, shall be entitled
4 to purchase at the sale for his own account the interest of
5 any, or all, of his co-owners in any real estate, without be-
6 ing required to hold such interest or interests under any
7 constructive trust. There shall be a prima facie presump-
8 tion against the existence of any such constructive trust.
9

10 No deputy commissioner, sheriff, clerk of the county
11 or circuit court, assessor, nor deputy of either shall directly
12 or indirectly become the purchaser, or be interested in the
13 purchase of any real estate at the sale. Any such officer so
14 purchasing shall forfeit one hundred dollars for each
15 offense. The sale of any real estate to one of the officers
16 named in this section shall be voidable, at the instance of
17 any person having the right to redeem, until such real
18 estate reaches the hands of a bona fide purchaser.

Sec. 25. *Right of Former Owner to Surplus Proceeds.*—
2 If upon the sale of any forfeited or delinquent lands a
3 surplus is realized over and above the total amount due on
4 such land, the sheriff shall pay such surplus to the

5 general receiver of the circuit court. The former owner
6 of such land shall be entitled to the surplus upon applica-
7 tion to the circuit court, if application is made within
8 two years after the sale. If no application is made within
9 two years the general receiver shall pay such surplus into
10 the operating fund for the land department in the
11 auditor's office.

Sec. 26. *Right of Creditor of Former Owner of Es-*
2 *cheated Land.*—Surplus proceeds arising from the sale of
3 any escheated land, after all publication and other
4 charges in respect thereto have been paid, may be applied
5 to the satisfaction of the claims of creditors of the de-
6 cedent who had a lien on the land at the time of his death
7 or who, being general creditors, have properly proved
8 their claims against his estate and have been unable to
9 obtain payment out of the personalty. The auditor shall
10 make rules and regulations respecting the presentation
11 and disposition of the claims of such creditors. Such rules
12 and regulations shall require that application by a creditor
13 be made within a year after the sale, and shall give due
14 preference to lien creditors over general creditors.

Sec. 27. *Redemption After Sale to Individual and Be-*
2 *fore Confirmation; Receipt.*—After the sale of any for-
3 feited or delinquent land to an individual, any person
4 having a right of redemption under the provisions of sec-
5 tion eight, article three of this chapter, may redeem such
6 land at any time before confirmation of the sale by pay-
7 ing to the purchaser, his heirs or assigns, the following
8 amounts: (1) The amount of purchase money paid, with
9 interest at the rate of twelve per cent per annum from the
10 date of sale. (2) All taxes thereon, which have since
11 been paid by the purchaser, his heirs or assigns, with in-
12 terest at the rate of twelve per cent per annum from the
13 date of payment. (3) Such additional expenses as may
14 have been incurred in procuring the survey or report
15 required by section thirty-four of this article and in pre-
16 paring the list of those to be served with notice and giving
17 the notice required by sections thirty-six and thirty-eight
18 of this article.

19 The person redeeming shall be given triplicate receipts

20 for the payment. If the purchaser, his heirs or assigns, shall
21 refuse or fail to sign and give such receipts when lawfully
22 required to do so, he or they shall pay to the person
23 redeeming twice the amount of such payment, which
24 may be recovered by action on the case in any court of
25 competent jurisdiction. One of such receipts shall be filed
26 with the clerk of the circuit court, who shall note the
27 fact of redemption on his certified list. One of the re-
28 cepts shall, on or before the day set for confirmation of
29 the sale, be filed with the clerk of the county court, who
30 shall endorse thereon, and also on the receipt retained by
31 the person redeeming, the fact and time of such filing, and
32 shall note the fact of redemption on his record of delin-
33 quent lands. If the receipt is not filed on or before
34 such date, the redemption shall be void as to creditors
35 and subsequent bona fide purchasers from the purchaser,
36 his heirs or assigns. If, however, the receipt is filed after
37 the date required, it shall operate as notice from and
38 after the date of filing.

2 *Sec. 28. Redemption After Sale to Public Land Corpora-*
3 *tion and Before Confirmation.*—After the sale of any
4 forfeited or delinquent land to the public land corpora-
5 tion, any person having a right of redemption under the
6 provisions of section eight, article three of this chapter,
7 may redeem such land at any time before confirmation
8 of the sale by paying to the sheriff upon the order of the
9 deputy commissioner the following amounts: (1) The
10 amount for which the property was bid in for the public
11 land corporation, with interest at the rate of twelve per
12 cent per annum from the date of sale. (2) Such fee for
13 the certificate of redemption as is provided by section
14 nine, article three of this chapter, for redemption from
15 the auditor. (3) Such compensation for preparing the list
16 of those to be served with notice as may have been earned
17 by the deputy commissioner under the provisions of sec-
18 tion thirty-three of this article. (4) All expenses which
19 may have been incurred in giving the notice required by
20 sections thirty-seven and thirty-eight of this article.

21 Upon presentation to the deputy commissioner of the
22 sheriff's receipt for the amount due, the deputy commis-

22 sioner shall issue a certificate of redemption as required
23 by section eleven of this article, and shall comply with all
24 other provisions of that section in respect to such certi-
25 cate. The deputy commissioner shall report the redemp-
26 tion to the clerk of the circuit court, who shall note the
27 fact of redemption on his certified list.

Sec. 29. *Lien of Person Redeeming Interest of Another;*
2 *Record.*—Any person who, by reason of the fact that no
3 provision is made for partial redemption from the circuit
4 court sale, is compelled in order to protect himself to
5 redeem all of any real estate which belonged in whole
6 or in part to some other person, shall have a lien on the
7 interest of such other person for the amount paid to re-
8 deem such interest. He shall lose his right to the lien,
9 however, unless within thirty days after payment he
10 shall file with the clerk of the county court his claim in
11 writing against the owner of such interest, together with
12 the receipt provided for in section twenty-seven or in
13 section thirty of this article, or with a reference by num-
14 ber to the certificate of redemption provided for in the
15 preceding section. The clerk shall docket the claim on
16 the judgment lien docket in his office and properly index
17 the same. Such lien may be enforced as other judgment
18 liens are enforced.

Sec. 30. *Payment of Redemption Money to Clerk of*
2 *Circuit Court.*—Whenever, despite the provisions of the
3 two preceding sections, the deputy commissioner or the
4 purchaser, his heirs or assigns, shall refuse to allow re-
5 demption, or cannot be found, payment may be made to
6 the clerk of the circuit court at any time before confirma-
7 tion of the sale. The clerk shall issue duplicate receipts
8 and shall note the fact of redemption on his certified list.
9 One of the receipts shall be given to the person redeem-
10 ing and the other shall be sent by the clerk to the clerk
11 of the county court, who, after noting the fact of redemp-
12 tion on his record of delinquent lands, shall file and pre-
13 serve the receipt in his office.

Sec. 31. *Contest of Redemption by Payment to Clerk.*—
2 If the deputy commissioner or the purchaser, his heirs

3 or assigns, dispute the right to redeem of the person
4 making payment to the clerk as provided in the preceding
5 section, he or they may, within one year after payment to
6 the clerk, give to such person, or to his heirs, or personal
7 representative, notice in writing of such dispute, requiring
8 him or them to appear before the circuit court of the
9 county, on a day to be named in the notice, and prove that
10 the person who made the payment had a right to re-
11 deem. Such notice shall be served at least ten days be-
12 fore the day on which it is returnable and, if the party
13 served fails to appear, or if he appears and fails to prove
14 the right to redeem, the court shall enter an order can-
15 celling the redemption. If the contest is by an individual
16 purchaser, his heirs or assigns, the court shall, at his or
17 their request, enter an order allowing reasonable ad-
18 ditional time for compliance with the conditions of the
19 following section. Compliance within such additional time
20 shall be as valid as if made within the time specified in
21 that section. The court shall also order the clerk of the
22 court to return the redemption money to the person who
23 made the payment, or to his personal representative. If,
24 however, the decision of the court be that such person had
25 the right to redeem, the clerk shall be ordered to pay the
26 money to the purchaser, his heirs or assigns, or to the
27 sheriff, as the case may be, and, in the case of sale to
28 the public land corporation, shall order the deputy com-
29 missioner to execute a certificate of redemption as re-
30 quired by section twenty-eight of this article.

31 If the deputy commissioner or the purchaser, his heirs
32 or assigns, admit the right to redeem but claim that the
33 sum paid the clerk was insufficient, he or they may upon
34 similar notice have the sufficiency of the payment de-
35 termined by the court. If the person redeeming fails to
36 appear, or if the decision is that the sum paid was in-
37 sufficient, the court shall, unless such additional amount
38 as may be found to be due is paid within thirty days, en-
39 ter an order cancelling the redemption, and shall also
40 enter such further appropriate orders as are authorized
41 to be entered under the preceding paragraph. If the sum
42 is found to have been sufficient, the court shall make

43 such orders as are appropriate when the right to redeem is
44 sustained under the preceding paragraph.

45 Proceedings under this section, like those under the
46 corresponding section, numbered nineteen, in article
47 three of this chapter, shall be brought before the court
48 in its judicial capacity rather than in its capacity as the
49 administrative agency for the sale of state lands, and shall,
50 in respect to procedure at the hearing and upon appeal,
51 and in other particulars, including taxation of costs, be
52 governed by the rules applicable to other similar judicial
53 proceedings.

Sec. 32. *Conditions Precedent to Confirmation of Sale
2 to Individual Purchaser.*—In order to have the sale of
3 any forfeited or delinquent land confirmed, an individual
4 purchaser, his heirs or assigns, within sixty days after
5 the sale, must: (1) Secure and file with the clerk of the
6 circuit court the report or plat and description provided
7 for in section thirty-four of this article; (2) examine the
8 title in order to prepare a list of those to be served with
9 notice to redeem and apply to the court or judge, for an
10 order directing the clerk to prepare and serve the notice
11 as provided in sections thirty-six and thirty-eight of this
12 article; and (3) deposit, or offer to deposit, with the
13 clerk a sum sufficient to cover the cost of preparing and
14 serving the notice. A purchaser of escheated or waste
15 and unappropriated land must meet only the first of these
16 requirements and, as soon as he has done so, may apply
17 for an order confirming the sale. For failure to do any-
18 thing required by this section within the time allowed,
19 the purchaser shall lose all the benefits of his purchase,
20 and the land shall be included by the auditor in his next
21 certification of lands to the circuit court.

22 If the person requesting preparation and service of the
23 notice is an assignee of the purchaser, he shall, at the
24 time of the request, file with the clerk a written assign-
25 ment to him of the purchaser's rights, executed, acknowl-
26 edged and certified in the manner required to make a
27 valid deed.

Sec. 33. *Conditions Precedent to Confirmation of Sale
2 to Public Land Corporation.*—Immediately after the sale

3 the deputy commissioner shall, as to each sale of forfeited
4 or delinquent land to the public land corporation, proceed with the examination of title and with preparation
5 of the list of persons to be served with notice to redeem.
6 Before the sale may be confirmed, he must complete the
7 list and apply to the circuit court or judge for an order
8 directing the clerk to prepare and serve the notice as
9 provided in sections thirty-seven and thirty-eight of this
10 article. For such services in respect to each sale, the
11 deputy commissioner shall be entitled to a fee of five
12 dollars, plus such additional compensation as the auditor
13 may recommend and the court or judge approve, to be
14 paid out of the operating fund for the land department
15 in the auditor's office.

16 In the case of a sale to the public land corporation
17 of any escheated or waste and unappropriated land, the
18 deputy commissioner, without being required to do any-
19 thing else, may apply immediately after the sale for con-
20 firmation thereof.

Sec. 34. Report or Survey of Real Estate Purchased.—

2 An individual purchaser, his heirs or assigns, must at his
3 or their expense have the county surveyor make such a
4 report or survey of the real estate purchased as is re-
5 quired by section twenty-one, article three of this chapter.
6 The report or plat and description must be filed with the
7 clerk of the circuit court within sixty days after the sale.
8 The fact and time of such filing shall be endorsed by the
9 clerk on the report or on the plat and description and
10 shall be noted by him on his certified list.

Sec. 35. Application for Order Directing Service of No-

2 *tice to Redeem.*—After complying with the other condi-
3 tions of section thirty-two of this article, the individual
4 purchaser of any forfeited or delinquent land, his heirs or
5 assigns, or if such land was sold to the public land corpor-
6 ation, the deputy commissioner, upon compliance with
7 the other conditions of section thirty-three of this article,
8 must apply to the circuit court, or to the judge thereof
9 in vacation, for an order directing the clerk of the court
10 to prepare and serve the notice to redeem on those named
11 in the prepared list of persons entitled to such notice.

12 Upon a showing of such compliance, the court or judge
13 shall order the clerk to prepare the proper notice as
14 required by section thirty-six or section thirty-seven of
15 this article, and to serve the notice as provided in section
16 thirty-eight of this article.

17 Upon the refusal of the court or judge to enter such an
18 order on the application of an individual purchaser, the
19 purchaser may demand such a hearing as is provided for
20 in section nineteen of this article. All appropriate pro-
21 visions of that section shall be applicable to the hearing
22 herein provided for, and the proceedings at such hear-
23 ing shall be made a part of the record. If after the hear-
24 ing the court or judge again refuses to enter the order
25 applied for, such refusal may be reviewed as provided
26 in section twenty of this article. The petition for review
27 may be filed at any time within four months after entry
28 of the order of refusal at the hearing demanded under the
29 provisions of this paragraph.

Sec. 36. *Notice to Redeem from Sale to Individual Pur-*
2 *chaser.*—Whenever ordered to do so as provided in the
3 preceding section, the clerk of the circuit court shall
4 prepare a notice in form or effect as follows:

5 To _____
6 You will take notice that upon the application of ____
7 _____, the purchaser (or _____, the as-
8 signee, heir or devisee of _____, the
9 purchaser) of the following real estate, _____,
10 (here describe and give the certification number of the
11 real estate sold) located in _____,
12 (here name the city, town or village in which the real
13 estate is situated or, if not within a city, town, or village,
14 give the district and a general description) which was
15 sold (or was forfeited) to the state in the name of _____
16 _____, and which by order of the circuit court
17 (or of the judge of the circuit court) was sold by the
18 deputy commissioner of forfeited and delinquent lands
19 of _____ County on the _____ day of
20 _____, 19____, the Circuit Court of
21 _____ County (or _____, Judge
22 of the Circuit Court of _____ County, in vaca-

tion,) 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 paid at sale, with interest to date at the rate of twelve per cent per annum \$_____
Amount of taxes paid on the property since the sale, with interest to date at the rate of twelve per cent per annum \$_____
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 confirmation of the sale by paying the above total plus interest on the first two amounts to the date of redemption.

Given under my hand this ____ day of _____, 19_____.

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.

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 circuit court shall prepare a notice in form or effect as follows:

To _____

You will take notice that upon the application of _____, a deputy commissioner of forfeited and delinquent lands in the county of _____,

10 who bid in for the Public Land Corporation the follow-
11 ing real estate, _____, (here describe and
12 give certification number of the real estate sold) located
13 in _____, (here name the city, town or vil-
14 lage in which the real estate is situated or, if not within
15 a city, town or village, give the district and a general
16 description) which was sold (or was forfeited) to the
17 state in the name of _____, and which by
18 order of the circuit court (or of the judge of the circuit
19 court) was sold by the deputy commissioner, on the _____
20 day of _____, 19____, the Circuit Court of
21 _____County, (or _____, Judge
22 of the Circuit Court of _____County, in
23 vacation,) has ordered that you be notified that the sale
24 will 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 neces-
29 sary for redemption on the date of this notice is as fol-
30 lows:

31 Amount bid at sale. with interest at the rate of
32 twelve per cent per annum _____\$ _____
33 Amount due for preparation of list of those to be served
34 and for preparation and service of the notice...\$ _____
35 Fee for certificate of redemption _____\$ _____
36 Total _____\$ _____

37 You may redeem at any time before confirmation of
38 the sale by paying to the sheriff, upon the order of the
39 deputy commissioner, the above total plus interest on
40 the first amount to the date of redemption.

41 _____
42 Clerk of the Circuit Court
43 _____County
44 State of West Virginia.

45 The date named in the notice as the date on or after
46 which the sale will be confirmed shall be three months
47 after the day on which service of the notice was ordered.

48 The clerk for his services in preparing the notice shall
49 receive a fee of fifty cents for the original and twenty-

50 five cents for each copy required, to be paid out of the
51 operating fund for the land department in the auditor's
52 office.

Sec. 38. *Service of Notice.*—As soon as the clerk has
2 prepared the notice provided for in either of the two pre-
3 ceding sections, he shall cause it to be served upon the
4 following persons: (1) The person in whose name the
5 real estate was forfeited or was returned delinquent and
6 sold, or, in case of his death, his heir or devisee and his
7 personal representative, if such there be; (2) any grantee
8 of such person, or his heir or devisee and his personal
9 representative, if such there be, if a conveyance of such
10 real estate is recorded or filed for record in the office of
11 the clerk of the county court; (3) any person having a
12 lien upon such real estate disclosed by any paper recorded
13 in the county clerk's office, and (4) any other person hav-
14 ing such an interest in the property as would entitle him
15 to redeem, if the existence of such interest appears of
16 record.

17 The notice shall be personally served upon all such
18 persons residing or found in the state in the manner
19 provided for serving process commencing a suit, on or
20 before the fifteenth day following the order for service
21 of such notice. If any person entitled to notice is a non-
22 resident of the state or if his residence is unknown to the
23 clerk and cannot by due diligence be discovered, the no-
24 tice shall be served by publication once a week for three
25 successive weeks in some newspaper published in the
26 county in which such real estate is located, or if no news-
27 paper is published in the county, then in some newspaper
28 of general circulation in the county. If service by publica-
29 tion is necessary, publication shall be commenced within
30 three weeks after the order for service of the notice was
31 made, and a copy of the notice shall at the same time be
32 sent by registered mail, return receipt requested, to the
33 last known address of the person served. The return of
34 service of such notice and the affidavit of publication,
35 if any, shall be in the manner provided for process gen-
36 erally, and shall be filed and preserved by the clerk in his
37 office, together with any return receipts for notices sent

38 by registered mail.
39 The cost of serving notices to redeem from the public
40 land corporation shall be paid out of the operating fund
41 for the land department in the auditor's office.

Sec. 39. *Proceeding to Set Aside Sale.*—Any person
2 entitled under the provisions of section eighteen of this
3 article to apply for an order suspending the sale of any
4 land, but who did not learn of the proposed sale in time
5 to protect himself by making such application, may, at
6 any time after the sale and before confirmation thereof,
7 institute a proceeding under this section to set aside the
8 sale. Notice in writing of the institution of such proceed-
9 ing shall be given to the purchaser, his heirs, or assigns,
10 or, in the case of a sale to the public land corporation,
11 to the deputy commissioner. The notice shall state the
12 facts which are the basis of the claimed right to have the
13 sale set aside, shall require the person served to appear
14 before the circuit court, on a day to be named in the
15 notice, and protect whatever rights were acquired at the
16 sale, and shall be served at least ten days before the day
17 on which it is returnable.

18 If the decision be in favor of the claimant, the court
19 shall enter an order setting aside the sale, directing the
20 deputy commissioner to execute a deed releasing to the
21 former owner or to the claimant, as the case may be, all
22 the state's title to the land or interest claimed, and, if the
23 sale was to an individual, directing the sheriff to return
24 the purchase money to the purchaser, his heirs or assigns.
25 If the decision be against the claimant, the court shall, at
26 the request of the purchaser, his heirs or assigns, enter
27 an order allowing reasonable additional time for com-
28 pliance with the conditions of section thirty-two of this
29 article. Compliance within such additional time shall be
30 as valid as if made within the time specified in that sec-
31 tion. Until a decision has been made, the sale may not be
32 confirmed.

33 Proceedings under this section, like those under section
34 thirty-one of this article, shall be brought before the
35 court in its judicial capacity rather than in its capacity
36 as the administrative agency for the sale of state lands,

37 and shall, in respect to procedure at the hearing and upon
38 appeal, and in all other particulars, including taxation of
39 costs, be governed by the rules applicable to other similar
40 judicial proceedings.

Sec. 40. *Confirmation of Sale; Right to Redeem Termin-*
2 *ated.*—If the real estate described in the notice to redeem
3 is not redeemed before the date for confirmation named
4 therein, nor the sale set aside, the deputy commissioner
5 or the purchaser, his heirs or assigns, may apply to the
6 circuit court, or to the judge thereof in vacation, for an
7 order confirming the sale. In the case of escheated or
8 waste and unappropriated lands, such application may be
9 made as provided in section thirty-two or section thirty-
10 three of this article. The court or judge, upon a showing
11 that all requirements have been met, shall enter an order
12 confirming the sale and, in the case of sale to an indi-
13 vidual purchaser, directing the deputy commissioner to
14 execute and deliver to him or to his heirs or assigns, a
15 deed as provided in the following section.

16 Upon a refusal of the court or judge to enter such an
17 order on the application of an individual purchaser, the
18 purchaser may demand such a hearing as is provided for
19 in section nineteen of this article. All appropriate pro-
20 visions of that section shall be applicable to the hearing
21 herein provided for, and the proceedings at such hearing
22 shall be made a part of the record. If after the hearing
23 the court or judge again refuses to enter the order ap-
24 plied for, such refusal may be reviewed as provided in
25 section twenty of this article. The petition for review
26 may be filed at any time within four months after entry
27 of the order of refusal at the hearing demanded under
28 the provisions of this paragraph.

