

ACTS
OF THE
FORTY-SEVENTH
LEGISLATURE
OF
WEST VIRGINIA

REGULAR SESSION
1945

AND
EXTRAORDINARY SESSION

(January 3-7)

1944



FOREWORD

This volume contains all the Acts of the 1945 Regular Session of the Forty-seventh West Virginia Legislature, and the Acts of the Extraordinary Session of (January 3-7) 1944. It also contains all Concurrent and Joint Resolutions as well as all Senate and House Resolutions adopted during these sessions.

The 1945 Regular Session convened on January 10, 1945, and adjourned March 10, 1945, completing its work within the sixty-day constitutional limitation. During the session there was a total of 609 bills introduced in the two legislative bodies. There were 245 Senate Bills and 364 House Bills. The Legislature passed 90 Senate Bills and 89 House Bills.

Of the 179 enactments of the 1945 session, the Governor approved 173, vetoed 1, and permitted 4 to become laws without his approval. The Budget Bill does not require executive action. The act vetoed was H. B. 231, authorizing the County Courts of Cabell and Ohio Counties to Pay County Salaries Semi-monthly. The acts which became laws without the approval of the Governor were H. B. 96, Allowance to Sheriff for Keeping and Feeding Prisoners; H. B. 178, Approval of Disbursements for Raleigh County Recreational Park; H. B. 242, Payment of Damages to Achilles T. Robison for Injuries Inflicted by An Escaped Convict; and S. B. 83, Regulation and Control of Strip Mining.

During the sixty-day session there were 12 Senate Concurrent, 3 Senate Joint and 18 Senate Resolutions offered, of which 8 Senate Concurrent and 17 Senate Resolutions were adopted. Twenty-three House Concurrent, 8 House Joint and 28 House Resolutions were offered, of which 13 House Concurrent, 1 House Joint, and 24 House Resolutions were adopted. The only Joint Resolution adopted by the Legislature was H. J. R. 7, proposing a Forestry Amendment to the State Constitution.

The 1944 Extraordinary Session was convoked for the purpose of enacting legislation to enable persons in military service to vote by absentee ballot. Such a law was enacted and appears as Chapter One of the Acts of that session.

The Advance Copies of the Acts of the 1945 Regular Session were distributed as directed by House Concurrent Resolution No. 26 of that session.

The only free distribution of this volume authorized is to 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.

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



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LEGISLATURE OF WEST VIRGINIA

MEMBERS, OFFICERS AND STANDING COMMITTEES

REGULAR SESSION, 1945

SENATE OFFICERS

President—ARNOLD M. VICKERS, Montgomery.
President Pro Tempore—FRED C. ALLEN, Marlinton.
Clerk—J. HOWARD MYERS, Martinsburg.
Sergeant-at-Arms—EDWARD T. MOLER, Martinsburg.
Doorkeeper—J. H. SMITH, Athens.

District	Name	Address
First.....	*George L. Bambrick (D)..... Wm. A. Hannig (R).....	New Cumberland Elm Grove
Second.....	Theodore M. Bowers (R)..... *Walter F. Burgess (R).....	New Martinsville Glen Dale
Third.....	H. S. Boreman (R)..... *Thomas J. Davis, Sr. (R).....	Parkersburg Harrisville
Fourth.....	R. F. Musgrave (R)..... *Harlan Staats (R).....	Winfield Ripley
Fifth.....	*C. H. McKown (D)..... Andrew R. Winters (D).....	Wayne Huntington
Sixth.....	W. E. Burchett (D)..... *William Mitchell (D).....	Williamson Welch
Seventh.....	Alney M. Hall (D)..... *Glenn Jackson (D).....	Ramage Logan
Eighth.....	*Charles C. Morris (D)..... John C. Morrison (R).....	Charleston Charleston
Ninth.....	O. D. Hall (D)..... *Ward Wylie (D).....	Beckley Mullens
Tenth.....	Henry S. Ellison, Sr. (D)..... *W. Broughton Johnston (D).....	Union Princeton
Eleventh.....	John W. Bowling (D)..... *Arnold M. Vickers (D).....	W. Sulphur Springs Montgomery
Twelfth.....	*Fred C. Allen (D)..... G. C. Belknap (D).....	Marlinton Sutton
Thirteenth.....	Hardin R. Harmer (R)..... *Floyd D. Boner (D).....	Shinnston Miletus
Fourteenth.....	Don J. Eddy (D)..... *C. Howard Hardesty (D).....	Morgantown Fairmont
Fifteenth.....	*A. L. Reed (R)..... G. O. Young (R).....	Newburg Buckhannon
Sixteenth.....	*Ralph J. Bean (D)..... William P. C. Perry (D).....	Moorefield Charles Town