29 Upon confirmation of the sale all right of redemption
30 in respect to the land shall be terminated, except such as
31 is for persons under disability expressly saved by the
32 provisions of section forty-nine of this article. For failure
33 to apply for confirmation of the sale of any forfeited or
34 delinquent lands within sixty days after the date for
35 confirmation specified in the notice to redeem, or, in the
36 case of escheated or waste and unappropriated lands,

37 within sixty days after the first day on which such appli-
38 cation might properly have been made, an individual
39 purchaser shall lose all the benefits of his purchase, and
40 the land shall be included by the auditor in his next cer-
41 tification of lands to the circuit court.

Sec. 41. *Deed to Purchaser; Record.*—Whenever ordered
2 to do so as provided in the preceding section, the deputy
3 commissioner shall make and deliver to the person en-
4 titled thereto a deed in form or effect as follows:

5 This deed made this day of, 19,
6 by and between, deputy commissioner
7 of forfeited and delinquent lands for County,
8 West Virginia, grantor, and, purchaser,
9 (or, heir, devisee or assignee of,
10 purchaser,) grantee, witnesseth that

11 Whereas, In pursuance of the statutes in such case
12 made and provided, the above named deputy commis-
13 sioner did, by order of the Circuit Court of
14 County, (or by order of, Judge of the
15 Circuit Court of County, in vacation,) in
16 the month of, in the year 19, sell the
17 real estate, hereinafter mentioned and described, for the
18 benefit of the school fund, and, (here in-
19 sert name of purchaser) for the sum of \$, that
20 being the amount of purchase money paid, did become
21 the purchaser of such real estate (or of an undivided
22 interest in such real estate) which was sold to
23 the state for nonpayment of taxes in the name of
24; (or which was forfeited to the state
25 for nonentry in the name of; or which
26 escheated to the state in the name of;
27 or which was waste and unappropriated land belonging
28 to the state); and

29 Whereas, The report or the plat and description re-
30 quired by law has been duly filed with the clerk of the
31 circuit court; and

32 Whereas, The clerk of the circuit court has caused the
33 notice to redeem to be served on all persons required by
34 law to be served therewith; and

35 Whereas, The real estate so purchased has not been re-

36 deemed in the manner prescribed by law and the time for
37 redemption set in such notice has expired; and

38 Whereas, The Circuit Court of _____ County
39 (or _____, Judge of the Circuit Court of
40 _____ County, in vacation,) has confirmed the
41 sale and has ordered that this deed be executed;

42 Now, therefore, the grantor, for and in consideration of
43 the premises and in pursuance of the statute, doth grant
44 unto _____, grantee, his heirs and assigns for-
45 ever, the real estate so purchased, situate in the county
46 of _____, bounded and described as follows:
47 _____.

48 Witness the following signature:
49 _____

50 Deputy Commissioner of Forfeited and
51 Delinquent Lands for _____ County

52 After execution and acknowledgment of the deed, the
53 deputy commissioner shall obtain from the files of the
54 clerk of the circuit court the following papers relating to
55 the property conveyed: The report or plat and description,
56 the assignment from the purchaser if one was made, the
57 notice to redeem, the return of service of such notice, the
58 affidavit of publication if the notice was served by pub-
59 lication, and any return receipts for notices sent by regis-
60 tered mail. The deputy commissioner shall then ascertain
61 from the clerk of the county court the total amount of
62 the transfer fee and the fees for recording the deed and
63 the other papers, and shall notify the grantee to pay such
64 amount to the clerk of the county court. Upon such pay-
65 ment and upon payment by the grantee to the deputy
66 commissioner of a fee of five dollars as his compensation
67 for executing the deed, the deputy commissioner shall
68 have the deed and the other papers recorded by the clerk
69 of the county court and shall then deliver them all to the
70 grantee. The purchaser shall have the right to examine
71 the deed before it is recorded.

2 *Sec. 42. Title to Vest in Public Land Corporation with-*
3 *out Deed; Record of Order Confirming Sale.*—Upon con-
4 firmation of a sale to the public land corporation, title
to the real estate sold shall without any deed be vested

5 in the public land corporation. A copy of the order
6 confirming the sale shall be sent by the clerk of the cir-
7 cuit court to the clerk of the county court who, after noting
8 the fact of confirmation on his record of delinquent lands,
9 shall record the order in the deed book in his office. No
10 fee shall be charged for such recording.

Sec. 43. *Title Acquired.*—Whenever under the provisions
2 of this article a purchaser, his heirs or assigns, shall have
3 obtained a deed for any real estate from the deputy com-
4 missioner, he or they shall thereby acquire all such right,
5 title, and interest, in and to the real estate, as was, at
6 the time of the execution and delivery of the deed, vested
7 in or held by any person who was entitled to redeem,
8 unless such person is one who, being required by law
9 to have his interest separately assessed and taxed, has
10 done so and has paid all the taxes due thereon, or unless
11 the rights of such person are expressly saved by the pro-
12 visions of sections twenty-four, forty-five, forty-six, forty-
13 seven, or forty-nine of this article. The deed shall be
14 conclusive evidence of the acquisition of such title. The
15 title so acquired shall relate back to the date of the sale.
16 The title acquired by the public land corporation upon
17 confirmation of a sale to it shall be the same as that
18 acquired by an individual purchaser under the provisions
19 of this section.

Sec. 44. *Effect of Irregularity on Title Acquired.*—No
2 irregularity, error or mistake in respect to any step in the
3 procedure leading up to and including confirmation of
4 the sale or delivery of the deed shall invalidate the title
5 acquired unless such irregularity, error or mistake is, by
6 the provisions of sections twenty-four, forty-five, forty-
7 six, or forty-seven of this article, expressly made ground
8 for instituting a suit to set aside the sale or the deed.
9 This and the preceding section are enacted in furtherance
10 of the purpose and policy set forth in section one, article
11 three of this chapter.

Sec. 45. *Right to Set Aside Sale or Deed when Land*
2 *Was Not Subject to Sale.*—Any person entitled under the
3 provisions of section eighteen of this article to apply for

4 an order suspending the sale of any land, and not named
5 in section thirty-eight of this article as one entitled to
6 notice to redeem, who did not have actual knowledge of
7 the proposed sale in time to protect himself under the
8 provisions of section eighteen or of section thirty-nine of
9 this article, may, on or before the expiration of one year
10 after confirmation of the sale, whether the sale was to an
11 individual or to the public land corporation, institute a
12 suit in equity to set aside the sale or the deed. If such
13 suit is instituted by or on behalf of the owner of an un-
14 divided interest which was included in a group assess-
15 ment but which was separately redeemed before certifica-
16 tion, the sale or the deed shall be set aside only in so far
17 as it affects his interest.

Sec. 46. Right to Set Aside Deed Improperly Obtained.

2 —Whenever the deputy commissioner has delivered a
3 deed to a purchaser who was not entitled thereto, either
4 because of his failure to meet the requirements of section
5 thirty-two of this article or because the property con-
6 veyed had been redeemed, the former owner of such prop-
7 erty, his heirs or assigns, or the person who redeemed
8 the property may, on or before the expiration of one year
9 after confirmation of the sale, institute a suit in equity to
10 set aside the deed. No deed shall be set aside under the
11 provisions of this section, except in the case of redemp-
12 tion, until payment has been made or tendered to the pur-
13 chaser, or his heirs or assigns, of the amount which would
14 have been required for redemption, together with any
15 taxes which have been paid on the property since de-
16 livery of the deed, with interest at the rate of twelve
17 per cent per annum.

Sec. 47. Right to Set Aside Sale or Deed when One En-

2 *titled to Notice Not Notified.*—If any person entitled to
3 be notified under the provisions of section thirty-eight of
4 this article is not served with the notice as therein pro-
5 vided and does not have actual knowledge that such no-
6 tice has been given to others in time to protect his inter-
7 ests by redeeming the property or by instituting pro-
8 ceedings under section thirty-nine of this article to set

9 aside the sale, he, his heirs or assigns, may, on or before
10 the expiration of one year after confirmation of the sale,
11 institute a suit in equity to set aside the sale or the deed.
12 No sale or deed shall be set aside under the provisions
13 of this section until payment has been made or tendered
14 to the public land corporation or to the purchaser, his
15 heirs or assigns, of the amount which would have been
16 required for redemption, together with any taxes which
17 have been paid or are chargeable on the property since
18 the sale, with interest at the rate of twelve per cent per
19 annum.

Sec. 48. *On Whose Behalf Suits Instituted; Decree When*
2 *Sale or Deed Set Aside.*—Any suit instituted under the
3 provisions of either of the three preceding sections by a
4 person other than the owner, or the former owner, his
5 heirs or assigns, must be brought on his or their behalf.
6 Whenever the sale or deed in such case is set aside the
7 decree shall be either that all the right, title, and in-
8 terest held or claimed by the state prior to the sale to the
9 extent that title is proved to be in the person named as
10 owner, is vested in such person, or that all the right,
11 title and interest of the former owner, his heirs or as-
12 signs, is revested in him or them.

Sec. 49. *Redemption by Persons Under Disability.*—In
2 addition to and notwithstanding any other provisions of
3 this article, any infant or insane person, the former owner
4 of any forfeited or delinquent land which during such
5 disability was sold as provided in this article, may re-
6 deem such land from the public land corporation, or its
7 assigns, or from an individual purchaser, his heirs or
8 assigns, at any time before the expiration of one year af-
9 ter removal of the disability, but in no event more than
10 twenty years after the sale was confirmed, by paying
11 such an amount as is required for redemption under
12 the provisions of section thirty-five, article three of this
13 chapter.

14 In the case of land sold to the public land corporation,
15 he shall also pay such taxes as would have been charge-
16 able on such land had it been privately owned since the
17 sale. Except as here modified, all other provisions of sec-

18 tion thirty-five, article three of this chapter, shall apply to
19 redemptions under this section.

20 As an alternative to the right of redemption provided
21 by this section, such infant or insane person may elect to
22 redeem forfeited land as provided in section six, article
23 thirteen of the constitution.

Sec. 50. *Annual Report of Deputy Commissioner to*
2 Auditor.—In December of each year the deputy commis-
3 sioner shall prepare a report showing the present status
4 of, and all steps which have been taken in the proceeding
5 in respect to, each item certified to the circuit court in
6 his county, final disposition of which is not shown in any
7 preceding annual report. Such report shall be prepared in
8 triplicate. On or before the last day of December the
9 original shall be sent to the auditor and one copy to the
10 clerk of the county court, each of whom shall make
11 any necessary notations on his record of delinquent lands.
12 The second copy shall be sent to the assessor who shall
13 make the necessary changes in his land books. For failure
14 to make the report required by this section, the deputy
15 commissioner shall forfeit one hundred dollars.

Sec. 51. *Sheriff to Keep Proceeds in Separate Account;*
2 *Disposition.*—The sheriff shall keep in a separate account
3 the proceeds of all redemptions and sales paid to him
4 under the provisions of this article. Out of such proceeds
5 he shall pay over quarterly to the auditor all state taxes
6 with interest, all redemption fees, and all charges which
7 were paid by or which are payable to the auditor. The
8 sheriff shall, at the end of each quarter, account for the
9 balance of the proceeds by crediting to the fund kept by
10 him for each local taxing unit such part of the balance
11 as represents taxes, interest and charges payable to such
12 unit.

Sec. 52. *Disposition of Pending Suits; Former Sales*
2 *Confirmed.*—All suits now pending in any circuit court
3 for the sale of lands for the benefit of the school fund shall
4 be and are hereby discontinued and dismissed. Any cir-
5 cuit court in which such a suit is pending shall make all
6 necessary orders for such discontinuance and dismissal.

7 All sales and conveyances made in any former circuit
8 court suits for the sale of lands for the benefit of the school
9 fund are hereby confirmed. Whatever right, title or in-
10 terest the state had in any land so sold, shall be deemed
11 to have vested in the purchaser or grantee thereof. Not-
12 withstanding any irregularity, error or mistake in such
13 suit or in the tax enforcement proceedings prior thereto,
14 such title shall not hereafter be subject to attack. This
15 paragraph is enacted in furtherance of the purpose and
16 policy set forth in section one, article three of this chapter.

Sec. 53. *Liability of Officer Failing to Perform Duty;*
2 *Penalty.*—If the deputy commissioner or any other officer
3 mentioned in this article shall fail or refuse to perform
4 any duty required of him, he and the sureties on his offi-
5 cial bond shall be liable in an action on the bond for such
6 damages as may be sustained by any person by reason of
7 such failure. In addition to this liability, he shall forfeit
8 not less than twenty-five nor more than one hundred dol-
9 lars for each such failure or refusal, unless a different
10 penalty is imposed by the provisions of this article.

Sec. 54. *Release of Taxes and Interest.*—In view of the
2 great uncertainty and confusion existing in the auditor's
3 records of delinquent lands for the years prior to one
4 thousand nine hundred twenty-nine, due to the insuf-
5 ficient and inadequate reports by former school land
6 commissioners, the Legislature finds that it will be im-
7 possible to provide a speedy method for disposing of
8 delinquent and forfeited lands and for conveying to the
9 purchasers of such lands a secure title, unless some action
10 is taken to prevent the certification and sale of lands which
11 were formerly redeemed from or were sold by such com-
12 missioners, but which appear on the auditor's records, as
13 unsold and unredeemed. Wherefore, it is the purpose and
14 intent of the Legislature to release all taxes, interest and
15 charges that may be due on any real estate in this state for
16 the assessment year one thousand nine hundred twenty-
17 eight and for all years prior thereto, and all such taxes,
18 interests and charges are hereby declared to be fully paid.
19 If all the taxes due on any land for the assessment year one
20 thousand nine hundred twenty-nine and for all years sub-

21 sequent thereto have been paid, all title to any such land
22 theretofore acquired by the state shall be and is hereby
23 released.

24 The auditor, in computing the amount necessary for re-
25 demption as provided in section eight, article three of this
26 chapter, and in preparing the list of lands for certification
27 to the circuit court as provided in section nine of this
28 article, shall use the assessment year one thousand nine
29 hundred twenty-nine as the initial year for which taxes
30 shall be charged. He shall specify the year in which the
31 state acquired title, but if such year was prior to one
32 thousand nine hundred twenty-nine, shall charge no taxes
33 for any year prior thereto, nor shall he charge any interest,
34 fees, penalties or costs for the assessment year one thou-
35 sand nine hundred twenty-nine to and including one thou-
36 sand nine hundred thirty-two, but all interest, fees, pen-
37 alties and costs provided by law shall be charged for all
38 years subsequent to the year one thousand nine hundred
39 thirty-two.

Sec. 55. *Separability*.—If any part of this chapter shall
2 be declared unconstitutional, such declaration shall not
3 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
2 of sections sixteen, seventeen and nineteen shall not
3 apply to, and no license fee shall be assessed against or
4 collected from, any educational, literary, dramatic, mu-
5 sical or benevolent society, or volunteer fire companies,
6 not conducted for private profit, where such performance
7 or exhibitions are confined to one county, unless profes-
8 sional or paid talent, other than director, is employed in
9 such performances or exhibitions.

— 3 —

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
2 article shall not apply to:
3 (1) Sales of gasoline, taxable under article fourteen,

4 chapter eleven of the official code, one thousand nine hun-
5 dred thirty-one;

6 (2) Sales of gas, steam and water delivered to con-
7 sumers through mains or pipes, and sales of electricity;

8 (3) Sales of school books required to be used in
9 any of the schools of this state;

10 (4) Sales to the state, its institutions or subdivisions,
11 and sales to the United States, including sales to agen-
12 cies of federal, state or local governments for distribution
13 in public welfare or relief work, and with respect to this
14 exemption, the procurement of surplus food through the
15 use of blue surplus food order stamps, issued by the
16 federal surplus commodities corporation or any federal
17 agency, shall be deemed to be a sale to the United States
18 or to a federal agency;

19 (5) Sales on motor vehicles which are titled by the
20 state road commission;

21 (6) Sales of bread, butter, eggs, flour, and milk, as
22 food products, on and after the first day of July, one
23 thousand nine hundred forty-one.

24 "Bread" shall mean all bakery products made from
25 wheat flour, whole wheat flour and rye flour with a
26 sugar content of less than ten per cent. "Butter" shall
27 mean only natural butter produced from either sweet or
28 sour cream, and margarines made or produced from vege-
29 table oils, nut oils, and animal fats. "Eggs" shall mean
30 only eggs in their original or natural shells. "Flour"
31 shall include and mean what is commonly known as
32 wheat flour, rye flour, buckwheat flour, and corn meal.
33 "Milk" shall mean raw milk as produced from cows,
34 or such milk when processed or canned for human con-
35 sumption, but shall not include cheeses, flavored mix-
36 tures and similar products.

37 The exceptions and exemptions herein contained shall
38 not apply when articles are served as a part of a meal
39 by hotels, restaurants, or others serving food.

CHAPTER 120

(Com. Sub. for House Bill No. 81—Originating in the House Committee on Taxation and Finance)

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
2 the state or to any county, school district, or municipal
3 corporation thereof for public purposes shall be exempt
4 from taxation under this article.
5 (b) No transfer of less than one hundred dollars shall
6 be taxable under this article. For this purpose all transfers
7 from a decedent to the same transferee shall be treated
8 as a unit.
9 (c) In computing the tax upon property transferred
10 to a widow of a deceased person, an exemption of fifteen
11 thousand dollars shall be allowed.
12 (d) In computing the tax upon property transferred
13 to any person within the classes described in subsection
14 (a) of section two, other than a wife, an exemption of
15 five thousand dollars shall be allowed.
16 The descendants of any child referred to in subsection
17 (a) of section two shall be allowed the exemption of the
18 person they represent per stirpes and not per capita.
19 (e) There shall be exempt from taxation under this
20 article all property transferred to a person or corporation,

21 in trust or for use solely for educational, literary, scienti-
22 fic, religious or charitable purposes: *Provided, however,*
23 That the property so transferred for the purposes herein
24 mentioned and the rentals, profits and proceeds thereof,
25 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 thirteen-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.]

Article 13-b. Personal Income Tax.

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-
7 lars, 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
14

15 payment, the whole amount of tax unpaid shall be paid
16 upon notice and demand from the commissioner.

17 After the taxpayer files a corrected or amended return
18 for any taxable year, on which a tax liability is disclosed
19 in excess of the amount shown due on return previously
20 filed for the same period, the excess of the tax liability
21 over and above that previously shown due and up to the
22 amount disclosed on the corrected or amended return,
23 shall be paid at the time of the filing of the corrected
24 or amended return. Payments of deficiencies, interest
25 and penalties shall be made as provided by section forty-
26 nine.

27 Under such regulations as the commissioner may pre-
28 scribe, the tax may be paid with uncertified check, but if
29 such check is not paid by the bank on which it is drawn,
30 the taxpayer by whom the check is tendered shall remain
31 liable for the payment of the tax and for all legal pen-
32 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.]

Article 13-b. Personal Income Tax.

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
2 resident of this state annually shall pay a tax upon his
3 entire net income, after deducting exemptions provided
4 in section thirty-three of this article. The rates for com-
5 putation of such tax on income earned in the calendar
6 year one thousand nine hundred forty-one and in each
7 year thereafter shall be:

8 On the first one thousand dollars of net income or any
9 part thereof, one per cent;

10 On the second one thousand dollars of net income or any
11 part thereof, two per cent;

12 On the third one thousand dollars of net income or any
13 part thereof, three per cent;

14 On the fourth one thousand dollars of net income or any
15 part thereof, four per cent;

16 On the fifth one thousand dollars of net income or any
17 part thereof, five per cent;

18 On the sixth one thousand dollars of net income or any
19 part thereof, five and one-half per cent;

20 On the seventh one thousand dollars of net income or
21 any part thereof, six per cent;

22 On all income in excess of seven thousand dollars, six
23 per cent.

—C—

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.]

Article 14. Gasoline Tax.

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;*

2 *Notice of Discontinuance, etc., of Business.*—There is here-
3 by imposed upon every person who is a distributor,
4 retail dealer or importer under the terms of this article,
5 an excise tax based on the quantities of all gasoline
6 produced, purchased, sold or used in this state, which tax
7 shall, until July first, one thousand nine hundred forty-
8 three, be equivalent to five cents per gallon thereof, and
9 shall be paid as hereinafter provided. On and after July
10 first, one thousand nine hundred forty-three, the tax
11 herein provided shall be equivalent to four cents per
12 gallon.

13 A distributor, importer, or retail dealer shall use as
14 the measure of the tax the gallonage produced, pur-
15 chased, sold or used in this state (as provided in section
16 four of this article). Gallonage shall be included in the
17 measure of the tax by refiners and producers when such
18 gallonage has been placed into any tank from which
19 withdrawals are made for sales or transfer to any other
20 person.

21 The excise tax imposed by this article shall be paid
22 by the person first producing, or receiving in this state,
23 the gallonage of gasoline which under this article shall
24 form the measure of such tax; but in no case shall any
25 such gallonage be used more than once in determining
26 taxes due hereunder. The taxes imposed by this article
27 are in addition to all other taxes now imposed by law.

28 The excise tax imposed by this article shall accrue
29 from the date of production, purchase, sale or use of the
30 gasoline. The penalties imposed by section thirteen of
31 this article shall accrue from the date they become due
32 and payable, and such taxes and penalties shall be and
33 remain a charge and lien upon the properties, both per-
34 sonal and real, of the person liable to pay such taxes
35 and penalties, superior to any lien created after such
36 taxes and penalties accrue. Whenever a distributor,

37 importer or retail dealer ceases to engage in business
38 within this state by reason of the discontinuance, sale or
39 transfer of the business of such distributor, importer or
40 retail dealer, it shall be his duty to notify the tax com-
41 missioner in writing at the time the discontinuance, sale
42 or transfer takes effect. Such notice shall give the date
43 of discontinuance, and in the event of a sale or transfer of
44 the business, the date thereof and the name and address
45 of the purchaser or transferee thereof; all taxes accruing
46 under this article, but not yet due and payable under the
47 provisions of this article shall, notwithstanding such pro-
48 visions, become due and payable concurrently with such
49 discontinuance, sale or transfer, and it shall be the duty of
50 such distributor, importer or retail dealer to make a re-
51 port and pay all such taxes, and to surrender to the tax
52 commissioner the license certificate theretofore issued,
53 under the provisions of this article.

54 Unless the notice shall have been given to the tax
55 commissioner as above provided, such purchaser or trans-
56 feree shall be liable to the state of West Virginia for the
57 amount of all taxes and penalties, under this article ac-
58 crued against such distributor, importer or retail dealer
59 so selling or transferring his business, on the date of such
60 sale or transfer, but only to the extent of the value of the
61 property and business thereby acquired from such dis-
62 tributor, 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.*—When-
ever 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

39 that facilities are available for the care or treatment of
40 any person heretofore or hereafter committed to any
41 hospital for the insane or other institution in this state
42 for the care of persons similarly afflicted; and that such
43 person is eligible for care or treatment by the veterans
44 administration or other agency of the United States, the
45 superintendent of any such hospital or institution in this
46 state is hereby authorized to cause the transfer of any
47 such person to the veterans administration or other
48 agency of the United States government for care or
49 treatment. Upon effecting any such transfer, the com-
50 mitting court shall be notified thereof by the transferring
51 agency: *Provided, however,* That no person shall be
52 transferred if he be confined pursuant to conviction of
53 any crime or misdemeanor, or if he shall have been
54 acquitted of any such charge solely on the ground of
55 insanity, unless prior to such transfer the court originally
56 committing such person shall enter an order for such
57 transfer after appropriate motion and hearing.
58 Any person transferred as provided in this section shall
59 be deemed to be committed to the veterans administra-
60 tion or other agency of the United States government
61 pursuant to the original commitment the same as if he
62 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.

CHAPTER 129

(House Bill No. 151—By Mr. Janes)

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.

[Passed February 27, 1941; in effect from passage. Approved by the Governor.]

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.

CHAPTER 130

(House Bill No. 168—By Mr. Janes)

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

8 Hedgesville district. Said funds shall be used in the same
9 manner as other funds now to the credit of, or which may
10 hereafter be placed to the credit of, the permanent im-
11 provement fund of the board of education of the county
12 of Berkeley, but such funds hereby authorized and di-
13 rected to be transferred shall be expended in Hedgesville
14 district.

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*

16 herein provided, the board of education of said county
17 is hereby authorized, at its discretion, to compromise and
18 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 provide 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, provide 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

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.
2. Appointment of board or commission; incorporation of non-stock, non-profit corporation.
3. Powers, etc., of board, commission or corporation.
4. County of Cabell and city of Huntington authorized to levy for cost of such public projects.
5. State law applicable to project situate outside state.
6. County and city authorized to operate or lease facilities.

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

3 practical exercise and enjoyment of the powers and au-
4 thorities hereby conferred, said county or said city, or
5 either or both of them, as circumstances may require, may
6 designate and appoint a board or commission, or if such
7 public projects, works or improvements be located or sit-
8 uate outside the said state of West Virginia, may cause
9 to be incorporated under the laws of the state of West
10 Virginia a non-stock, non-profit corporation, and may
11 cause such non-stock, non-profit corporation to be domes-
12 ticated in the state in which any such public projects,
13 works or improvements are to be situate.

Sec. 3. *Powers, etc., of Board, Commission or Corpora-*
2 *tion.*—Any such board or commission when so designated
3 and appointed, and any such non-stock, non-profit cor-
4 poration, when so incorporated and organized, shall have,
5 exercise and enjoy, for and on behalf of said county and
6 said city, or either or both of them, all of the powers,
7 authorities and privileges as are set out in section one
8 hereof, together with any and all such other powers as
9 may be legally conferred upon such corporation under
10 the general laws of the state of West Virginia.

Sec. 4. *County of Cabell and City of Huntington Au-*
2 *thorized to Levy for Cost of Such Public Projects.*—The
3 said county of Cabell and the said city of Huntington, or
4 either or both of them, may provide and are hereby em-
5 powered and authorized to provide, by levy (but without
6 thereby exceeding the limitation of the levies imposed by
7 applicable constitutional and statutory provisions) for the
8 reasonable and necessary cost of acquiring, improving and
9 equipping such public projects, works or improvements,
10 including the cost of all professional and clerical services
11 incidental thereto, and all funds levied for and allocated
12 to such purpose shall be collected, administered, disbursed
13 and accounted for as other public moneys.

Sec. 5. *State Law Applicable to Project Situate Outside*
2 *State.*—Notwithstanding the fact that any such project,
3 works or improvement may be situate outside the bound-
4 aries of the state of West Virginia, the said city of Hunt-

ington and any board, commission or non-stock, non-profit corporation which it may cause to be incorporated and organized under the powers hereby conferred, shall have, exercise and enjoy all of the powers, rights and privileges, and in the event of the exercising of any of said rights, powers and privileges shall be charged with all of the duties and responsibilities with respect to providing for the reasonable and necessary cost and expense of acquiring, improving and equipping any such project, works or improvement, as are set out in chapter sixty-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-five, as fully and completely and with the same force and effect as if said chapter sixty-eight were included herein.

Sec. 6. *County and City Authorized to Operate or Lease Facilities.*—Having acquired and improved any such land for the purposes as contemplated hereby, said county and said city or either of them, or any such board or commission, or any such non-stock, non-profit corporation as circumstances may require may:

(a) Operate the same under such terms and conditions and under such rules and regulations as the county or municipal authorities prescribed; or

(b) Let, lease and demise any or all said facilities and all the improvements thereon to any responsible person, firm or corporation, for such period of time and upon such 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.*
 2 —The said county court shall contract for the general re-
 3 pair of the county jail and shall include in the repair con-
 4 tract for the equipment of new locks on all inside and

5 outside doors and other hardware necessary to provide
6 the most modern locks for all inside and outside cell doors,
7 also necessary plumbing, etc., and to provide for the
8 necessary repairs to the exterior walls and other general
9 repairs as may be deemed necessary to provide a first class
10 jail. Of the sum of thirty-five hundred dollars, the sum
11 of twenty-three hundred dollars of this amount shall be
12 used for the above purposes.

Sec. 3. *Repairs to Courthouse and Grounds; County
2 Court Must Provide for Improvement of Courthouse if
3 Funds Are Expended in Repair of Jail.*—Of the remain-
4 ing twelve hundred dollars, the county court is author-
5 ized to expend the remainder herein provided for the pur-
6 pose of general repairs to the courthouse in the way of
7 replacing broken glass and windows, where needed; re-
8 pair of spouting and drains on building; painting window
9 sashes, including all outside doors and windows; provid-
10 ing sufficient venetian blinds for all the windows; beau-
11 tifying the court yard; providing flower beds for the court
12 yard; making repairs for the steps leading from street to
13 courthouse, and also providing for the cleaning out and
14 opening of water wells and providing sufficient steps and
15 platforms to make it convenient for the public to secure
16 drinking water; and, in fact, to use and expend said
17 money efficiently for general repairs of the building and
18 grounds. It shall be mandatory on the county court to
19 carry out this provision as to the beautifying and general
20 repairs of the courthouse if the court provides for the
21 general repair of the jail; in fact, one is predicated on
22 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*
 2 *Excess Funds From Its Bond Fund to Its General Fund.—*
 3 The common council of the municipality of Fayetteville
 4 in Fayette county be and it is hereby authorized and em-
 5 powered to transfer from the unused excess in its muni-
 6 cipal bond fund to the general fund of said municipality
 7 not exceeding one thousand dollars to meet existing
 8 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*
 2 *a Stenographer.—*The county court of Fayette county
 3 shall have authority to employ a stenographer for part
 4 time, or full time, as may be necessary. The county court
 5 of Fayette county shall also have authority to fix the
 6 compensation of any stenographer so employed, and to
 7 pay the same out of the county treasury. Any such steno-
 8 grapher so employed may be removed at the pleasure of
 9 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

3 of education of the county of Greenbrier is hereby au-
4 thorized and empowered, at its discretion, to compromise
5 and settle the claim of Mabel Fulwider, for injuries she
6 received from the explosion of a stove belonging to said
7 board, while she was employed as janitor in the Caldwell
8 grade school, in White Sulphur district of said Greenbrier
9 county.

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-
2 ized to Make Settlement with Mrs. W. P. Engbrecht.*—The
3 board of education of the county of Jefferson is hereby
4 authorized and empowered, at its discretion, to compromise
5 and settle the claim of Mrs. W. P. Engbrecht for the death
6 of her husband, W. P. Engbrecht, who fell while he was
7 washing windows in the high school building in Harpers
8 Ferry district of said Jefferson county.

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,

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*
- 2 *Salvation Army for Hospital Services.*—The county court
 - 3 of Kanawha county is authorized to pay to the Salvation
 - 4 army, a corporation, the sum of ten thousand dollars in
 - 5 payment for hospital service rendered by said corporation
 - 6 at its hospital in Charleston, West Virginia, to indigent
 - 7 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*
- 2 *Expend Funds for Fire-fighting Equipment.*—The county
 - 3 court of Lewis county is hereby authorized and empow-
 - 4 ered to lay a levy for and appropriate money, payable
 - 5 out of the general county fund, toward the purchase,
 - 6 equipment, maintenance and support of fire-fighting
 - 7 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*
2 *Lands and to Establish Parks, Playgrounds, Athletic*
3 *Fields, Swimming Pools, Recreational Centers, etc.*—The
4 county court of Logan county shall have and is hereby
5 given power to acquire lands or leasehold estates or other
6 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.

10 (a) There shall be one member of the park board ap-
11 pointed from each magisterial district within the county.
12 The other members may be residents of any magisterial
13 district within the county. All members of the park board
14 shall be residents and qualified voters of Logan county.

15 (b) Two of such members shall be appointed for a
16 term of two years; two for a term of four years; and two
17 for a term of six years. Whenever a vacancy shall occur
18 by death, resignation, removal or expiration of term of
19 office, a successor member shall be appointed by the
20 county court in the same manner as original appoint-
21 ments were made. All members appointed to fill the
22 vacancies occasioned by the expiration of the terms of
23 office of their predecessors shall be appointed for a term
24 of six years.

25 (c) Members of "Logan County Park Board" shall be
26 appointed after nomination by a nominating committee,
27 which nominating committee shall consist of seven mem-
28 bers to be constituted as follows:

29 One member of the nominating committee shall be the
30 judge of the circuit court of Logan county.

31 One member of the nominating committee shall be the
32 superintendent of schools of Logan county.

33 One member of the nominating committee shall be a
34 person selected by any organization representing the
35 majority of companies engaged in the business of mining
36 coal in Logan county.

37 One member of the nominating committee shall be
38 selected by the labor organization having the largest
39 membership of employees in the coal mining industry in
40 Logan county.

41 One member of the nominating committee shall be
42 selected by the labor organization having the largest
43 membership of employees in the railroad industry in
44 Logan county.

45 One member of the nominating committee shall be ap-
46 pointed by the bank or banks doing business in Logan
47 county.

48 One member of the nominating committee shall be ap-
49 pointed by the chamber of commerce of Logan county.

50 If any officer or organization authorized to appoint a
51 member of the nominating committee shall cease to exist,
52 or fail to exercise its privilege of appointment, such nom-
53 inating committee may still function as long as at least
54 five members thereof are appointed and participate.

55 Nominations for vacancies in membership of "Logan
56 County Park Board" shall be made in the same manner.
57 No person shall be appointed to fill any vacancy until
58 after he shall have been nominated by the nominating
59 committee as hereinbefore provided.

60 (d) Before entering upon their duties as members of
61 "Logan County Park Board", each member shall be re-
62 quired to qualify by taking and subscribing to an oath to
63 faithfully perform his duties as a member of such board.
64 Such oath shall be administered by the clerk of the county
65 court of Logan county.

66 (e) The first meeting of "Logan County Park Board"
67 shall be held at the time and place to be designated by
68 the county court. Thereafter regular meetings shall be
69 held at least every two months, as fixed by the park board.
70 Special meetings may be held at any time as prescribed
71 by the park board, or when called by the president, or
72 any three members thereof.

73 (f) The park board shall elect from its members a
74 president and a secretary. The president shall preside
75 as chairman of the meetings and shall not vote upon any
76 matter except in case of tie. A majority of the members
77 shall constitute a quorum for the transaction of business.

78 The secretary shall keep records of all meetings of
79 members of the park board. Minutes of such meetings
80 shall be filed in the office of the clerk of the county court.

81 The secretary shall keep, or cause to be kept, a record
82 of all expenditures made by the park board, and of all
83 collections received by the park board. Such record shall
84 be submitted to the county court of Logan county at
85 least once every three months, or more often as may be
86 required by the court.

2 *Sec. 8. Power of Park Board as to Employees and Ex-*
penditures.—"Logan County Park Board" shall have su-
3 pervisory authority over all parks, parkways, bridges,

4 playgrounds, athletic fields, stadiums, swimming pools
5 and recreational centers created or established under au-
6 thority of this act. The county court shall appoint only
7 such engineers, supervisors and other employees as may
8 be recommended to it by the park board.

9 No expenditures shall be made for the acquisition of
10 any land, for the construction of any improvements, or
11 for the maintenance and operation of any parks, park-
12 ways, bridges, playgrounds, athletic fields, stadiums,
13 swimming pools and recreational centers created or estab-
14 lished under authority of this act, except upon the recom-
15 mendation and approval of the park board.

2 *Sec. 9. Election for Bonded Indebtedness or Increased*
3 *Levies Must Be Requested by Park Board; Estimate.*—No
4 election shall be called or held for the creation of bonded
5 indebtedness, or for increased levies, for the purposes set
6 forth in section one of this act until and unless such elec-
7 tion shall have been requested by "Logan County Park
8 Board". Before any election shall be held for the crea-
9 tion of bonded indebtedness or increased levies for any
10 of the purposes enumerated in section one of this act,
11 "Logan County Park Board" shall submit to the county
12 court of Logan county an estimate of the amount that will
13 be required for the acquisition of lands, cost of improve-
14 ments, and other expenditures to be made out of any
15 funds realized from the creation of bonded indebtedness,
16 or from increased levies. The park board shall include
17 within any estimate made by it all necessary engineering,
planning and other expenses.

2 *Sec. 10. Expenditure of Bond and Levy Funds to Be*
3 *Approved by Park Board.*—All funds realized by the
4 county court of Logan county from the sale of bonds, or
5 from increased levies, for the purposes enumerated in
6 section one of this act, shall be expended only as ap-
proved by "Logan County Park Board".

2 *Sec. 11. Park Board to Submit Estimate of Funds*
3 *Needed to County Court Prior to Levy Term; What Funds*
4 *May Be Expended for Purposes of Act by County Court.*—
"Logan County Park Board" shall each year, prior to the

5 levy term of the county court of Logan county, submit
6 to the court a detailed estimate of the amounts required
7 to be expended for any of the purposes enumerated in
8 section one of this act. In making its levy estimate the
9 court may provide for all, or such portion of the funds so
10 estimated by the park board as necessary for the purposes
11 included in its estimate. The court may, from time to
12 time, allocate and spend for the purposes enumerated in
13 section one of this act, and for engineering, planning and
14 investigation for any such purposes, such funds as to it
15 may seem desirable and as may be available and not re-
16 quired for other purposes for which the same may have
17 been levied or collected.

Sec. 12. *Limit on Expenditures by Park Board to Be*
2 *Fixed by County Court.*—The county court of Logan
3 county may, from time to time, authorize "Logan 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
7 the park board, the limit of such expenditures shall be
8 fixed by the court. Neither the court nor the county shall,
9 in any event, be liable for any expenditures made or in-
10 debtedness 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, "Logan County Park Board" may, with
6 the approval of the county court, establish and collect
7 fair and reasonable charges for automobile parking, use
8 of 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 of
12 such purposes shall be the property of the county court
13 of Logan county and shall be used only for the purposes
14 enumerated in section one of this act, or for paying in-

15 debtedness that may have been incurred for such pur-
16 poses. All moneys collected by the park board shall be
17 collected, received and held by the secretary, or some
18 other person designated by the park board. Every person
19 entitled to collect, receive or hold any moneys under this
20 act, shall give bond for the faithful accounting for all
21 such moneys in an amount fixed by the county court of
22 Logan county.

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*
2 *Funds for a Four-H Camp.*—The county court of Mercer
3 county is hereby authorized to expend annually from the
4 general county fund or any other funds available, a sum
5 not to exceed five thousand dollars, for the purpose of
6 constructing and maintaining a Four-H camp in Mercer
7 county, and for the acquisition of buildings, land and
8 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.
6. Expenses of elections.

7. Manner of holding elections; certificate of results.
8. Results and effects of elections.
9. Effective date of consolidation.
10. Charter and ordinances of consolidated municipality.
11. Commission on wards and election districts.
12. Election of new councilmen.
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, 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, 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-

12 incorporated territory proposed to be included within
13 said consolidated municipality.

14 (b) Said county court shall designate one or more vot-
15 ing places within said unincorporated territory for such
16 election, and shall cause all qualified voters residing in
17 such territory to be registered for such election, and a list
18 of said registered qualified voters shall be furnished to the
19 election officials for said voting place or places. Election
20 officials for the holding of such election shall be appointed
21 by said county court.

Sec. 4. *Elections.*—Said elections in said municipalities
2 shall be held as are other municipal elections, and in said
3 unincorporated territory as other elections in which
4 county and district officers are elected. The provisions of
5 law governing municipal elections generally shall apply to
6 such elections held under the provisions of this bill within
7 said municipalities, and as to an election held under the
8 provisions of this bill in said unincorporated territory
9 contiguous to any of said municipalities the provisions of
10 law governing general elections at which county and dis-
11 trict officers are elected shall apply.

Sec. 5. *Ballots.*—The ballots to be used shall be sub-
2 stantially in the following form:

3 Shall..... (name of municipality or
4 description of unincorporated territory, as the case may
5 be,) be consolidated with....., and
6, and become one municipality
7 to be known as the city of Morgantown?

8 () For Consolidation

9 () Against Consolidation

Sec. 6. *Expenses of Elections.*—The expenses of such
2 elections within each municipality shall be borne by each
3 municipality, and as to such unincorporated territory shall
4 be borne by the said county court.

Sec. 7. *Manner of Holding Elections; Certificate of Re-*
2 *sults.*—The county court shall furnish sealed ballot boxes
3 to the proper officers of the municipalities wherein such
4 elections are to be held and to the proper officers ap-

5 pointed by the county court at the voting places desig-
6 nated by said county court for such unincorporated ter-
7 ritory wherein such election is to be held. Said elections
8 shall be conducted and the results thereof duly ascer-
9 tained, declared and certified by the election officials for
10 each voting place to the county court, together with the
11 ballot boxes and ballots therein, in the same manner as
12 at a general election, and the said county court shall pro-
13 ceed to canvass the votes cast and certify over their sig-
14 natures the results of their canvass, showing in their cer-
15 tificate the number of votes for and the number of votes
16 against the consolidation in each of the said municipalities
17 and in said unincorporated territory.

Sec. 8. *Results and Effects of Elections.*—A majority of
2 the votes cast upon the question of consolidation in each
3 of said municipal corporations must be in the affirmative
4 to authorize such municipality to become a part of the
5 proposed consolidated municipality, and a majority of
6 the votes cast upon such question in unincorporated ter-
7 ritory contiguous to any of said municipalities must be in
8 the affirmative to authorize the annexation thereof so as
9 to become a part of said proposed consolidated municipali-
10 ty. Such proposed consolidation shall not be effective
11 unless a majority of the votes cast upon the question of
12 consolidation within the municipality of Morgantown
13 are in the affirmative, and then shall be effective only as
14 to each of the other municipalities and said unincorporated
15 territory in which the majority of votes cast are in the
16 affirmative for such consolidation: *Provided*, That for the
17 consolidation with the municipality of Morgantown to be
18 effective as to any other such municipality or unincor-
19 porated territory, such municipality or unincorporated
20 territory must adjoin the municipality of Morgantown or
21 another municipality or unincorporated territory adjoin-
22 ing the municipality of Morgantown which has voted
23 affirmatively to consolidate with the said municipality of
24 of Morgantown.

Sec. 9. *Effective Date of Consolidation.*—Such consolida-
2 tion shall be effective as of the beginning of the first

3 day of the fiscal year of the city of Morgantown next
4 succeeding the date of said elections, unless that day is
5 less than ninety days prior to such date, in which event
6 such consolidation shall not be effective until the first
7 day of the next fiscal year thereafter.

Sec. 10. *Charter and Ordinances of Consolidated Municipality.*—When the consolidation becomes effective, the
2 consolidating municipalities and contiguous unincorporated
3 territory affected shall constitute and be one municipality
4 under the same of "The City of Morgantown". The
5 charter of the city of Morgantown shall be and remain
6 the charter for the whole of the consolidated municipality,
7 until supplanted. The ordinances, resolutions, orders,
8 rules and regulations in force in the city of Morgantown
9 shall extend to and be in force throughout the whole of
10 the newly consolidated municipality until they are supplanted;
11 and the ordinances, resolutions, orders, rules
12 and regulations of the other municipalities shall cease to
13 be operative.