(D) Democrats.....	21
(R) Republicans.....	11
Total.....	32

(*) Hold-over Senators, elected in 1944, who will be members of the 1947 Legislature.

HOUSE OF DELEGATES

OFFICERS

Speaker—JOHN E. AMOS, Charleston.

Clerk—J. R. ALIFF, Fayetteville.

Sergeant-at-Arms—W. H. DRUMMOND, Clarksburg.

Doorkeeper—CLYDE SLATER, Huntington.

County	Name	Address
Barbour.....	Herman J. Poling (D).....	Philippi
Berkeley.....	Charles R. Beard (R).....	Martinsburg
Boone.....	M. L. Postalwait (D).....	Seth
Braxton.....	*Mrs. Katie B. Johnson (D).....	Sutton
Brooke.....	Francis Freshwater (D).....	Follansbee
Cabell.....	James Brady (D).....	Barboursville
	Mike Casey (D).....	Huntington
	John G. Hudson (D).....	Huntington
	Claude V. Swann (D).....	Huntington
	Henry F. White (D).....	Huntington
Calhoun.....	O. C. Hathaway (R).....	Grantsville
Clay.....	J. Bennie Vaughan (D).....	Prociou
Doddridge.....	F. E. Strickling (R).....	West Union
Fayette.....	Newton T. Cavendish (D).....	Ansted
	Magge McClung (D).....	Fayetteville
	R. L. Matthews (D).....	Montgomery
	Nell W. Walker (D).....	Winona
Gilmer.....	Guy B. Young (D).....	Glenville
Grant.....	Ralph P. Welton (R).....	Petersburg
Greenbrier.....	H. Rodgers McVey (D).....	Alderson
	Mrs. Mary Van Sickler (D).....	Lewisburg
Hampshire.....	William H. Ansel, Jr. (D).....	Springfield
Hancock.....	Robert E. Roach (D).....	New Cumberland
Hardy.....	George C. Trumbo (D).....	Milam
Harrison.....	D. F. Desist (D).....	Clarksburg
	Howard J. James (D).....	Clarksburg
	William R. Sharpe (D).....	Clarksburg
	W. Guy Tetrick (D).....	Clarksburg
Jackson.....	V. Bradford Sayre (R).....	Ripley
Jefferson.....	M. S. R. Moler (D).....	Shepherdstown
Kanawha.....	John E. Amos (D).....	Charleston
	Pat Board, Jr. (D).....	Charleston
	I. L. Cavender (D).....	Charleston
	J. Horner Davis (D).....	Charleston
	Julius A. de Gruyter, Jr. (D).....	Charleston
	Charley Goff (D).....	Charleston
	Frank A. Knight (D).....	So. Charleston
	C. K. Payne, II (D).....	Charleston
Lewis.....	Rush D. Holt (D).....	Weston
Lincoln.....	B. R. Osborne (R).....	Griffiths
Logan.....	Ernest B. Craddock (D).....	Henlawson
	W. E. Flannery (D).....	Man
	Lucien R. Gore (D).....	Logan
Marion.....	Fred L. Doring (D).....	Fairmont
	Clarence L. Hall (D).....	Fairmont
	J. Harper Meredith (D).....	Fairmont

(*) Appointed March 7, 1945, to fill the vacancy caused by the death of her husband, the Honorable John W. Johnson, who died February 26, 1945.