Sec. 11. *Commission on Wards and Election Districts.*—
2 Within two weeks after the certificate of the county court
3 of the result of such elections is made, a joint commission
4 shall be formed consisting of the mayor and the clerk of
5 each municipality to be included in such consolidation,
6 and three inhabitants of each of said consolidating municipalities
7 to be appointed by the respective councils thereof. Such
8 commission shall be called together by the mayor of the city
9 of Morgantown at a time and place to be fixed by him, but
10 not later than ten days from the formation of the commission.
11 The commission shall organize by selecting a chairman and
12 clerk. The clerk shall keep a record of all proceedings and
13 expenses and shall file the same, verified as to the truth and
14 correctness thereof, in the office of the clerk of the said
15 county court within fourteen days after the commission has
16 filed its report and certificate hereinafter prescribed.

19 The commission shall fix and determine the ward lines
20 and election districts of the consolidated municipality,

21 and shall determine the number of wards into which such
22 consolidated municipality shall be divided. The commis-
23 sion shall, within forty-five days from the date of its
24 organization, make a report and certificate over the sig-
25 natures of a majority of its members, and shall file the
26 same in the office of the clerk of said county court. The
27 certificate shall set forth and accurately describe the ward
28 lines and election districts fixed by the commission, and
29 shall contain a proper map of the consolidated municipal-
30 ity with such lines set out thereon. The clerk of the com-
31 mission shall cause a copy of the certificate to be filed in
32 the office of the secretary of state of the state of West
33 Virginia, and also a copy in the office of the assessor of
34 Monongalia county.

35 The lines fixed and determined by the commission
36 shall be those of the consolidated municipality until
37 changed in accordance with law. Wards shall be formed
38 of contiguous territory. No election district shall be in
39 more than one ward. In dividing the consolidated mu-
40 nicipality into wards and election districts the commis-
41 sion shall have regard for, and shall take into considera-
42 tion, the election laws of the state, as well as the area and
43 population in all wards and election districts, and shall
44 divide and arrange the same so that each will contain,
45 as nearly as practicable, an equal number of inhabitants.

46 A notice setting forth the new ward lines and election
47 districts as fixed by the commission shall be published by
48 the clerk thereof in at least one newspaper of general cir-
49 culation in said Monongalia county for two successive
50 weeks next succeeding the filing of the certificate with
51 the clerk of the county court. The expenses of the publica-
52 tion shall be paid by the new municipality. Upon the com-
53 pletion of the publication, the wards and election districts
54 of the consolidating municipalities shall be superseded.
55 The commission shall appoint, in accordance with the
56 charter provisions of the new municipality, election of-
57 ficers to serve at the election provided for by section
58 twelve of this bill.

59 The commission may employ an engineer, or engineers,
60 and clerks, and an attorney, to assist in performing its

61 duties; and the commission may provide for compensa-
62 tion to be allowed to its clerk, engineers, clerks and attor-
63 ney, which shall be paid by the new municipality. The
64 commission members shall not receive compensation for
65 their services, but all expenses incurred by them in the
66 performance of their duties, when itemized and sworn to
67 by the chairman and clerk, shall be paid by the new mu-
68 nicipality.

Sec. 12. *Election of New Councilmen.*—An election shall
2 be held upon the first Tuesday in June next preceding the
3 date when the consolidation becomes effective for the
4 election of councilmen for the new municipality. Two
5 councilmen shall be elected from each ward, one council-
6 man from each ward to be elected for one year and one
7 councilman from each ward to be elected for two years.
8 Such election shall be conducted in accordance with the
9 charter of the new municipality and as though the con-
10 solidation had become effective. Persons elected to of-
11 fice at the election held under this section shall take office
12 upon the day the consolidation becomes effective. There-
13 after, the election of councilmen shall be as provided by
14 the charter of said consolidated municipality.

Sec. 13. *Officers and Employees of Consolidating Mu-*
2 *nicipalities.*—When the consolidation becomes effective,
3 the terms of all councilmen of the consolidating municipal-
4 ities shall cease and be at an end and all administrative
5 officers and appointees thereof of said consolidating mu-
6 nicipalities shall cease to hold such offices and positions,
7 except that the administrative officers and employees of
8 the city of Morgantown shall continue to serve until sup-
9 planted or replaced under the provisions of the charter
10 and ordinances of the consolidated municipality.

11 Policemen and firemen of the consolidating municipal-
12 ities shall, when the consolidation becomes effective, con-
13 tinue as policemen and firemen of the new municipality.
14 They shall be subject to the orders and control of the
15 city manager of the new municipality, until the heads of
16 the police and fire departments are chosen and placed
17 in charge thereof.

18 Tenure of office and pension laws applicable to the em-
19 ployees of the consolidating municipalities shall not be
20 affected by said consolidation.

Sec. 14. *Succession to Rights and Properties of Merged*
2 *Municipalities.*—The new consolidated municipality shall,
3 when the consolidation becomes effective, be vested with
4 all the rights and properties of the municipalities of
5 which it is formed, and shall be responsible and liable
6 for all contracts, debts and obligations of such municipal-
7 ities. But the lands and properties in each of the munici-
8 palities superseded by such consolidation shall not be
9 taxed or assessed for the debts or obligations of another
10 of the municipalities thus superseded. The lands and
11 properties in each of the constituent and superseded mu-
12 nicipalities shall be taxed and assessed for the debts and
13 obligations of its superseded government until the same
14 shall be paid and satisfied.

Sec. 15. *Taxes and Obligations of Merged Municipalities.*
2 —The taxes and assessments, levied or imposed by any
3 of the superseded municipalities remaining outstanding
4 and unpaid, and all other moneys due and owing any of
5 such municipalities when the consolidation becomes ef-
6 fective, shall be collected by the new consolidated munici-
7 pality and shall be applied to the purpose for which raised
8 or owing, and if not raised or owing for a specific purpose,
9 shall be applied to the reduction or payment of the bonded
10 or other indebtedness, if any, of the superseded municipal-
11 ity.

12 Proceedings pending to enforce the payment or collec-
13 tion of taxes and assessments in any of the consolidating
14 municipalities shall be carried to completion by the
15 proper officers of the new consolidated municipality; and
16 all taxes and assessments theretofore levied and assessed
17 by any of the consolidating municipalities shall be valid
18 and effectual as if originally levied and assessed by the
19 new municipality. The governing body of the new mu-
20 nicipality is authorized to perform all necessary acts to
21 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.

CHAPTER 147

(House Bill No. 418—By Mr. Duff)

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-

15 house Fund": *Provided, however,* That the principal of
16 said levy so laid shall not exceed the sum of twenty-five
17 thousand dollars to be levied over a period of ten years
18 or longer, but not to exceed twelve years. When said levy
19 is so laid by the county court, the approval in writing of
20 the state tax commissioner shall be necessary.

Sec. 2. *County Court May Contract for Completion of*
2 *Jail and Courthouse.*—The said county court may con-
3 tract for the construction of the whole or any part of the
4 completion of the said jail and courthouse, including the
5 equipment and material in conjunction with any govern-
6 ment project or government agency.

CHAPTER 148

(House Bill No. 353—By Mr. James R. Ewing)

AN ACT to provide reimbursement to Wheeling-Ohio county airport association, a corporation incorporated under the laws of West Virginia not for profit and without capital stock, by the board of commissioners of the county of Ohio, a corporation, for certain sums of money advanced the board of commissioners of the county of Ohio, a corporation, by the Wheeling-Ohio county airport association, to facilitate construction of an airport.

[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 Au-*
2 *thorized to Reimburse Wheeling-Ohio County Airport*
3 *Association.*—The board of commissioners of the county
4 of Ohio, a corporation, is hereby authorized to reimburse
5 and pay over to the Wheeling-Ohio county airport asso-

6 ciation, a corporation incorporated under the laws of West
 7 Virginia not for profit and without capital stock, a prin-
 8 cipal sum not to exceed one hundred thousand dollars and
 9 any interest accrued on amounts heretofore advanced or
 10 which will accrue hereafter on sums hereafter to be ad-
 11 vanced by the said Wheeling-Ohio county airport asso-
 12 ciation, a corporation, to the board of commissioners of the
 13 county of Ohio, a corporation, from the general county
 14 fund to be derived from the levy for the fiscal year begin-
 15 ning July first, one thousand nine hundred forty-one,
 16 which said money was employed by the board of commis-
 17 sioners of the county of Ohio to facilitate the initiatory
 18 work on the Wheeling-Ohio county airport.

CHAPTER 149

(House Bill No. 417—By Mr. Ballard, of Monroe)

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
 2 Real Estate to Monroe County Board of Education.*—The
 3 town of Peterstown, Monroe county, West Virginia, is
 4 hereby authorized to convey the following described real
 5 estate to the board of education of the county of Mon-
 6 roe:
 7 Beginning on north side and at the head of the Mill race
 8 (locust stump called for) corner to Eliza J. Spangler dower
 9 tract and J. O. Hunter (formerly W. W. Dunn) thence with
 10 Hunter 980 feet to stake in line of H. O. Cunningham corner

11 and with Cunningham and Eda M. McKenzie (formerly W.
12 W. Dunn) 233 feet to stake in line of McKenzie 30 feet west
13 from cedar on top of hill, corner, thence over and through
14 the lands of Dillion straight line to large locust at foot
15 of cliff above A. W. Thomas' barn, passing 24 feet east of
16 locust in the bottom in this enclosure, to Rich creek in
17 line with A. W. Thomas, thence with Thomas and said
18 creek down the same to Rose Underwood corner and with
19 Underwood N. 18 W. 14 poles to corner with Dillion and
20 continuing with Underwood S. 60 W. 26 poles to Mill
21 race and with Mill race to the beginning, containing
22 six acres, more or less, and being a portion of the same
23 lands conveyed to the said Ernest L. Dillion by T. L.
24 Crotshin, executor of D. D. Spangler, deceased, dated June
25 26th, 1917, and of record among the land records of said
26 Monroe county in deed book No. 54, at page 252, to
27 which reference is here made, and locally known as the
28 Mill Bottom land.

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.

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 such debt purposes and not now available 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

40 reported to said county court and filled for the unexpired
41 term by appointment in like manner as the original ap-
42 pointments were made. The said county court may re-
43 move any director for misconduct or neglect of duty. No
44 compensation shall be paid or allowed any director.

45 The board of directors of any hospital established as a
46 memorial under this act shall, immediately after their
47 appointment, meet and organize by electing one of their
48 number as president and one as secretary; a majority of
49 such board shall constitute a quorum for the transaction
50 of business. They shall make and adopt such by-laws,
51 rules and regulations from time to time, for their own
52 guidance and for the government and use of said hospital,
53 as the board may deem expedient and not inconsistent
54 with this act. Such board shall have authority to contract
55 for the construction or purchase of a hospital established
56 under this act and for repairs thereon and for the mainte-
57 nance and operation thereof, and for the supervision, care
58 and custody of said land, structure or structures.

59 All contracts shall be approved by said county court
60 and the expenditure of all sums shall be subject to the ap-
61 proval of said county court. All moneys belonging to the
62 memorial fund shall be deposited in the treasury of said
63 county court to the credit of the memorial fund and shall
64 be drawn therefrom only on orders issued by the county
65 court. Such orders shall not be drawn except upon requi-
66 sition of the memorial board attached to properly authen-
67 ticated vouchers. The title to all such property shall be
68 vested in the county court. The board shall have power
69 to appoint a suitable custodian and assistants and pre-
70 scribe rules for their conduct, fix their duties and com-
71 pensation, and shall have power to remove such ap-
72 pointees and, in general, to carry out the spirit and in-
73 tention of this act.

74 Any hospital established under this act shall be free for
75 the use of the inhabitants of said county, subject to such
76 reasonable rules and regulations and charges for hos-
77 pitalization as the board may adopt, in order to render
78 the use of such hospital of the greatest benefit to the
79 greatest number; and the board may exclude from the

80 use of such hospital any and all persons who shall wilfully
81 violate such rules. The board of directors may extend the
82 use and privileges of such hospital to nonresidents of the
83 county upon such terms and conditions as the board may
84 prescribe.

85 The board of directors, on or before the first day of
86 July of each year, shall make a report to the county
87 court, showing the condition of the property, the various
88 sums of money received from the memorial fund, and
89 from all other sources, how such money was expended
90 and for what expended; and shall submit an itemized
91 budget estimate of expenses of the hospital for the en-
92 suing year, with such other information and suggestions
93 as they may deem of general interest, or that may be re-
94 quired by said county court.

95 Said county court is empowered to receive from any
96 person, firm or corporation, by deed, gift, devise or
97 bequest, funds and property of any kind for the benefit
98 of such hospital, and the title to same shall be vested in
99 said county court, and said county court and board shall
100 hold such funds and property in trust and administer the
101 same according to the terms and for the purposes set forth
102 in such deed, gift, devise or bequest.

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 Lands and to Establish Parks, Playgrounds, Athletic 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

17 manner as said court may now or hereafter acquire lands
18 by condemnation for other public purposes.

19 Any parks, parkways, bridges, playgrounds, athletic
20 fields, stadiums, swimming pools and recreational centers
21 may be located in whole or in part within the limits of
22 any municipality now or hereafter existing in the county
23 of Raleigh, and lands wholly or in part located within
24 municipalities may be acquired by the court for any of
25 the purposes aforesaid.

Sec. 2. *May Issue and Sell Bonds.*—For any of the pur-
2 poses aforesaid the county court of Raleigh county may
3 issue and sell its bonds for an aggregate principal amount
4 not in excess of one hundred thousand dollars, but sub-
5 ject to limitations upon bonded indebtedness prescribed
6 by article one, chapter thirteen of the code of West Vir-
7 ginia, one thousand nine hundred thirty-one, or any
8 amendments thereto. The issuance and sale of bonds for
9 any of the purposes aforesaid shall be governed by the
10 provisions of chapter thirteen of the code of West Vir-
11 ginia, one thousand nine hundred thirty-one, and any
12 amendments thereto.

Sec. 3. *Increased Levies.*—In lieu of the issuance and
2 sale of bonds for the purposes aforesaid, or at any time that
3 there shall exist no bonded indebtedness created by the
4 county court for any of the purposes aforesaid, the county
5 court of Raleigh county may provide funds for any of of
6 purposes aforesaid by increased levies when authorized
7 in the manner prescribed by article eight, chapter eleven
8 of the code of West Virginia, one thousand nine hundred
9 thirty-one, or any amendments thereto.

Sec. 4. *Power to Levy, Collect and Expend Funds for*
2 *Purposes of Act.*—For the purposes aforesaid the county
3 court of Raleigh county may, in its annual levy estimate
4 for current expenses, provide for and thereafter collect
5 and expend funds for any of the purposes aforesaid.

Sec. 5. *When Municipality May Contribute Toward Ac-*
2 *quisition, Construction and Maintenance of Project.*—
3 Whenever any of the parks, parkways, bridges, play-

4 grounds, athletic fields, stadiums, swimming pools or rec-
5 reational centers shall be located within the corporate
6 limits of any municipality, such municipality shall have
7 authority to expend funds in the way of contributions
8 toward the acquisition, construction and maintenance of
9 any such projects, and to make provisions for such ex-
10 penditures in its annual levy estimates.

Sec. 6. *When Board of Education of Raleigh County*
2 *May Contribute Toward Expense of Constructing and*
3 *Maintaining Project.*—Whenever any of the parks, park-
4 ways, bridges, playgrounds, athletic fields, stadiums,
5 swimming pools or recreational centers shall be used for
6 public school athletic events, for physical education of
7 public school students, or otherwise for public school pur-
8 poses, the board of education of the county of Raleigh
9 may contribute toward the expense of constructing and
10 maintaining such portions of such public project as may
11 be used for any public school athletics, physical develop-
12 ment of public school children, or for other public school
13 purposes, or may pay rentals for the use of any such facil-
14 ities for any of the purposes aforesaid.

Sec. 7. *Raleigh County Park Board; Appointment;*
2 *Term; Nominating Committee; Meetings; Organization;*
3 *Records.*—There shall be a board of park commissioners
4 consisting of eight members, known as “Raleigh County
5 Park Board”, which shall be a body corporate. The mem-
6 bers of such board shall be appointed by the county court
7 of Raleigh county in the manner hereinafter provided.
8 Such park board shall be organized and shall have and
9 exercise the powers and duties hereinafter provided.

10 (a) All members of the park board shall be residents
11 and qualified voters of Raleigh county.

12 (b) Two of such members shall be appointed for a
13 term of one year; two for a term of two years; two
14 for a term of three years, and two for a term of four
15 years. Whenever a vacancy shall occur by death, resig-
16 nation, removal or expiration of term of office, a succes-
17 sor member shall be appointed by the county court in
18 the same manner as original appointments were made.

19 All members appointed to fill the vacancies occasioned
20 by the expiration of the terms of office of their predeces-
21 sors shall be appointed for a term of four years.

22 (c) Before entering upon their duties as members of
23 "Raleigh County Park Board", each member shall be re-
24 quired to qualify by taking and subscribing to an oath to
25 faithfully perform his duties as a member of such board.
26 Such oath shall be administered by the clerk of the
27 county court of Raleigh county.

28 (d) The first meeting of "Raleigh County Park Board"
29 shall be held at the time and place to be designated by
30 the county court. Thereafter regular meetings shall be
31 held at least every three months, as fixed by the park
32 board. Special meetings may be held at any time as pre-
33 scribed by the park board, or when called by the presi-
34 dent, or any three members thereof.

35 (e) The park board shall elect from its members a
36 president and a secretary. The president shall preside as
37 chairman of the meetings and shall not vote upon any
38 matter except in case of tie. A majority of the members
39 shall constitute a quorum for the transaction of business.

40 The secretary shall keep records of all meetings of
41 members of the park board. Minutes of such meetings
42 shall be filed in the office of the clerk of the county
43 court.

44 The secretary shall keep, or cause to be kept, a record
45 of all expenditures made by the park board, and of all
46 collections received by the park board. Such record shall
47 be submitted to the county court of Raleigh county at
48 least once every three months, or more often as may be
49 required by the court.

Sec. 8. *Powers of Park Board as to Employees and Ex-*
2 *penditures.*—"Raleigh County Park Board" shall have su-
3 pervisory authority over all parks, parkways, bridges,
4 playgrounds, athletic fields, stadiums, swimming pools
5 and recreational centers created or established under
6 authority of this act. The county court shall appoint only
7 such engineers, supervisors and other employees as may
8 be recommended to it by the park board.

9 No expenditures shall be made for the acquisition of
10 any land, for the construction of any improvements, or
11 for the maintenance and operation of any parks, park-
12 ways, bridges, playgrounds, athletic fields, stadiums,
13 swimming pools and recreational centers created or estab-
14 lished under authority of this act, except upon the rec-
15 ommendation and approval of the park board.

Sec. 9. *Election for Bonded Indebtedness or Increased*
2 *Levies Must Be Requested by Park Board; Estimate.*—
3 No election shall be called or held for the creation of
4 bonded indebtedness, or for increased levies, for the pur-
5 poses set forth in section one of this act, until and unless
6 such election shall have been requested by "Raleigh
7 County Park Board". Before any election shall be held
8 for the creation of bonded indebtedness or increased levies
9 for any of the purposes enumerated in section one of this
10 act, "Raleigh County Park Board" shall submit to the
11 county court of Raleigh county an estimate of the amount
12 that will be required for the acquisition of lands, cost of
13 improvements, and other expenditures to be made out of
14 any funds realized from the creation of bonded indebted-
15 ness, or from increased levies. The park board shall in-
16 clude within any estimate made by it all necessary en-
17 gineering, planning and other expenses.

Sec. 10. *Expenditure of Board and Levy Funds to Be*
2 *Approved by Park Board.*—All funds realized by the
3 county court of Raleigh county from the sale of bonds, or
4 from increased levies, for the purposes enumerated in sec-
5 tion one of this act, shall be expended only as approved by
6 "Raleigh County Park Board".

Sec. 11. *Park Board to Submit Estimate of Funds*
2 *Needed to County Court Prior to Levy Term; What*
3 *Funds May Be Expended for Purposes of Act by County*
4 *Court.*—"Raleigh County Park Board" shall each year,
5 prior to the levy term of the county court of Raleigh
6 county, submit to the court a detailed estimate of the
7 amounts required to be expended for any of the purposes
8 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

18 designated by the park board. Every person entitled to
19 collect, receive or hold any moneys under this act shall
20 give bond for the faithful accounting for all such moneys
21 in an amount fixed by the county court of Raleigh county.

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.

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

- 4 to expend from any available funds the amount of money
- 5 which it deems necessary for the purpose of constructing,
- 6 improving, equipping and maintaining a Four-H camp in
- 7 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

- 2 *Funds from Sinking Fund to General Fund, and to Em-*
- 3 *ploy and Use Said Sum to Reimburse Water Plant Fund.—*

4 The town of West Union, by and with the consent of the
5 holders of the bonds issued by said town, dated January
6 first, one thousand nine hundred thirty-five, payable on
7 the first day of January of each of the years of nineteen
8 hundred forty-two, to nineteen hundred forty-eight, both
9 years inclusive, is hereby authorized and empowered to
10 transfer the surplus sum of three thousand two hundred
11 forty-two dollars and fifty cents from said town of West
12 Union's sinking fund account to the credit of said town's
13 general fund account, and to employ and use the said
14 sum of money to reimburse the said town's water plant
15 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."

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

motor fuels shall, after the 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, reconstruction or improvement of public highways, and the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways.

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. Doring, 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. Doring 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.

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:

<i>Name</i>	<i>Miles</i>	<i>Amount</i>
Jack R. Adams	534	\$ 53.40
William Fontaine Alexander	778	77.80
Haymond A. Alltop	440	44.00
Malcolm R. Arnold	36	3.60
C. E. Augustine	362	36.20
O. H. Ballard	490	49.00
Sherman Ballard	260	26.00
J. E. Bass	262	26.20
William T. Blankenship	466	46.60
Ed L. Boggs	120	12.00

<i>Name</i>	<i>Miles</i>	<i>Amount</i>
Emmett J. Bush	184	\$ 18.40
Mike Casey	104	10.40
Dorr Clayton Casto II	362	36.20
Clyde B. Cochran	625	62.50
Epison A. Cole	120	12.00
B. O. Cresap	564	56.40
J. M. Cyphers	460	46.00
N. T. Downs	364	36.40
Gordon G. Duff	140	14.00
Don J. Eddy	440	44.00
George Evans	400	40.00
Cuyler E. Ewing	534	53.40
James R. Ewing	534	53.40
Rush F. Farley	250	25.00
P. Douglass Farr	270	27.00
T. V. Foster	112	11.20
Joe G. Gentry	104	10.40
R. L. Gibson	40	4.00
John L. Gill	440	44.00
Henry N. Gorrell	632	63.20
O. D. Hall	160	16.00
J. C. Hansbarger	440	44.00
J. I. Harless	230	23.00
Clifford D. Hatten	130	13.00
C. C. Heishman	594	59.40
Robert F. Hickman	404	40.40
A. A. Hopkins	470	47.00
John G. Hudson	106	10.60
J. Leroy Huffman	160	16.00
Glenn Jackson	144	14.40
William Janes	390	39.00
R. A. Johnston, Sr.	362	36.20
Fleming A. Jones, Jr.	440	44.00
Robert H. Kidd	228	22.80
H. V. King	440	44.00
Frank A. Knight	10	1.00
W. Londa Lilly	160	16.00
H. Clay Mace	230	23.00
Irvin S. Maddy	200	20.00

<i>Name</i>	<i>Miles</i>	<i>Amount</i>
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. Milleson	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 Shrewsbury 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.

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 Door-keeper 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.

SENATE CONCURRENT RESOLUTION NO. 10

(By Mr. Paull)

[Adopted February 5, 1941.]

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

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:

Charles Lively, Clerk, compensation for services preparatory to session, opening day of session, and expenses _____	\$ 200.00
Alfred K. Hays, Sergeant-at-Arms, for services for eight days preparatory to session _____	80.00
M. L. Jackson, supervisor of printing, for services for eight days preparatory to session _____	80.00
Frederick Roseberry, proofreader, for services for first day of session _____	8.00
Frank Hill, assistant janitor, 15 days at \$5.00 per diem _____	75.00
David Hays, assistant janitor, 15 days at \$4.00 per diem _____	60.00
Bernard White, assistant janitor, 15 days at \$4.00 per diem _____	60.00
Henry Woody, assistant janitor, 15 days at \$4.00 per diem _____	60.00
Martin Moore, assistant janitor, 15 days at \$4.00 per diem _____	60.00
Charles Barnes, assistant janitor, 3 days at \$4.00 per diem _____	12.00
Mary Fairfax, assistant janitor, 2 days at \$4.00 per diem _____	8.00

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.]

Relating to payment of pages.

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.]

Printing of the Journal and completing the work of the session.

Resolved by the Senate:

That in order to complete the work of the session in arranging and filing of all bills, resolutions, petitions and other official papers in the Clerk's office and document room, and to allow time for proofreading, printing and indexing the corrected Journal and arranging and printing its several appendices, and in printing and indexing the volume of Senate Bills, and in completing the work in the document and mailing rooms and in performing other services incident to the closing of this session of the Legislature, the per diem of the Clerk at twenty dollars and 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 door-keeper 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*.

DISPOSITION OF BILLS ENACTED

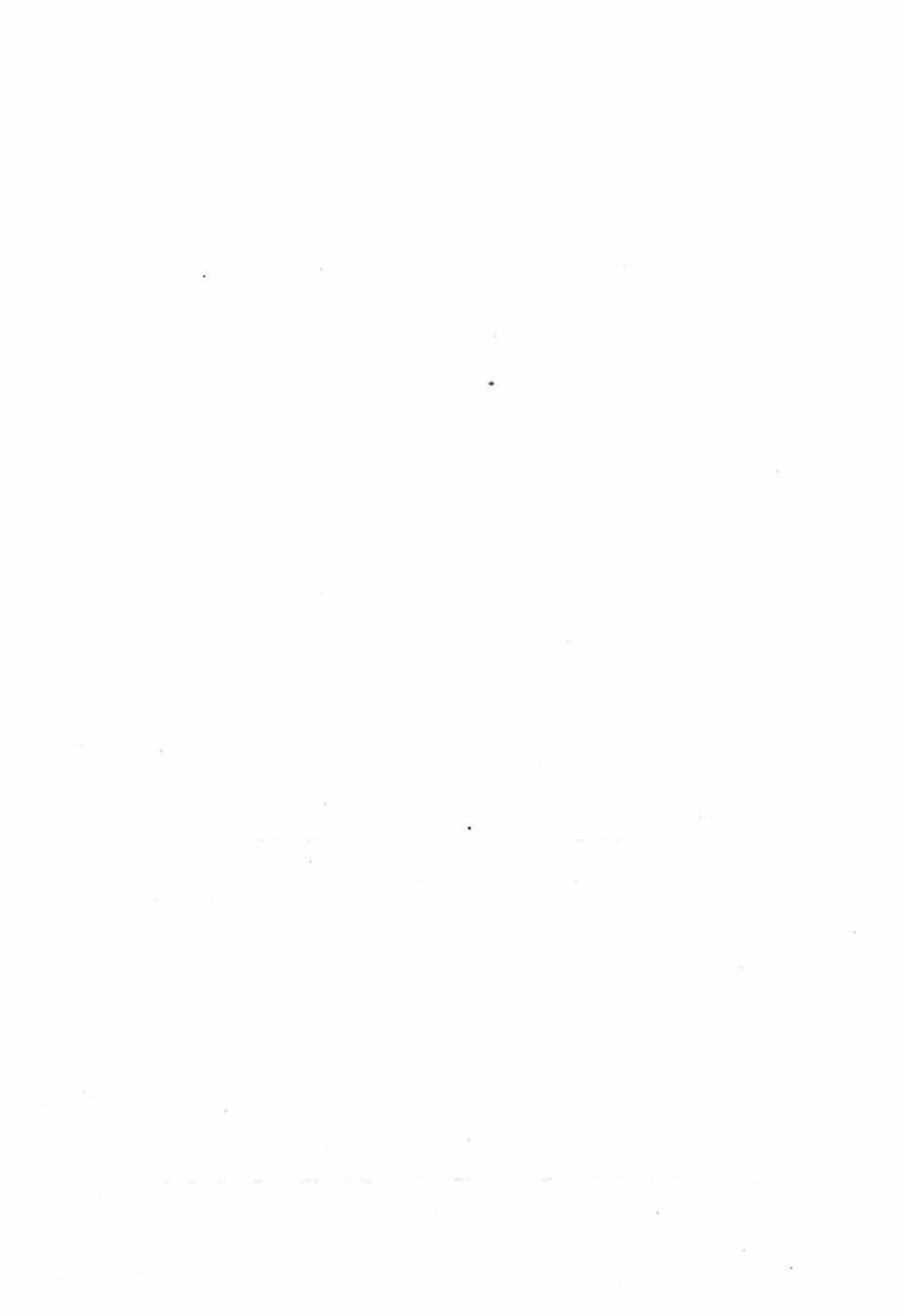
The following table shows the disposition of Senate and House Bills passed at the regular session of the 1941 Legislature. The first column gives the bill number and the second column the chapter assigned to it. House Bills appear first, followed by Senate Bills.

HOUSE BILLS

Bill No.	Chapter	Bill No.	Chapter	Bill No.	Chapter
4	72	169	62	298	109
7	37	183	52	299	101
8	87	184	54	301	86
9	152	185	138	306	145
11	140	186	14	307	8
13	125	196	105	308	66
16	39	201	155	310	26
42	89	202	74	316	131
46	137	203	73	322	48
50	16	204	71	323	49
56	65	206	43	324	50
61	93	207	44	325	30
67	142	209	53	342	111
68	123	211	124	348	113
70	23	217	4	352	88
72	107	218	20	353	148
79	133	233	83	356	35
81	120	236	22	357	144
99	34	239	1	359	134
104	31	240	154	360	146
109	157	245	2	368	3
112	118	260	58	369	61
115	60	263	57	370	63
120	95	266	114	375	151
130	69	269	117	400	80
135	108	272	36	403	143
144	24	275	135	407	98
151	129	276	68	417	149
155	70	279	132	418	147
159	47	281	21	420	82
161	41	282	102	421	11
166	91	284	112	424	29
168	130	285	78		

SENATE BILLS

Bill No.	Chapter	Bill No.	Chapter	Bill No.	Chapter
1	6	52	33	152	79
2	126	85	139	157	81
7	25	88	122	161	13
11	99	89	119	162	28
12	100	97	104	164	106
13	150	100	115	168	110
16	76	101	97	173	75
17	92	105	116	174	128
19	40	106	46	176	96
20	7	107	12	177	32
24	67	109	153	178	85
29	55	111	45	179	84
30	56	116	10	183	17
34	156	123	77	184	18
35	59	125	94	185	51
37	42	128	27	193	103
40	64	129	90	195	9
44	19	145	121	196	141
47	15	146	127	198	5
50	38	150	138		



INDEX

ABANDONED CEMETERIES:	PAGE
(See Cabell County Court).....	528

ACTS AMENDED:

ACTS	CH. ART.	SEC.	SESS.	PAGE
1933	8		1st Ex.	(Non-partisan election of school board members) 187
1933	11		1st Ex.)	
1933	40		2nd Ex.)	(Teachers' Salaries) 173
1933	49		1st Ex.	(Funeral directors and embalmers) 232
1933	75		2nd Ex.	(County agricultural agents) 1
1933	93	(3, 5, 12 (1-a, 7-b, (7-b, 20- (29	2nd Ex.	(Housing authorities) 254
1935	4		Reg.	(Funds of liquor control commission) 369
1935	21		Reg.	(Public bonded indebtedness) 84
1935	104		Reg	(Securities) 244
1936	1		1st Ex.	(Child welfare) 352
1936	1		2nd Ex.	(Unemployment Compensation) 412
1937	56		Reg.	(Registration of voters) 216
1937	85		Reg.	(Assistant attorneys general) 354
1937	89 1		Reg.	(Salary of commissioner of labor) 362
1939	34 2	28	Reg.	(Pension fund, dept. of public safety) 384
1939	17		Reg.	(Compensation of county assessors) 94
1939	21		Reg.	(Assistants and stenographers to prosecuting attorneys) 102

ACTS AMENDED (Continued):

ACTS	CH.	ART.	SEC.	SESS.	PAGE
1939	24			Reg.	(Sentences for felonies) 124
1939	35	2	2, 3	Reg.	(Dept. of public safety) 387
1939	51, 52		(21-a- (21-e	Reg.	(Free textbooks in schools) 152
1939	55			Reg.	(Teachers' salaries) 173
1939	64			Reg.	(Game, birds, fish and frogs) 248
1939	92		2, 8, 9, 12	Reg.	(Municipal streets and sewers) 317
1939	104			Reg.	(Unemployment compensation) 412
1939	133			Reg.	(Debt levies for current expenses) 518

ACTS REPEALED:

ACTS	CH.	ART.	SEC.	SESS.	PAGE
1933	93		16	2nd Ex.	(Housing authorities) 254
1935	41, 42			Reg.	(Terms of circuit courts) 109
1937	15			Reg.	(Terms of circuit courts) 109
1937	56			Reg.	(Registration of voters) 216
1939	20			Reg.	(Salaries of county commissioners) 96
1939	150			Reg.	(Trade-marks on jewelry, etc.) 519

ADJUTANT GENERAL:

	SEC.	PAGE
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):	Sec.	PAGE
investigation _____	4	136
report _____	4	136
jurisdiction _____	1	136
transfer _____	3	136
notice to registrar _____	9	138
order _____	7	137
petition for		
form _____	3	136
hearing on _____	6	137
signing _____	2	136
records of proceedings _____	10	139
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):

PAGE

AGRICULTURE

Department of agriculture—Acct. No. 510.....	49
Department of agriculture (soil conservation)—Acct. No. 510.....	49
Fairs and association awards—Acct. No. 515.....	49

BUSINESS AND INDUSTRIAL RELATIONS

Board of aeronautics—Acct. No. 6086.....	47
Bureau of labor and department of weights and measures—Acct. No. 450.....	43
Commission on interstate cooperation—Acct. No. 4727.....	47
Compensation commission—Acct. No. 900.....	45
Compensation commission (silicosis)—Acct. No. 901.....	46
Department of banking—Acct. No. 480.....	45
Department of mines—Acct. No. 460.....	43
Liquor control commission—Acct. No. 6676.....	46
Public service commission (motor carrier division)—Acct. No. 6624.....	45
Public service commission (salaries of members)—Acct. No. 470.....	44
Public service commission—Acct. 6617.....	44
Racing commission—Acct. No. 6082.....	47
Unemployment compensation commission (reemployment service)—Acct. No. 6412.....	43
West Virginia planning commission—Acct. No. 4729.....	47
West Virginia publicity commission—Acct. No. 4728.....	47

CHARITIES AND CORRECTION

West Virginia children's home—Acct. No. 380.....	37
West Virginia colored children's home—Acct. No. 381.....	37, 59
West Virginia home for aged and infirm colored men and women—Acct. No. 382.....	37
West Virginia industrial home for colored girls—Acct. No. 373.....	36
West Virginia industrial home for girls—Acct. No. 372.....	35
West Virginia industrial school for boys—Acct. No. 370.....	35
West Virginia industrial school for colored boys—Acct. No. 371.....	35
West Virginia penitentiary—Acct. No. 375.....	36
West Virginia penitentiary (medium security prison)—Acct. No. 376.....	36
West Virginia training school—Acct. No. 383.....	38

CLAIMS AGAINST THE STATE

Claims to be paid from the state road fund—Acct. No. 6856.....	66
Refunding erroneous consumers sales tax payments—Acct. No. 6449.....	65
Refunding erroneous gross sales tax payments—Acct. No. 6449.....	61
Refunding erroneous inheritance, transfer and estate tax payments—Acct. No. 6449.....	61
Refunding erroneous payments to state for charter license tax—Acct. No. 6449.....	66

CONSERVATION AND DEVELOPMENT

Clarke-McNary—Acct. No. 522.....	51
Conservation commission (division of forestry)—Acct. No. 521.....	50
Conservation commission (game and fish)—Acct. No. 521.....	51
Conservation commission (general administration)—Acct. No. 6612.....	50
Conservation commission (state parks)—Acct. No. 522.....	51
Droop Mountain battlefield monument—Acct. No. 5609.....	52
Geological survey—Acct. No. 520.....	49
Grafton G. A. R. post—Acct. No. 5649.....	52
Morgan Morgan memorial—Acct. No. 5639.....	52
Point Pleasant battle monument commission—Acct. No. 5619.....	52
Runseyan society—Acct. No. 5629.....	52

APPROPRIATIONS (Continued):

PAGE

EDUCATIONAL

Archives and history—Acct. No. 340	34
Bluefield State Teachers college—Acct. No. 329	33
Concord State Teachers college—Acct. No. 325	32, 59
Department of education—Acct. No. 703	24, 58
Department of education (free textbooks)—Acct. No. 6408	26
Department of education (school fund)—Acct. No. 6407	25, 58
Department of education (state aid to supplement the general school fund)—Acct. No. 6405	26, 58
Department of education (teachers' retirement)—Acct. No. 6409	27
Fairmont State Teachers college—Acct. No. 321	31
4-H camp for colored boys and girls—Acct. No. 3289	33
Glenville State Teachers college—Acct. No. 322	31
Marshall college—Acct. No. 320	30, 59
Shepherd State Teachers college—Acct. No. 324	32, 59
State board of education—Acct. No. 700	24
State board of education (rehabilitation)—Acct. No. 702	24
State board of education (vocational)—Acct. No. 701	24
Storer college—Acct. No. 330	33
West Virginia historical society—Acct. No. 351	34
West Virginia Institute of Technology—Acct. No. 327	32
West Liberty State Teachers college—Acct. No. 323	31
West Virginia library commission—Acct. No. 350	34
West Virginia schools for colored deaf and blind—Acct. No. 334	34
West Virginia schools for deaf and blind—Acct. No. 333	33
West Virginia State college—Acct. No. 328	33
West Virginia university—Acct. No. 300	27
West Virginia university (agricultural, etc.)—Acct. No. 302	28
West Virginia university (agricultural experiment station)—Acct. No. 310	28
West Virginia university (experiment farm)—Acct. No. 311	29
West Virginia university (extension division)—Acct. No. 305	28
West Virginia university (Inwood apple packing plant)—Acct. No. 313	29
West Virginia university (Jackson's Mill)—Acct. No. 303	28
West Virginia university (mining and industrial)—Acct. No. 301	27
West Virginia university (Oglebay institute)—Acct. No. 304	28
West Virginia university (Potomac State school)—Acct. No. 315	30, 59
West Virginia university (Reymann memorial farm)—Acct. No. 312	29
West Virginia university (to increase agricultural program)—Acct. No. 314	29

EXECUTIVE

Governor's office—Acct. No. 120	18, 57
Parole and probation investigation and supervision—Acct. No. 123	19
CUSTODIAL AND SERVICE	
Capitol building and grounds—Acct. No. 270	23
Central mailing office—Acct. No. 280	23
Purchasing department—Acct. No. 290	23

FISCAL

Auditor's office—Acct. No. 150	19
Auditor's office (land department)—Acct. No. 704	19
Board of control—Acct. No. 190	21
Director of the budget—Acct. No. 210	21
Sinking fund commission—Acct. No. 170	20
Tax commissioner—Acct. No. 180	20
Tax commissioner (gasoline department)—Acct. No. 871	21
Treasurer's office—Acct. No. 160	20

APPROPRIATIONS (Continued):

PAGE

INCORPORATING AND RECORDING

Permanent registration—Acct. No. 255	22
Secretary of state—Acct. No. 250	22, 57

LEGAL

Attorney general—Acct. No. 240	21
Commission on uniform state laws—Acct. No. 245	22
Court of claims—Acct. No. 243	22

HEALTH AND WELFARE

Barbers and beauticians—Acct. No. 402	38
Berkeley Springs sanitarium—Acct. No. 436	43
Bureau of Negro welfare and statistics—Acct. No. 403	39
Denmar sanitarium—Acct. No. 432	42
Department of public assistance—Acct. No. 641	38
Fairmont emergency hospital—Acct. No. 425	41
Health department and public health council—Acct. No. 400	38, 59
Hopemont sanitarium—Acct. No. 430	42
Huntington state hospital—Acct. No. 422	40, 60
Lakin state hospital—Acct. No. 423	40
McKendree emergency hospital—Acct. No. 424	41, 60
Morris Memorial hospital—Acct. No. 434	43
Pinecrest sanitarium—Acct. No. 431	42
Spencer state hospital—Acct. No. 421	40
Tuberculosis field clinics—Acct. No. 435	42
Water commission—Acct. No. 401	38
Welch emergency hospital—Acct. No. 426	41
Weston state hospital—Acct. No. 420	40

HIGHWAYS

Road commission (administration and engineering)—Acct. No. 670	48
Road commission (secondary roads)—Acct. No. 6406	48

JUDICIAL

Circuit courts—Acct. No. 111	17, 57
Compensation of special judges—Acct. No. 113	17, 57
Criminal charges—Acct. No. 119	18
Judicial council—Acct. No. 118	18
State law library—Acct. No. 114	18
Supreme court of appeals—Acct. No. 110	17

LEGISLATIVE

House of Delegates—Acct. No. 102	15
Joint expenses—Acct. No. 103	16
Senate—Acct. No. 101	13

MISCELLANEOUS BOARDS

Athletic commission—Acct. No. 6017	55
Board of dental examiners—Acct. No. 6045	55
Board of embalmers and funeral directors—Acct. No. 6049	56
Board of examiners for architects—Acct. No. 6069	56
Board of examiners for veterinarians—Acct. No. 6076	57
Board of examiners of accountants—Acct. No. 6007	55
Board of examiners of registered nurses—Acct. No. 6044	55
Board of law examiners—Acct. No. 6005	55
Board of optometry—Acct. No. 6048	56
Board of osteopathy—Acct. No. 6047	56
Board of pharmacy—Acct. No. 6046	56
Board of registration for professional engineers—Acct. No. 6068	56

APPROPRIATIONS (Continued):

PAGE

PROTECTION

Adjutant general; state militia—Acct. No. 580	53
Auditor's office—Fire Marshal—Acct. No. 6605	54
Department of public safety—Acct. No. 570	52, 60
Department of public safety (radio division)—Acct. No. 571	53
Department of public safety (traffic violations)—Acct. No. 6720	53
Fire insurance—Acct. No. 591	55

	SEC.	PAGE
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

	SEC.	PAGE
AYERS, G. T.:		
Reopening compensation case of	1	422
BARBOUR COUNTY COURT:		
Reimbursement of J. N. Forman	1	524
Reimbursement of Roscoe D. Zinn's administrator....	1	525
BELL, BENNIE:		
Reopening compensation case of	1	416
BERKELEY COUNTY BOARD OF EDUCATION:		
Transfer of funds to		
by sheriff	2	526
by state sinking fund commission	1	526
use of	2	527
BOARD OF CONTROL:		
(See West Virginia Board of Control)		88
BOARDS OF EDUCATION, COUNTY:		
(See Free Textbooks)		153
Authorized to employ county director of music.....	13-a	142
Authorized to employ agricultural club agent	32	152
Berkeley County, transfer of funds	1	526
Boone County, to settle claim of James Midkiff	1	527
Clay County, payment from state road commission	1	374
Gilmer County, to settle claim of Rolla Yerkey.....	1	535
Greenbrier County, to settle claim of Mabel Fulwider	1	535
Jefferson County, to settle claim of Mrs. W. P. Engbrecht	1	536
Members		
election, general		
form of ballot	4-a	194
non-partisan	1	188
election, primary		
ballots		
form and contents	12	192
publication and printing	9	191
eligibility	1, 1-a	188
non-partisan nomination	1	188
candidacy		
announcement	5-a	190
certification and posting	8	191
nominees		
determination of	22-a	193
number	22-a	193
number	1	188
term	1-b	189
vacancies	23-a	194
President of, election	1-c	189
Vacancies in	1-b	189
filling	2	189

BOARD OF PUBLIC WORKS:	SEC.	PAGE
(See Appropriations)	7, 39, 58, 71, 74	
(See Securities)		391
(See State Court of Claims)	23	123
BOARD OF SCHOOL FINANCE:		
(See Appropriations, State Department of Education)		58
(See Education)	11-a	159
BOARD OF THE SCHOOL FUND:		
(See School Fund)		355
BOARD, STATE PLANNING:		
(See State Planning Board)		358
BONDS:		
(See County Clerks)		93
(See Department of Public Safety)		387, 389
(See State Road Bonds)		77
Carrying dangerous weapons		
amount of bond	5	131
liability on	5	131
when permitted	5	131
Public indebtedness		
amount	3	86
purposes by political subdivisions	2, 3	85, 86
by municipalities to erect college	2	86
amount	2	86
sale of	2	86
BOONE COUNTY BOARD OF EDUCATION:		
To settle claim of James Midkiff	1	527
BUDGET BILL:		
(See Appropriations)		8
CABELL COUNTY COURT:		
Abandoned public cemeteries, maintenance by	1	528
Public facilities		
authorized to acquire and maintain	1	529
jointly with city of Huntington	1	529
levy for	4	530
board or commission for	2	529
defined	1	529
operation or lease	6	531
outside state	1	529
corporation for	3	530
state law applicable to	5	530
powers of board or corporation	2, 3	530

CARSON, IVAN:	Sec.	PAGE
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

CHILD WELFARE (Continued):		SEC.	PAGE
	standards of child care	3	334
	welfare services administered by	1	332
Foster homes, unsupervised			
	certificate from state department	10	337
	defined	9	337
	records of	11	337
	removal of child from	12	338
	standards of care	10	337
	visits to, by state department	11	337
Juvenile courts			
	circuit and other courts	1	340
	disposition of child by	14	341
neglected children			
	petition to court	1	341
	disposition of	4, 5	342
	hearing on	2	342
	temporary custody	3	342
	Proceedings against child	3	352
	Purpose of chapter	1	332
CIRCUIT COURTS:			
	(See Child Welfare)	1	340
	(See Judicial Circuits)		109
CITY OF HUNTINGTON:			
	(See Cabell County Court)		528
CLAY COUNTY COURT:			
	Repairs to county jail	1	532
	amount of expenditures	2	532
	levy for	1	532
	Repairs to courthouse and grounds	3	533
	amount of expenditures	3	533
	levy for	1	532
CLOCKS:			
	(See Watches and Clocks)		127
CODE AMENDED:			
CH.	ART.	SEC.	PAGE
3	1, 2		(Permanent registration of voters) ... 195
3	4, 5, 6, 7		(Elections)
3	4	6, 8	(Certification of candidacies)
3	4	29	(Nomination by certificates)
3	4, 5		(Non-partisan election of school board members)
3	8	(11-a	(Corrupt practices in elections)..... 184
		(14-20 (new)	
5	3	3	(Assistant attorneys general)
6	2	10-a (new)	(Additional bonds of county clerks).. 93

CODE AMENDED (Continued):

CH.	ART.	SEC.		PAGE
6	11	(new)	(Leave of absence for military service)	292
6	11	(new)	(Preference rating for veterans)	522
7	1	3-a (new)	(Additional powers of county courts)	101
7	1	5, 5(1)- 5(54)	(Duties and salaries of county commissioners)	96
7	5	4	(Payments from county treasury) ...	106
7	6	7	(Assistants and stenographers to prosecuting attorneys)	102
8	3	14	(Municipal registration of voters) ...	231
8	4	10	(Extra-territorial powers of municipalities)	308, 312
8	4	10a-10e (new)	(Repair or demolition of dwellings—home rule charters)	323
8	9	18	(New method of paving liberally construed)	327
8	11	14(new)	(Airports by out-of-state municipalities)	4
8-a	3	5-a (new)	(Independent municipal boards)	325
8-a	3	7	(Home rule charter-elections)	231
9	(1-5 (10, 11		(Public assistance)	343
11	2	5	(Compensation of county assessors) ..	94
11	8	7	(Use of debt levies for current expenses)	518
11	11	4	(Inheritance and transfer taxes)	512
11	12	18	(Exemptions from state license taxes)	509
11	13-b	3	(Rates of personal income tax)	514
11	13-b	44	(Payment of personal income tax)	513
11	14	3	(Gasoline tax)	516
11	15	9	(Exemptions from consumers sales tax)	510
11-a	(new)		(Collection and enforcement of property taxes)	436
12	2	2, 3, 4	(Collection and deposit of state money)	305
12	5	2	(Treasurer custodian of securities) ..	390
13	1	2, 3	(Public bonded indebtedness)	84
13	3	4, 7	(Investments by sinking fund commission)	379
14	2	1-28	(State court of claims)	112
15	2	1	(Supt. department of public safety) ..	389
15	2	2, 3	(Personnel, dept. of public safety) ..	387
15	3	(new)	(State and local councils of defense) ..	294
15	4	(new)	(West Virginia state guard)	287

CODE AMENDED (Continued):

CH.	ART.	SEC.		PAGE
15	2	28	(Pension fund, dept. of public safety)	384
18	2	9	(Teaching Americanism and temperance in schools)	176
18	4	1, 2, 9, 10	(Election, etc., of county superintendents)	149
18	5		(Non-partisan election of school board members)	187
18	5	21	(Free textbooks in schools)	152
18	5	13-a	(County director of instrumental (new) music)	142
18	5	32	(Election, etc., of county superintendents)	149
18	7	2	(Teachers salaries)	173
18	7	23-27-a, 30, 32	(Certification of teachers)	142
18	7-a		(Teachers' retirement system)	159
18	8	5-a (new)	(Compulsory school attendance)	148
18	9	3	(Collection, etc., of school money by sheriff)	107
18	9	5	(Investment of the school fund)	355
18	9-a	5, 11	(Allocation of state aid for schools)	140, 157
18	9-a	5	(Public school finance)	158
18	9-b	11-a (new)	(State aid for schools—attendance adjustments)	159
18	15	1	(West Virginia Institute of Technology)	87
19	7	9 (new)	(Greenbrier valley fair designated as the state fair)	435
19	8	1	(County and home demonstration agents)	1
20	3	10	(Game, birds, fish and frogs)	248
21-a	(1, 2, 4, 5, 6, 9, 10)		(Unemployment compensation)	392
21-a	1-a	(new)	(Unemployment compensation)	412
22	1	7, 9-12	(Mine inspection and rescue work) ..	302
22	6	(new)	(Miners' examining boards)	297
23	4	3	(Workmen's Compensation)	433
28	5-b	15	(Sale of prison-made goods)	330
29	10	(new)	(State planning board)	358
30	6	3-10	(Funeral directors and embalmers) ..	232
31	5	5	(General powers of indemnity companies)	275
32	3	(new)	(Face-amount certificates)	244
33	3	3	(Valuation of life insurance policies)	283
33	3	35 (new)	(Deposit of securities with treasurer by life insurance companies)	274
33	3	35 (new)	(Life insurance contracts by minors)	276

CODE AMENDED (Continued):

CH.	ART.	SEC.		PAGE
33	10	4	(Powers of automobile mutual insurance companies)	277
33	10	14	(Taxable premiums of automobile mutual insurance companies)	282
33	13	4	(Standard provisions of group insurance policies)	279
38	10-a	8	(Liens of federal agencies)	3
44	15	14	(Commitments to veterans administration)	520
48	1	17	(Marriage out of state to evade law)	140
48	4	1-12	(Adoption of minors and adults)	135
49	1-7		(Child welfare)	331
49	7	3	(Child welfare)	352
51	2	(1, 1-h, 1-j, 1-k, 1-x	(Judicial circuits and terms of court)	109
52	1	23, 24	(Allowances to jurors)	285
55	13	(new)	(Uniform declaratory judgment act)	131
60	3	18	(Funds of liquor control commission)	369
60	3	19	(Funds of liquor control commission, distribution to municipalities)	328
61	3	49-a (new)	(Sale of second-hand watches and clocks)	127
61	7	5	(State license to carry weapons)	130
61	10	10	(Pool tickets and chance vouchers)	126
61	11	16	(Sentences for felonies)	124
62	2	5	(Indictment for embezzlement)	128

CODE REPEALED:

3	4	2	(Elections)	217
3	7	13, 23	(Registration of voters)	230, 231
7	1	5	(Duties and salaries of county commissioners)	96
8	3	7	(Registration of voters)	216
9	2, 5	15, 15, 34	(Public assistance)	343
11	9, 10		(Sale of real estate for taxes)	436
12	3	3	(Claims against the state)	112
14	2	1-5	(Claims against the state)	112
18	7	16-22	(Certification of teachers)	142
21-a	5	11	(Unemployment compensation)	392
22	2	52a-52d	(Certificates of experience and qualification for coal miners)	302
33	9		(Annuity contracts)	244
37	3		(Sale of real estate for taxes)	436
47	2	1-a	(Trade-marks on jewelry, etc.)	519
49	7	1	(Child welfare)	331

COMMISSIONER OF AGRICULTURE:	Sec.	PAGE
Director of the state fair	9	436
Member state planning board	2	359
COMMISSIONER OF HEALTH:		
Member Potomac river basin commission	1	365
Member state planning board	2	359
COMMISSIONER OF LABOR:		
Appointment, qualifications, term, salary	2	362
CONSERVATION COMMISSIONER:		
(See County Clerks, Additional Bonds)		93
Member state planning board	2	359
CONSTITUTION, STATE:		
Proposed amendment	1	89
ballot	3	90
election		
certificate of canvassers	4	91
governor to declare result	5	92
joint resolution proposing		589
name	2	90
publication	6	92
submitted to voters	1	89
CONSUMERS SALES TAX:		
Sales exempt from tax	9	510
CONVICTS:		
Sentence for offenses committed in penitentiary	16	125
CORRUPT PRACTICES IN ELECTIONS:		
(See Elections)		184
COUNTY AND HOME DEMONSTRATION AGENTS:		
Employment by county court	1	2
Salaries and expenses, payment	1	2
Selection by farm bureau	1	2
COUNTY CLERKS:		
Additional bond required	10-a	93
amount	10-a	94
by auditor and conservation commissioner	10-a	93
corporate surety	10-a	94
payment of premiums	10-a	94
COUNTY COURTS:		
(See under names of particular counties)		
Appointment of assistant prosecutors, etc.	6	103
Construction of sewers, water works, etc.		
additional powers	3-a	102

COUNTY COURTS (Continued):	SEC.	PAGE
contracts with municipalities	3-a	102
Duties	5	97
Salaries	5-(1)-5(54)	98-101

COUNTY SUPERINTENDENT OF SCHOOLS:

Assistants		
employment by board	32	151
negro assistant, when appointed	32	152
number	32	151
qualifications	32	152
term	32	151
traveling expenses	32	151
Duties	10	150
Election by board of education	1	149
certification to state superintendent	1	150
date	1	150
Health certificate	2	150
Qualifications	2	150
Traveling expenses		
reimbursement, amount	9	150

COUNTY TREASURY:

Orders on, signing	4, 3	106, 108
mechanical or electrical device	4, 3	106, 108
safe keeping of	4, 3	106, 108
unauthorized use of, penalty	4, 3	107, 108

COURT OF CLAIMS:

Attorney general to represent state	11	116
Awards by		
inclusion in budget	23	122
Claims		
fraudulent, penalty	26	124
limitation of time	21	122
under existing appropriation	19	121
under special appropriation	20	121
Clerk		
duties	5, 25	115, 123
Created	4	114
Definitions	2	113
Judges of		
alternates		
number, services, terms	4	114
appointment	4	114
vacancies	4	114
compensation	8	116
oath	9	116
presiding	4	114

COURT OF CLAIMS (Continued):	SEC.	PAGE
qualifications _____	4, 10	114, 116
terms _____	4	114
Jurisdiction _____	13	117
Limitation on powers _____	3, 4, 14	113, 114, 117
Meeting place _____	7	115
Powers _____	12	116
Procedure		
advisory determination _____	18	120
regular _____	16	118
rules of _____	15	118
shortened _____	17	119
Process _____	22	122
aid of circuit court _____	22	122
Purpose _____	1, 4	113, 114
Records _____	24	123
Terms _____	6	115
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		
citation _____	16	135
construction _____	12, 15	134, 135
provisions severable _____	14	134
Attorney general		
when entitled to be heard _____	11	134
Costs _____	10	134
Declaration of right or status		
concerning deeds and wills _____	2	132
contracts, before or after breac'n _____	2, 3	132, 133
trusts and estates _____	4	133
further relief on petition _____	8	133
parties to action _____	11	134
municipalities _____	11	134
powers of court to render _____	1	132
when not restricted _____	5	133

DECLARATORY JUDGMENTS (Continued):		
refusal to render	SEC. 6	PAGE 133
Review of decrees, etc.	7	133
Definition	13	134
Issue of fact, determination	9	134
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
Offices 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

INDEX TO ACTS

673

EDUCATION:	SEC.	PAGE
(See Boards of Education)		187
(See County Superintendents)		149
Schools		
attendance		
adjustments in schedules	11-a	159
when pupil unlawfully absent	5-a	148
prosecution	5-a	149
courses of study	9	176
Americanism and temperance	9	176
state board of education	9	177
to prescribe	9	177
violation, penalty	9	177
free textbooks		
appropriation for	21-c	154
county board may supplement	21-d	156
distribution by state superintendent	21-c	154
separate account	21-d	155
use of, by county board of education	21-d	155, 156
withholding	21-e	157
delivery to and return by teachers	21	153
duties of county superintendent	21	153
purchase by county board of education	21	153
grade and subject preference	21-d	155
used books	21-d	156
replacement by pupil	21	154
rules for care and use		
prescribed by state board of education	21-e	157
to whom furnished	21-a, 21-b	154
state aid to		
allocation to counties by board of finance	11	141
foundation program, computation	5	158
teachers		
certificates		
administrative	27	145
approval of state board	27-a	145
elementary, classes	24	143
fees	31	147
high school, classes	25	144
issuance by state superintendent	23	143
renewals, conditions	30	146
repeal of conflicting acts	32	147
revocation, causes	32	147
valid in both elementary and high schools	26	145
retirement system		
accumulated contributions, disposition of	24	170

EDUCATION (Continued):	SEC.	PAGE
constitutionality	33	173
definitions	3	160
established	1	160
fraudulent statements, penalty	29	172
funds created, defined	18	167
benefit, transfers to	18(c)	168
custodian, bond	19	168
disbursements, manner	19	168
employers' accumulation, pay- ments to	16, 18(b)	166, 168
exemption from taxation, etc.....	30	172
expense	18(e)	168
investment of	20	169
misuse of, penalties	21	169
reserve	18(d)	168
teachers' accumulation contributions to, collection.....	14, 15	165, 166
membership, eligibility	13	165
prior services		
allowance for	26(c)(1)	171
certificates	17	167
pensions, eligibility	22	170
retirement allowance		
amount	26	171
eligibility for	25	171
interest on	27	172
options to beneficiaries	28	172
request for	25	171
supplemental benefits	2	160
teachers' retirement board		
attorney general legal adviser to....	8	163
compensation	6	163
gifts and bequests to	18(d)	168
meetings	9	163
members	5	163
powers	4	162
quorum	7	163
records	11	164
reports by	12	164
secretary and other employees	10	164
terms	5	163
vacancies	5	163
withdrawal and death benefits	23	170
unexpended prior appropriations	31	172
salaries		
advanced	2(b)	174
credit for military service, etc.....	2	175
basic	2(a)	174

EDUCATION (Continued):	SEC.	PAGE
colored teachers	2	175
uniform	2	175
EIGHTH JUDICIAL CIRCUIT:		
Terms of court	1-h	111
ELECTIONS:		
(See Boards of Education)		187
(See Registration of voters)		195, 216
Absentees, voting by		
canvass of ballots	10	229
challenge	10	230
notice to voter	10	230
Announcement of candidacy		
certification and posting	8	179, 191
form	8	180, 191
time	8	179, 191
filing, place and time	6	179
form	6	178
Applicability of chapter	1	195
Ballot boxes	12	222
examination	16	224
number	13	223
Ballots and supplies		
clerk of county court to provide	12	222
delivery to commissioner	13	222
per diem and mileage	13	223
receipt for	13	223
unvoted, destruction	29	228
Challenges at polls		
by receiving board	17-a	220
malicious or frivolous	12-b	230
permitted to vote	25-a	227
counting ballot	31-a	228
record of	19-a	227
removal	19-a	227
Corrupt practices in		
campaign expenditures, limitation	16	185
exceeding, penalty	11-a, 16	184, 186
contributions		
by state contractors, penalty	17	186
limitations	16	185
exceeding, penalty	16	185
soliciting		
by state contractors, penalty	17	186
non-elective state employees, penalty ..	14	185
voluntary, by state employees	14	185
definitions	18	186

ELECTIONS (Continued):	SEC.	PAGE
destruction of affidavits, etc.	39	228
intimidation of state employees, penalty.....	14	185
penalties, to whom apply	19	187
promise of employment or benefits, penalty.....	15	185
under existing laws	20	187
Municipalities		
home rule charter		
elections	7	231
date	7	231
provisions for	7	231
ordinances concerning registration	14	231
registration record		
delivery and return	13-a	223
in contested elections	13-a	223
receipts	13-a	223
replacement	13-a	223
Nomination by certificate		
canvassers for signatures		
credentials, form	29(d)	182
record of	29(b)	181
qualifications	29(b)	181
certificates		
ascertaining validity	29(e)	183
form	29(d)	182
declaration of candidate	29	180
penalties	29(f)	183
signers		
ineligible to vote in primary	29(c)	182
number and qualifications	29(c)	182
Polls		
challenges at	17-a	220
closing, manner and time	16	224
fraudulent conduct of officers	12-a	230
opening, manner and time	16	224
Primary		
ballots and supplies		
delivery to commissioner	13	217
by messenger	13	218
per diem and mileage	13	219
number of ballots	13	218
challenges at polls		
by receiving board	17-a	220
permitted to vote	17-b	221
counting ballots	18-a	221
record of	17-c	221
removal	17-c	221

ELECTIONS (Continued):	SEC.	PAGE
municipalities		
precinct registration record	13-a	219
delivery and return	13-a	219
in contested elections	13-a	219
receipts for	13-a	219
replacement	13-a	219
poll books		
delivery	13	218
form	13	218
number	13	218
recount procedure	20-a	221
voting		
method	17	219
minors	1-a	196
record	17-c	221
Voters		
assistance to	21	227
challenge	25, 25-a	227
qualifications	1-a	195
minors, in primary	1-a	196
signing poll book by	19	224
assistance to	19	224
Voting, method	19	224
marking ballot	19	225
record of	19-a	227
when challenged	25-a	227
ELEVENTH JUDICIAL CIRCUIT:		
Terms of court	1-k	111
EMBALMERS AND FUNERAL DIRECTORS:		
Act		
construction	8	243
violation, penalty	8	243
when does not apply	9	243
Board of		
meetings	3	233
notice of	3	233
members		
oath	3	233
per diem and expenses	3	233
officers		
president	3	233
secretary, salary	3	233
treasurer, bond	3	233
powers	3, 8	234, 242
rules and regulations		
publication	7(d)	241
Definitions	4	234

EMBALMERS AND FUNERAL DIRECTORS (Cont'd):	SEC.	PAGE
Delivery of body of deceased		
unauthorized, penalty	8	242
Funeral homes		
branch establishments	5	238
name	5	237
Licenses		
apprentices		
certificate of registration	5	238
credit for compliance	5	238
fee	6	239
refusal, suspension or revocation		
causes for	7	240
defined	4	235
qualifications	5	238
assistant funeral directors	10	244
fee	10	244
qualifications	10	244
renewal	10	244
fee	6	239
embalmers	5	235
qualifications	5	236
expiration date	6	239
fees		
amounts	6	239
deposit and use	6	240
report of, to governor	6	240
unexpended	6	240
funeral directors		
qualifications	5	235
lapsed for one year	6	240
non-assignable	5	237
reciprocal	5	236
renewal	5	238
renewal		
failure, penalty	6	239, 240
fees	6	239
refusal, revocation or suspension		
appeals from	8	242
causes for	7	240
hearings on	8	242
notice of	8	242
required	5	235
separate	5	236
School of instruction		
board to conduct	3	234
duty to attend	3	234
notice of	3	234
purpose	3	234

	SEC.	PAGE
EMBEZZLEMENT:		
Indictment		
acts included	5	129
proof under	5	129
ENGBRECHT, MRS. W. P.:		
Jefferson county board of education to settle claim.....	1	536
ESCHEATED LANDS:		
(See Property Tax)		477
EVASION OF MARRIAGE LAW:		
(See Marriage)		140
FACE-AMOUNT CERTIFICATES:		
Act		
applicability	10	248
provisions severable	11	248
violations, penalty	9	247
Definitions	1	245
Registration	4	246
application for	4	246
additional data	4	246
auditor attorney in fact for nonresident issuer.....	7	247
service of process on	7	247
conditions	4	246
exempt from, when	2	245
expiration date	6	246
fee	5	246
renewal		
application	6	246
time of filing	6	247
fee	6	246
Sale		
after registration	3	245
by registered dealers and salesmen	8	247
FAIR, STATE:		
(See State Fair)		435
FARM BUREAU:		
(See County Agents)		2
FAYETTE COUNTY COURT:		
Authorized to employ stenographer	1	534
FAYETTEVILLE, CITY OF:		
Transfer of funds	1	534
amount	1	534
FEDERAL AGENCIES:		
Lien of chattel deed of trust.....	8	3
extension for ten years	8	3

	SEC.	PAGE
FELONY:		
(See County Treasury)		106, 107
Sentence		
committed by convicts in penitentiary	16	125
indeterminate	16	125
FORFEITED AND DELINQUENT LANDS:		
(See Taxes and Taxation)		443, 476
FORGERY:		
Orders on county treasury		106, 107
FORMAN, J. N.:		
Reimbursement by Barbour county court	1	524
FOUR-H CAMPS:		
(See Mercer County)		545
(See Summers County)		569
(See Wetzel County)		571
FREE TEXTBOOKS:		
(See Education)		152
FROGS:		
Unlawful sale of	10	249
FULWIDER, MABEL:		
Greenbrier county board of education to settle claim	1	535
GAME, BIRDS, FISH AND FROGS:		
Unlawful sale or transportation	10	249
GASOLINE TAX:		
Accrual	3	517
Additional to other taxes	3	517
Amount	3	517
reduction after July 1, 1943	3	517
Discontinuance of business	3	518
accrual of tax	3	518
notice to tax commissioner	3	518
form	3	518
liability when not given	3	518
Lien of	3	517
Measure of	3	517
gallage used but once	3	517
Payment by whom	3	517
Penalties		
accrual	3	517
lien of	3	517
Refund to Osborne Brothers' Mill	1	515
Restricted use (proposed constitutional amendment)	52	89,589

GILMER COUNTY BOARD OF EDUCATION:	SEC.	PAGE
To settle claim of Rolla Yerkey	1	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	1	535
GREENBRIER VALLEY FAIR:		
Designated as "The State Fair of West Virginia"	1	435
GUARD, STATE:		
(See West Virginia State Guard)		287
HAMRICK, PORTIA:		
Road commission to settle claim	1	375
HIGH SCHOOLS:		
Certain, continued	3	109
advisory authority	3	109
levy	3	109
expenditure from	3	109
HILL, LEE, ADMINISTRATOR:		
Road commission to settle claim	1	376
HOME DEMONSTRATION AGENTS:		
Employment by county court	1	1
HOUSING:		
(See Housing Cooperative Law)		250
(See Housing, National Defense)		268
(See Housing Law, State)		254
(See Municipalities)		324

HOUSING COOPERATIVE LAW:	SEC.	PAGE
Act		
citation	1	250
provisions severable	29	267
purpose and necessity	2	250
Definitions	3	251
Loans or donations to housing authority	5	253
by city or county	5	253
reimbursement of loans	5	253
State public bodies		
powers	4	252
additional to existing	8	253
how exercised	6	253
 HOUSING LAW, STATE:		
Definitions	1-a	255
Housing authority		
bonds of		
authority may issue	22	262
forms	23	262
how payable	23	262
how secured	22, 24	262
additional security	22	262
interest rate	23	262
refunding	22	262
resolution authorizing	23	262
sale of	23	262
published notice	23	262
to federal government	23	263
signatures to	23	263
term	23	262
validity	23	263
city and county, created	3	256
commissioners		
appointment	3	258
certificate of	3	258
compensation	3	259
qualifications	3	258
removal	3	259
terms	3	258
if no existing authority	3	257
contracts of		
compliance with federal provisions	7-a	260
wages and hours	7-a	259
default by		
rights of obligee	20	261
farmers, application for project	28	267
housing for	27	267

HOUSING LAW, STATE (Continued):	SEC.	PAGE
joint undertakings by authorities	7-b	260
obligations of, how secured	24	263
obligees of		
actions by		
to appoint receiver	26	266
to enforce contracts	25	265
to enjoin unlawful acts	25	265
possession of project, on default	21, 26	261, 266
receivership	26	266
organization and employees	5	259
duties and compensation	5	259
projects		
possession by obligees	21	261
receiver for	21	261
quorum	5	259
rentals and tenants		
duties of authority	21	261
policy as to rentals	20	260
rates	20	260
selection of tenants	21	261
reports by	12	260
resolution to function	3	257
copy as evidence	3	258
need, determination of	3	257
notice of, to mayor	3	258
on adoption, authority established	3	258
sufficiency	3	258

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
--	-----

HURT, ERNEST:	SEC.	PAGE
Adjutant General to settle claim of	1	353
INCOME TAX, PERSONAL:		
Payment		
corrected return	44(b)	513
date due	44	513
installments	44(b)	513
default, whole amount due	44(b)	514
uncertified check	44(b)	514
Rates of residents	3	515
INDETERMINATE SENTENCE:		
(See Felony)		124
INDICTMENTS:		
(See Embezzlement)		128
INHERITANCE AND TRANSFER TAXES:		
Exemption from	4	512
INSURANCE:		
(See Automobile Mutual Insurance Companies)		278, 283
Group policies		
standard provisions	4(1)	279
other provisions allowable	4(2)	279
Indemnity companies		
general powers	5	275
authority of insurance commissioner	5	276
Life insurance		
minor's contracts validated	35	277
age limit	35	277
beneficiary	35	277
securities, deposit with state treasurer	35	274
certificates for	35	275
interest or dividends	35	275
minimum amount	35	275
substitution or withdrawal	35	275
valuation of policies by commissioner	3	284
standard of	3	284
INSURANCE COMMISSIONER:		
(See Insurance, Deposit of Securities)		275
(See Insurance, Group Policies)		282
(See Insurance, Indemnity Companies)		276
INTERSTATE COMMISSION ON POTOMAC RIVER BASIN:		
Compact executed by governor	1	364
when effective	1	368
withdrawal from	1	368
Expenses		
appropriation for	2	368

INTERSTATE COMMISSION ON POTOMAC RIVER BASIN (Cont'd):

Members	SEC.	PAGE
appointment of two by governor	1	364
commissioner of health, ex officio	1	364
delegation of power	1	364
successor	1	365
reimbursement	2	363
removal by governor	1	364
terms	1	364
beginning date	1	365
Meetings	2	369
Organization	2	369

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
---	--	-----

LEWIS COUNTY COURT:	SEC.	PAGE
Authorized to purchase fire-fighting equipment.....	1	537
LIENS:		
(See Federal Agencies)		3
LICENSE TAXES:		
(See Taxes and Taxation)		509
Entertainments exempt	18	510
LIQUOR CONTROL COMMISSION:		
Funds of		
operating, use of	18(1)	370
amount	19	329
reserve fund, use of	18(1)	370
amount	19	329
investment	18(1)	370
transfer to operating fund	18(1)	370
special	19	329
amount	19	329
apportioned among municipalities.....	19	329
on basis of population.....	19	329
distributed quarterly	19	329
LOGAN COUNTY BOARD OF EDUCATION:		
(See Logan County Court)	6	540
LOGAN COUNTY COURT:		
Parks and recreational centers		
authorized to create	1	539
bonds for		
amount, maximum	2	539
election, after request by board.....	9	543
issuance and sale	2	539
levy estimate for	4	540
contributions for, by		
Logan county board of education	6	540
municipalities	5	540
annual levy estimate	5	540
expenditures, made after approval by board....	8, 10	543
estimates by board	11	543
purposes	11	544
land for, acquired by		
gift, lease, purchase or eminent domain.....	1	538
levies for	3	539
after request by board	9	543
estimate		
by board	9	543
by county court	4	540
location	1	539

LOGAN COUNTY COURT (Continued):	SEC.	PAGE
park board		
body corporate	7	540
charges collected by	13	544
bond of custodian	13	545
property of county court	13	544
limitation on expenditures by	12	544
members		
appointment	7	540
meetings	7(e)	542
nominating committee	7(e)	541
number	7	540
oath	7(d)	542
qualifications	7(a)	541
terms	7(b)	541
name	7	540
organization	7(f)	542
duties of officers	7(f)	542
quorum	7(f)	542
records submitted to county court	7(f)	542
supervisory authority	8	542
vacancy	7(b)	541
nominations to fill	7(c)	542
rentals from board of education	6	540
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		
salary or wages	3(b)	293

MILITARY SERVICE OF THE U. S. (Continued):		SEC.	PAGE
term of office	3(a)	293	
retroactive to July 1, 1940	4	293	
severable	5	293	
Leave of absence to enter	1	292	
by whom granted	1	293	
persons entitled to	1	293	
reassumption of office or position	1	292	
without prejudice to prior status	1	293	
replacement appointment	2	293	
period of	2	293	
MINES AND MINING:			
Captive coal mine			
term defined	1	299	
Coal miner			
certificate required	1	298	
examination for	5	301	
not transferable	5	301	
without examination, time	1, 2	298, 299	
term defined	1	299	
Coal miners' examining board			
act			
rules and regulations under	7	302	
violation, penalty	8	302	
appointment	2	299	
certificates issued by	1, 5	298, 301	
effect of	5	301	
experience required	5	301	
refusal or granting	6	301	
appeal to circuit court	6	301	
signing and sealing	5	301	
examinations by			
applicant in person	5	301	
oath	5	301	
false, deemed perjury	5	301	
character of	5	301	
record of	3	300	
inspection	3	300	
members			
compensation	2	300	
qualifications	2	299	
term	2	299	
number	2	299	
reduction in	2	300	
organization	2	299	
records	2	299	
seal	2	299	

	SEC.	PAGE
MINES AND MINING (Continued):		
Foremen and fire bosses		
allowed apprentices	1	298
eligibility to work as miner	6	302
District and divisions		
inspection	7	303
duties	9	304
number	7	303
reports by	9	304
temporary	7	303
term	7	303
number	9	304
Mine rescue		
crews		
compensation	11	305
removal	11	305
training	11	304
directors		
assignment as	12	305
stations, equipment	10	304
MINORS:		
(See Adoption)		135
(See Insurance)		276
MONEY DUE THE STATE:		
Daily itemized record	2	306
Duty of depositories	4	308
Payment to treasurer	2	306
deposit lists		
by collector	2	307
original and duplicates	2	307
by treasurer	3	307
exceptions	2	306
gross amount collected	2	307
separate accounts	2	307
MONROE COUNTY BOARD OF EDUCATION:		
Conveyances of real estate to	1	557
MORGANTOWN, CITY OF:		
Consolidation of, with		
certain named municipalities	1	547
contiguous unincorporated territory	1	547
effective date	9	549
elections		
ballots, form	5	548
certificates of result	7	548
expenses	6	548
manner of holding	4, 7	548
order for, by county court	3(a)	547

MORGANTOWN, CITY OF (Continued):	SEC.	PAGE
election officials	3(b)	548
registration of voters	3(b)	548
voting places	3(b)	548
order for, by municipalities	2	547
results and effects	8	549
canvass	8	549
merged municipalities	18	554
legal proceedings pending	18	554
officers and employees	13	552
permits and licenses	17	552
rights and properties	14	553
taxes and obligations	15	553
transfer of funds and property	16	554
municipality after consolidation		
charter and ordinances	10	550
councilmen, election	12	552
name	10	550
succession to rights	14	553
wards and election districts	11	550
commission to determine	11	550
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		
erection in state by out of state municipality ...	14	5
distance from state line	14	5
exempt from taxation	14	5
nonprofit use	14	5
right of condemnation	14	5
Buildings in, unfit for human habitation		
demolition or repair		
cost of	10-d	325
ordinances for	10-a	324
enforcement agency	10-b	224
serving and posting orders of	10-e	325
right of appeal	10-e	325
rules of procedure	10-c	325
Financial aid to, from liquor commission		
amount	19	329
distribution		
based on population	19	329
quarterly by state treasurer	19	329

INDEX TO ACTS

691

MUNICIPALITIES (Continued):	SEC.	PAGE
General powers, extra-territorial operation	10	308, 313
Home rule charter		
independent boards for municipal public utilities	5-a	326
conferring of exclusive power to	5-a	327
park commissioners, powers	5-a	327
public library, board of directors		
appointment and financial support.....	5-a	327
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
recording	9	323
when final	9	323
duration of act	12	323
MURRAY, J. E.:		
Appropriation to pay claim of	1	5
NEW RIVER STATE COLLEGE:		
Name changed to West Virginia Institute of		
Technology	1	87
NICHOLAS COUNTY COURT:		
Authorized to erect a jail and addition to courthouse	1	555
contract for, with federal agency	2	556
levy for	1	555
amount	1	556
approval by tax commissioner	1	556
life of	1	556
OHIO COUNTY BOARD OF COMMISSIONERS:		
Reimbursement by, to Wheeling-Ohio county		
airport association	1	556
OSBORNE BROTHERS' MILL:		
Refund of gasoline tax to	1	515

	SEC.	PAGE
PETERSTOWN, TOWN OF:		
Conveyance of real estate by, to Monroe county		
board of education	1	557
PLANNING BOARD:		
(See State Planning Board)		358
POCAHONTAS COUNTY COURT:		
Hospital, erection by		
board of directors		
appointment	1	559
compensation	1	560
contracts of	1	560
approval by county court	1	560
organization	1	560
quorum	1	560
report by	1	561
requisitions on funds	1	560
rules and regulations	1	560
terms	1	559
vacancies	1	559
custodian and assistants	1	560
gifts and bequests for	1	561
levy for		
amount	1	559
proceeds a separate fund	1	559
location	1	559
petition of voters for	1	559
title in county court	1	560
use of		
charges for	1	560
nonresidents	1	561
world war memorial	1	559
POOL TICKETS:		
Pool room defined	10	126
penalty for operating	10	126
Sale of, prohibited	10	126
POTOMAC RIVER:		
(See Interstate Commission, etc.)		363
PRISON-MADE GOODS:		
Sale on open market prohibited	15	330
exception	15	330
penalty	15	331
PROSECUTING ATTORNEYS:		
Appointment of special	6	104
Assistants to		
appointment	6	103
oath	6	103

PROSECUTING ATTORNEYS (Continued):	SEC.	PAGE
removal	6	103
salary	6	103
Stenographers to	6	104, 105
salaries	6	104
PUBLIC ASSISTANCE:		
(See Child Welfare)		329, 352
Aged persons		
agreement by, to reimburse	29	349
lien of	29	349
assignment of life insurance policy	31	350
Amount of	17	349
Blind persons, eligibility for	4	348
County Council		
assistants and employees	10	347
compensation and traveling expenses	10	347
definitions	5	344
director		
appointment	9	347
compensation	9	347
negro assistant	10	347
powers and duties	12	348
traveling expenses	10	347
County funds		
amount	5	350
determination of less	5	350
petition to tax commissioner	5	350
Dependent children, eligibility for	5	349
Records, confidential	16	351
unlawful use	16	351
State advisory board		
powers and duties	12	345
State department of		
assistants and employees		
appointment	8	346
political activities	8	347
definitions	5	344
director		
powers and duties	6	345
PUBLIC INDEBTEDNESS:		
(See Bonds)		84
PUBLIC SERVICE COMMISSION:		
Chairman, member state planning board	2	359
RALEIGH COUNTY COURT:		
Park and recreational centers		
authorized to create	1	562

RALEIGH COUNTY COURT (Continued):	Sec.	PAGE
bonds for		
amount, maximum	2	563
election, after request by board	9	566
issuance and sale	2	563
levy estimate for	4	563
contributions for, by		
municipalities	5	563
annual levy estimate	5	564
Raleigh county board of education	6	564
expenditures, made after approval by board	8, 10	565, 566
estimates by board	11	566
purposes	11	567
land for, acquired by		
gift, lease, purchase or condemnation	1	562
levies for	3	563
after required by board	9	566
estimate		
by board	9	566
by county court	3	563
location	1	563
park board		
body corporate	7	564
charges collected by	13	567
bond of custodian	13	568
property of county court	13	567
limitation on expenditures by	12	567
members		
appointment	7	564
meetings	7(d)	565
number	7	564
oath	7(c)	565
qualifications	7(a)	564
terms	7(b)	564
name	7	564
organization	7(e)	565
duties of officers	7(e)	565
quorum	7(e)	565
records submitted to county court	7(e)	565
supervisory authority	8	565
vacancy	7(b)	564
rentals, from board of education	6	564
 RALEIGH COUNTY CRIMINAL COURT:		
Terms	10	568
 RALEIGH-WYOMING MINING COMPANY:		
Refund to, of unemployment contribution	1	411

RATING OF VETERANS:	Sec.	PAGE
(See Veterans)		522
REGISTRATION OF VOTERS:		
Absentees	24	206
Applicant unable to write	28	207
disability after registration	29	208
statement and affidavit	28	207
Article		
constitutionality	51	215
definitions	2	197
how cited	1	197
purpose	1	197
cancellation of for non-voting	5	199
notice of	5	199
Change of name, re-registration	35	210
Challenge	32	209
by whom	32	209
form	32	209
notice to voter	32	209
failure to appear, effect	32	209
Chapter, scope of	1	195
Clerical assistance		
county court may provide	18	204
Clerk of county court		
appointment of registrars by	16	203
challenges by	32	209
neglect of duty, penalty	45	214
oaths administered by	23	206
precinct, lists, duties	36	210
registration by	26	206
applicant unable to write	28	207
disabled	29	208
cancellation or correction	26	207
unlawful, penalty	44	213
transfers by		
form and oath	33	209
time of	34	213
County court		
appropriations by	42	213
transfer of existing	42	213
hearings by	37	211
appeals to courts	37	211
sessions for hearing	39	212
time of	38	212
powers	15	202
selection of registrars	16	202

REGISTRATION OF VOTERS (Continued):	SEC.	PAGE
Election commission		
appointment	6	199
meetings	11	200
place	10	200
members		
number	6	199
powers, and duties	12	200
qualifications	8	200
terms	7	199
traveling expenses	9	200
office	10	200
vacation of office	8	200
Forms for	21	204
color	21	204
signing under oath	22	206
Initial registration		
additions and corrections	27	207
notice of time and place	27	207
equipment, forms, etc.	41-a	212
appropriation for	41-b	213
purchase of	41-a	213
office hours for	26	207
Interference with, penalty	48	215
Municipalities		
obtaining registration lists	36	210
precincts of, to correspond with county's	10-a	196
records for elections in	19	204
arrangement	19	204
separate file	19	204
Naturalized applicant, method	30	208
child, wife or widow	30	208
Neglect of duty, penalty	45	214
Party affiliation	31	208
refusal to give	31	209
Permanent system of	5	199
cancellation for non-voting	5	199
notice of	5	199
re-registration	5	199
Precinct		
boundaries	40	212
municipal	10-a	196
list of voters		
contents	36	210
furnishing by clerk	36	210
preparation and posting	36	210
re-registration in	41	212
Prerequisite for voting	3	199
Quadrennial check-up	25	206

REGISTRATION OF VOTERS (Continued):	SEC.	PAGE
correction of lists after	27	207
purpose	25	206
time	25	206
Qualification for	4	199
Records		
alphabet file	19	204
inspection	20	204
alteration or removal	46, 19	214, 204
penalty	46	214
corrections	26	207
custody	20	204
destruction, penalty	46, 49	214, 215
disposition of prior	43	213
files	19	204
municipal elections	19	204
Registrars		
appointment by county court	16	202
from another precinct	16	202
number	16	202
request of county chairmen	16	202
preservation	16	203
time	16	202
challenges by	32	209
form and filing	32	209
notice to applicant	32	209
failure to appear, effect	32	209
duties		
initial registration	17, 27	203, 207
neglect of, penalty	45	214
quadrennial check-up	17, 27	203, 207
oath, filing	16	203
power to administer	23	206
qualifications	16	203
salaries		
initial registration	17	203
quadrennial check-up	17	203
withholding	17	203
unlawful registration or rejection		
penalty	44	213
vacancy, filling	16	203
Registration receipts	23-a	206
Re-registration in any precinct	41	212
Rules and regulations	13	201
Secretary of state		
powers and duties	13, 21	201, 204
delegation of	14	202
Transfers	33	209

REGISTRATION OF VOTERS (<i>Continued</i>):	SEC.	PAGE
time of	34	210
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:

HOUSE	PAGE
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. Nell W. Walker, the only woman member of the House	609

RESOLUTIONS (Continued):	SEC.	PAGE
No. 27. Payment of expenses of House Committee on the Penitentiary		609
No. 28. Investigation of conditions at Lakin State Hospital and the Industrial School for Boys		610
No. 29. Congratulating Delegate Cresap on his thirty-fifth wedding anniversary.....		611
No. 30. Raising committee to investigate the Charleston Police Department		612
No. 31. Relating to the teaching of industrial arts		613
No. 32. Relating to an appropriation for the Charleston Colored Children's Shelter		614
No. 33. Concerning the birthday of Delegate Righter.....		615
No. 34. Thanking Inwood Fruit Growers Club for gift of apples		616
No. 35. Requesting legislative correspondents to arrange a Third House.....		617
No. 37. Providing for a special calendar.....		618
No. 38. Memorializing Congress on Coal Stabilization Act		618
No. 39. Memorializing Congress to provide for federal inspection of coal mines		619
No. 40. Regarding legislative furniture and equipment.....		620
No. 41. Concerning the illness to P. G. Cutlip		621
No. 42. Providing for printing of corrected Journals and Bills of the House and the completion of the work of the session.....		622
No. 43. Payment of expenses of delegation to meetings of Council of State Governments		623
No. 44. Concerning the death of the Honorable Carney M. Layne		623
No. 45. Purchase of presents for members of the press and others		624
No. 46. Notifying the Senate that House is ready to adjourn <i>sine die</i>		625

HOUSE CONCURRENT:

No. 1. Raising a joint assembly to open and publish election returns	573
No. 2. Providing a joint assembly to hear the biennial message of the Governor	573
No. 3. Providing for a legislative recess	574
No. 4. Inviting Mrs. Eleanor Roosevelt to address a joint assembly	574
No. 5. Distribution of the Blue Book to public and private schools and to the Boys' state	575
No. 6. Providing for a joint assembly to hear an address by His Excellency, Governor Matthew M. Neely	576
No. 13. Concerning a memorial for Booker T. Washington	576

RESOLUTIONS (Continued):	SEC.	PAGE
No. 17. Relating to the historical significance of American Legion Post No. 1		577
No. 19. Authorizing Conservation Commission to survey and purchase certain lands		578
No. 22. Granting permission to introduce a bill relating to town of Peterstown		579
No. 23. Granting permission to introduce two bills relating to National Guard funds and exemptions from capitation taxes		579
No. 24. Authorizing legislative study of damages on highways of state by financially irresponsible automobile owners and operators		580
No. 25. Granting permission to introduce a bill relating to Nicholas county		581
No. 26. Creating an interim legislative committee		581
No. 27. Concerning the death of the Honorable Homer B. Woods		583
No. 28. Granting permission to introduce two bills relating to funds of Liquor Commission and Workmen's Compensation		584
No. 29. Granting permission to introduce a bill providing for submission of the Good Roads Amendment to the state constitution		585
No. 30. Granting permission to introduce a bill relating to the compensation claim of Ben Ross		585
No. 31. Granting permission to introduce a bill relating to state aid to schools		586
No. 32. Authorizing the printing and distribution of the Acts of the 1941 session		586
No. 33. Raising a joint committee to inform the Governor that the Legislature is ready to adjourn <i>sine die</i>		589

HOUSE JOINT:

No. 6. Proposing Good Roads Amendment to state constitution	589
---	-----

SENATE:

No. 1. Appointment of Committee to inform House that Senate is organized	633
No. 2. Raising committee to inform Governor that the Legislature is organized	633
No. 3. Adopting rules of the Senate	634
No. 4. Concerning illness of Senator Roy Jimison	634
No. 5. Payment for janitor services preparatory to session	634
No. 6. Concerning illness of Senator Earl H. Smith	635
No. 7. Relating to mailing Senate journals and bills	635

RESOLUTIONS (Continued):	SEC.	PAGE
No. 8. Raising a delegation to attend Fifth Interstate Assembly		636
No. 9. Authorizing the appointment of attaches		637
No. 10. Concerning the illness of the Honorable C. Frank Millender		639
No. 11. Relating to appointment of assistant janitors		639
No. 12. Authorizing the appointment of pages		640
No. 13. Payment of salaries of officers and attaches for services preliminary to session		640
No. 14. Concerning the illness of Senator William M. LaFon		642
No. 15. Concerning the death of Frank Hussion		642
No. 16. Amending standing rules of the Senate		643
No. 17. Concerning the death of the Honorable Morris P. Shawkey		645
No. 19. Concerning an appropriation for Charleston Colored Children's Shelter		647
No. 20. Concerning the illness of Senator A. M. Martin		647
No. 24. Authorizing a special calendar		648
No. 25. Concerning the illness of Senator T. E. Bibb		648
No. 26. Relating to the privilege of the floor		649
No. 27. Providing for janitor service after adjournment		649
No. 28. Relating to payment of pages		650
No. 29. Printing of the Journal and completing work of session		650
No. 30. Notifying House that Senate is ready to adjourn <i>sine die</i>		652

SENATE CONCURRENT:

No. 1. Payment of mileage and contingent expenses of session	625
No. 2. Relating to a legislative recess	625
No. 6. Parking space on Capitol grounds for automobiles of members	626
No. 9. Adopting joint rules of Senate and House	626
No. 10. Concerning the death of Senator William M. LaFon	627
No. 15. Requesting the Governor to create a committee to study the state's tax system	628
No. 18. Requesting the state board of education to investigate methods for ascertaining aptitudes and talents of free school pupils	629
No. 20. Authorizing payment of 1939 printing bills	630
No. 21. Relating to state route No. 20 in Wetzel county	631
No. 25. Payment for services and supplies after close of session	632

ROBINSON, E. R.:

Compensation commissioner to reopen case of	1	419
---	---	-----

SAINT ALBANS, CITY OF:	SEC.	PAGE
Compromise by, of unpaid sewer and paving assessments	1	569
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

SHERIFF:	SEC.	PAGE
Collecting and disbursement of school moneys.....	3	108
Payment of money from county treasury.....	4, 3	106, 108
signing orders by mechanical device.....	4, 3	106, 108
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
STATE GEOLOGIST:		
Member state planning board.....	2	359

STATE GUARD:	SEC.	PAGE
(See West Virginia State Guard).....		287
STATE INSURANCE COMMISSIONER:		
(See Face-Amount Certificates).....		245
(See Insurance)	275, 282,	284
Member teachers' retirement board	5	163
STATE MONEYS:		
(See Money Due the State).....		305
STATE PLANNING BOARD:		
Agreements with counties and municipalities.....	9	361
Assistance to, by state agencies	6	360
Chairman designated by governor.....	4	359
Created	1	359
Duties	7	360
Employees	6	360
compensation	6	360
Expenditures	10	362
Hearing on plans.....	8	361
Master plan	7	360
Meetings	5	360
Members		
appointed	1	359
compensation and expenses	4	359
ex officio	2	359
number	1	359
qualifications	2	359
terms	3	359
Offices	5	360
Quorum	5	360
Reports by	11	360
Rules of	6	360
STATE POLICE:		
(See Department of Public Safety)		
STATE ROAD BONDS:		
Amount	1	77
Exchanged, cancellation and preservation.....	2	78
Expenses, payment	13	84
Form	3	79
coupon or registered	1	78
Interest		
coupon, form	4	80
cancellation	8	83
signature on	4	81
rate, maximum	2	78
Interim certificates	12	83
Issuance	1	78

STATE ROAD BONDS (Continued):	SEC.	PAGE
by governor	1	78
restriction on	1	78
Listing by auditor	5	81
Plates property of state	10	83
Proceeds paid into state road fund	9	83
Purpose	1	78
Sale by governor	8	83
minimum price	8	83
State road sinking fund		
investment	6	82
payment of bonds from	6	82
separate account	6	82
sources	6	81
Tax exempt	2	79
Tax levy to pay, when	7	82
Term	1	78
Transfer, when registered	2	78
Unsold		
auditor to be custodian	11	83
Where fee payable	2	78
 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	4	380
bonds		
of political subdivision	4	380
of state or federal government	4	380
purchase price	4	380
substitute paying agent or place	7	380
notice of by publication	7	381
vote necessary to authorize	7	380
vote necessary to authorize	4	380
Return of funds to Berkeley county board of edu- cation	1	526
State Road sinking fund		
investment of, by	6	82

STATE SUPERINTENDENT OF FREE SCHOOLS:		
(See Certification of Teachers)	SEC.	PAGE
(See Free Textbooks)		143, 147
Member state planning board	21-c	154
Member teachers' retirement board	2	359
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

TAXES AND TAXATION (Continued):	SEC.	PAGE
by sheriff	4	438
business hours	4	438
commencement	6	438
office at county seat	4	438
commissions	17	442
amount	17	442
discounts	3	438
definitions	1	437
delinquent		
collection		
by distraint	3	443
abatement of distress	4	444
before delinquency	3	443
encumbered property	5	444
from share cropper	3	343
land in more than one county	6	444
by sale	10	446
by suit	2	443
time limitation	2	443
by summary proceedings against another	7	444
application by sheriff	7	444
notice by sheriff	7	445
payment by, credit for	7	445
enforcement of, by sheriff	1	443
dates	3	438
interest on	3	438
lists of		
certification to auditor	14	447
examination by	15	447
return by, for correction	15	447
correction, by county court	14, 15	447
date	11	446
filing with county court	14	447
form	11	446
inclusion in, of taxes paid	12	446
penalty	12	446
irregularities in, effect	16	447
oath to	11	446
omissions, presumption of payment	17	448
publication and posting	13	447
charges added	13	447
recordation by clerk	14	447
changes and notations	18	448
payment by sheriff before collection		
remedies	9	445
subrogation, when right of, lost	9	445
redemption before sale	18	448

TAXES AND TAXATION (Continued):	SEC.	PAGE
duplicate receipt	18	448
lien, redeemed for another	18	448
undivided interest	18	448
vendee in possession without deed	8	445
liability of, for taxes	8	445
levies		
sheriff charged with	16	442
yearly settlement	16	442
lien on real property	2	437
payment		
co-owner or other interested party	9	439
group assessment	9	440
separate assessment	9	440
subrogation to lien	9	440
how preserved	9	440
fiduciary, refund from estate	11	441
installments	3	438
notice of time and place	8	439
form	8	439
posting	8	439
failure, penalty	8	439
publication	8	439
failure, penalty	8	439
part owner, when assessed to another	10	440
assessment split	10	440
new tax bills	10	440
certificates from assessor and clerk	10	440
receipt for	12	441
form	12	441
personal signatures	12	441
sheriff to pay		
municipal treasurer	15	442
bond	15	442
premium payment	15	442
dates	15	442
interest	15	442
state treasury	14	441
dates	14	441
interest	14	441
sale of land for taxes		
by sheriff, date	4	451
deed for		
commissioner	26	467, 468
costs	26	466
prerequisites to securing	20	461
survey or report	21	462
when part of tract purchased	22	462
failure to execute	26	466

TAXES AND TAXATION (Continued):	SEC.	PAGE
petition to circuit court.....	26	466
hearing on	26	466
order	26	466
parties	33	470
revesting title	33	470
fee	25	466
form	25	465
one or more.....	27	468
recordation	25	466
setting aside		
improperly obtained	31	469
in part	30	469
lack of notice.....	32	470
taxes paid before sale.....	30	469
time of making	25	466
delinquent lists		
publication and posting, second.....	2	450, 451
duties of officers		
failure to perform, penalty.....	42	475
legislative purpose and policy.....	1	449
lists of, by sheriff.....	36	472
amendment or correction.....	40	474
petition to county court.....	40	474
notice of	40	474
order on	40	474
substitution of amended list.....	40	474
copy to auditor.....	40	474
form	36	472
publication and posting.....	41	474
charges added	41	475
form	41	475
payment of costs.....	41	475
return to clerk.....	38	473
copy to auditor.....	38	473
duties of clerk	38	473
failure to make, penalty.....	39	474
mandamus	39	474
notice of	2	451
form	2	451
publication and posting	2	451
charges added	2	451
proceeds, accounting for	37	473
presumption of redemption	37	473
purchase by		
co-owner, when	16	458
presumption against trust.....	16	458
individual		
receipt	15	458

TAXES AND TAXATION (<i>Continued</i>):	SEC.	PAGE
subsequent tax sales of land pur-		
chased	34	470
rights of purchaser	34	470
sheriff, clerk and deputies forbidden....	16	458
penalty	16	458
voidable	16	458
state	6	452
title acquired	7	452
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
redemptor under disability		
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

TAXES AND TAXATION (Continued):	SEC.	PAGE
second sale	34	470
rights of purchaser	34	471
self protection, lien	17	459
docketing	17	460
preservation	17	460
title acquired	28	468
date	28	468
irregularity, effect	29	469
interest of another	10	454
lien and preservation	10	454
list of, by sheriff	36	472
form	36	472
publication and posting	41	474
charges added	41	475
form	41	475
payment of costs	41	475
return to clerk	38	473
copy to auditor	38	473
duties of clerk	38	473
failure to make, penalty	39	474
mandamus	39	474
report by auditor, to county officials ..	14	457
clerk to file and index	14	457
revaluation and reclassification	11	455
by assessor	11	455
certification to auditor	11	456
rule for	11	455
submitted to county court	11	455
state purchaser		
amounts to be paid	8	452
computation of, by auditor	8	453
certificate from auditor	9	454
fees	9	454
disposition of	9	454
form	9	454
original and copies	9	454
recording by county clerk ..	9	454
partial redemption	8	453
amount	8	453
who may redeem	8	452
suspensions from	5	452
list of, by sheriff	36	472
form	36	472
sale of land for school fund		
account kept by sheriff		
disbursements	51	507
separate	51	507
administration order, refusal	20	487

TAXES AND TAXATION (Continued):	SEC.	PAGE
procedure on		
in circuit court	20	487
in supreme court	20	487
amount necessary for redemption		
application for reduction	17	485
by deputy commissioner	17	485
by interested party	17	485
procedure on	19	486
computation of	54	509
auditor		
duty to enforce act	4	478
land department, operating fund	7	479
disbursement	7	479
sources	7	479
record of delinquent lands	6	479
form	6	479
prima facie evidence	6	479
state commissioner of forfeited and de-		
linquent lands	4	477
costs		
circuit court	15	484
court order book, separate	15	484
deed to purchaser by deputy commissioner		
conclusive evidence of title	43	504
costs paid	41	503
fee	41	503
form	41	502
public land corporation, no deed re-		
quired	42	503
recordation	41	503
examination before	41	503
setting aside by suit		
decree	48	506
extent	45	505
grounds	45-47	504, 505
parties	45-48	504-506
payments required	46, 47	505, 506
revesting title	48	506
time limitation	46, 47	505, 506
deputy commissioners		
annual report to auditor	50	507
corrections	50	507
failure to make, penalty	50	507
appointment by auditor	5	478
bonds, amount and premium payment ..	5	479
certificate of redemption issued		
by	10, 11, 28, 481, 482, 491	479
compensation	5	

TAXES AND TAXATION (<i>Continued</i>):	SEC.	PAGE
county agent for auditor	5	478
deed from	41	502
notice to redeem	35	495
purchase by, forbidden	24	489
qualifications	5	478
redemption from	10	481
reports to, by county officials	8	480
sent to auditor	8	480
sale by	21	488
application for order	14	483
notice of	21	488
purchase by, for public land corporation	23	489
report of	21	488
setting aside, notice to	30	500
tenure of office	5	478
duties of officers		
failure, penalty	53	508
escheated lands, surplus proceeds		
to creditor of former owner	26	490
forfeiture for non-entry	2	477
after five years	2	477
former sales confirmed	52	508
lands subject to	3	477
list certified to circuit court by auditor	9	480
form	9	480
original and copies, disposition of	9	481
legislative purpose	1	477
operating fund for land department	7	479
pending suits dismissed	52	507
record of delinquent lands	6	479
redemption		
after sale to individual	27	490
payment to purchaser, amount	27	490
receipts, for	27	490
disposition of	27	491
failure to give, penalty	27	491
after sale to public land corporation		
payment to sheriff, amount	28	491
certificate of redemption	28	491
report to clerk of circuit court	28	492
before sale		
application to deputy commissioner	10	481
certificate of redemption and copies	11	482
disposition of	11	482
computation of amount required	10	481
payment to sheriff	10	481

TAXES AND TAXATION (Continued):	SEC.	PAGE
partial, not allowed	10	482
revaluation and reclassification ...	13	483
certified to deputy commis-		
sioner	13	483
by payment to clerk circuit court.....	30	492
contest of right	31	492
cancellation of redemption ...	31	492
return of payment.....	31	492
confirmation of redemption....	31	493
payment to purchaser.....	31	493
notice of, service	31	493
insufficient amount		
determination by court.....	31	493
interest of another	12	482
lien and preservation	12	482
notice to redeem		
compelling clerk to prepare and		
serve	35	495
hearing on application for		
order	35	496
petition for review	35	496
to individual purchaser, form	36	496
fee	36	497
to public land corporation,		
form	37	497
fee	37	498
service of		
cost	38	500
manner	38	499
parties	38	499
persons under disability		
amount of payment	49	506
payment of taxes, when required .	49	506
time limitation	49	506
sale		
confirmation		
application for	40	501
failure to make, effect.....	40	501
procedure	40	501
refusal	40	501
hearing on	40	501
petition for review.....	40	501
procedure	40	501
terminates right to redeem.....	40	501
to individual purchaser or assignee		
escheated lands	32	494
forfeited or delinquent lands...	32	494

TAXES AND TAXATION (Continued):	SEC.	PAGE
to public land corporation		
escheated lands	33	495
fee of deputy commissioner...	33	495
forfeited or delinquent lands..	33	494
co-owner may purchase, when	24	489
date	14	483
how fixed	14	483
list of lands to be sold	16	484
form	16	484
publication and posting	16	485
cost	16	485
manner of	21	488
continued	21	488
notice of	16	484
form	16	484
publication and posting	16	485
cost	16	485
republishment	19	487
order of		
application for by deputy commis-		
sioner	14	483
failure to make, penalty	14	483
contents	14	483
proceeds of		
disposition	51	507
separate account	51	507
surplus		
to former owner	25	490
to creditors	26	490
to general receiver	25	489
purchase		
by co-owner	24	489
by individual	22	488
receipt	22	488
by officers, forbidden	24	489
penalty	24	489
by public land corporation	23	489
survey or report of, by individual		
purchaser	34	495
filing	34	495
report of, to court	21	488
filing with circuit clerk.....	21	488
resale, individual purchaser	32	494
setting aside		
proceeding for	39	500
notice of	39	500
sheriff to attend	21	488

TAXES AND TAXATION (Continued):	SEC.	PAGE
suspension from		
application for order	18	485
grounds for	18	485
procedure	19	486
quit claim deed	19	487
state commissioner of forfeited and delinquent		
lands	4	477
taxes, interest and charges		
prior to 1929, released	54	508
release of state's title	54	508
title acquired by purchaser	43	504
irregularity, effect on	44	504
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

UNEMPLOYMENT COMPENSATION (<i>Continued</i>):	SEC.	PAGE
prosecution of, by whom.....	13	411
definitions	3	392
director of		
powers and duties.....	6	399
Employee eligible for benefits		
computation of wage credits.....	13	410
disqualification	4	406
maximum total amount.....	13	410
qualifications	1	405
rate		
partial unemployment	11	408
total unemployment	10	407
Employer coverage and responsibility		
accounts		
joint	7(2)	403
separate	7(1)	403
benefits charged to base period em-		
ployees	7(1)	403
duration	2	401
payments	4	403
rate of contribution	5	403
based on experience.....	7(3)	403
decreased by merit rating.....	10	404
refunds	19	404
voluntary coverage	3	402
waiting period construed.....	2	405
Limitation on contributions.....	1	413
Refund to Raleigh-Wyoming Mining company.....	1	412
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		
by county court, when.....	14	521
notice to veteran.....	14	521
by court of another state, effect.....	14	521
by transfer from state institution by superin-		
tendent	14	522
effect	14	522
exception	14	522
notice to committing court	14	522
powers of chief officer of facility	14	521
Preference rating on examinations.....	1	523
percentage	1	523
to whom applies.....	1	523
when effective	1	523

	Sec.	PAGE
WASHINGTON, BOOKER T.:		
Memorial to		
appropriation	1	7
location	1	7
WATCHES AND CLOCKS:		
Sale of used or rebuilt.....	49-a	127
label required	49-a	127
penalty for nonuse of.....	49-a	127
WEAPONS, DANGEROUS:		
(See Bonds)		130
WELFARE LAW:		
(See Child Welfare).....		331
WEST LIBERTY STATE TEACHERS COLLEGE:		
Duration of act.....	2	88
Sale of real estate of.....	1	88
use of proceeds.....	1	88
WEST UNION, TOWN OF:		
Transfer from sinking fund to general fund.....	1	570
use of	1	570
WEST VIRGINIA BOARD OF CONTROL:		
(See West Liberty State Teachers College).....		88
WEST VIRGINIA INSTITUTE OF TECHNOLOGY:		
Control and supervision of		
educational affairs by state board of education	1	87
financial affairs by state board of control	1	87
instruction offered in	1	87
rules and regulations, approval	1	87
WEST VIRGINIA STATE GUARD:		
Act		
citation	15	291
inconsistent, repealed	14	291
provisions severable	13	291
Additional to national guard.....	1	288
Armories, use of state.....	4	289
Arms and equipment		
from secretary of war.....	4	289
from state	4	289
Arrest, exemption from.....	12(b)	291
Articles of war, application	12(a)	291
Creation by governor.....	1	288
regulations of secretary of war.....	1	288
Enlistment		
disqualification	9	290
civil organization as unit.....	8	290

WEST VIRGINIA STATE GUARD (Continued):	SEC.	PAGE
oath	11	291
term	11	291
Federal service		
individuals, non-exempt from	7	290
organization not subject to	7	290
Fresh pursuit		
by guard beyond state borders	5	289
within state by forces of other states	6	289
Gifts and donations to, prohibited	2	288
How constituted	1	288
Jury service or posse comitatus, exemption from	12(b)	291
Name	1	288
Officers		
disqualification	9	290
oath	10	290
Pay and allowances	3	288
Rules and regulations		
character	2	288
governor to prescribe	2	288
prohibition as to gifts and donations	2	288
Service limited to state	5	289
exception as to fresh pursuit	5	289
Uniformed	1	288
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):	SEC.	PAGE
Medical and other services		
contributions for by employee, when prohibited	3 (c)	435
employer contracts for, when prohibited.....	3 (c)	435
penalties	3 (c)	435
payment for		
filing claim, time.....	3 (b)	434
maximum amount	3 (a)	434
to whom made.....	3 (b)	434
YERKEY, ROLLA:		
Gilmer county board of education to settle claim of	1	535
YOAK, M. C.:		
Department of public safety to settle claim of.....	1	381
ZINN, CHARLES, ADMINISTRATOR:		
Barbour county court to settle claim of.....	1	525