(†) Appointed February 27, 1945, to fill the vacancy caused by the death of her husband, the Honorable Harry L. Van Sickler, who died February 17, 1945.

HOUSE OF DELEGATES

xxiii

County	Name	Address
Marshall	Everett F. Moore (R) Floyd R. Yoho (R)	Moundsville Moundsville
Mason	George A. Rairden (R)	Leon
Mercer	O. H. Ballard (D) A. J. Lubliner (D) Walter Vergil Ross (D)	Princeton Bluefield Bluefield
Mineral	John I. Rogers (R)	Keyser
Mingo	Toney E. Cline (D) Tom O. Curry (D)	War Eagle Delbarton
Monongalia	Arch F. Dawson (D) J. W. Hartigan (R)	Morgantown Morgantown
Monroe	Hobart M. Harvey (R)	Union
Morgan	Ray R. Rice (R)	Berkdey Springs
McDowell	George Evans (D) Julian C. Hansbarger (D) Fleming A. Jones, Jr. (D) E. B. Shannon (D) Roy A. Warden (D)	Jaeger Welch Welch Welch War
Nicholas	O. J. Carroll (D)	Summersville
Ohio	Russell A. Burt (D) William O. Callahan (R) Edward J. Flaccus (R) Wright Hugs (R)	Wheeling Wheeling Wheeling Wheeling
Pendleton	William McCoy (D)	Franklin
Pleasants	J. C. Powell (R)	St. Marys
Pocahontas	June McElwee (D)	Marlinton
Preston	Paul R. Maness (R)	Albright
Putnam	L. O. Jeffries (R)	Red House
Raleigh	B. B. Chambers (D) O. C. Flint (D) John C. Ward (D)	Beckley Beckley Beckley
Randolph	N. T. Downs (D)	Elkins
Ritchie	Robert Morris (R)	Harrisville
Roane	R. L. McCulty (R)	Spencer
Summers	Lyman B. Rodes (D)	Hinton
Taylor	Fred H. Carder (R)	Grafton
Tucker	Cleon W. Raese (R)	Davis
Tyler	Cecil H. Underwood (R)	Josephs Mills
Upshur	Perce J. Ross (R)	Buckhannon
Wayne	Jonah Adkins (D) Emmett G. Staley (D)	Ceredo Wayne
Webster	F. N. Sycamore (D)	Webster Springs
Wetzel	Herbert Schupbach (D)	New Martinsville
Wirt	Roy I. Douglas (R)	Elizabeth, Rt. 4
Wood	Spencer K. Creel (R) Blaine M. Miller (R) Robert Evans Stealey (R)	Parkersburg, Rt. 5 Parkersburg Parkersburg
Wyoming	C. A. Blankenship (D)	Pineville

(D) Democrats..... 65
(R) Republicans..... 29

Total..... 94

STANDING COMMITTEES OF THE SENATE

AGRICULTURE

Messrs. Allen (*Chairman*), Perry, Ellison, Boner, Bowling, Jackson, Harmer, Burgess and Staats.

BANKS AND CORPORATIONS

Messrs. Ellison (*Chairman*), Hall (of Raleigh), Bambrick, Belknap, Allen, Hardesty, Young, Morrison and Boreman.

CLAIMS AND GRIEVANCES

Messrs. Belknap (*Chairman*), Hall (of Boone), Bean, Burchett, Wylie, Morris, Boreman, Bowers and Reed.

COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Mitchell (*Chairman*), Hall (of Raleigh), Hardesty, Wylie, Jackson, Winters, Morrison, Harmer and Boreman.

EDUCATION

Messrs. McKown (*Chairman*), Mitchell, Hardesty, Ellison, Allen, Perry, Morris, Winters, Bambrick, Bowers, Harmer and Boreman.

EXAMINE CLERK'S OFFICE

Messrs. Boner (*Chairman*), Winters and Harmer.

FEDERAL RELATIONS

Messrs. Bambrick (*Chairman*), Johnston, Hall (of Raleigh), Hardesty, Allen, Bean, Bowers, Staats and Musgrave.

FINANCE

Messrs. Hardesty (*Chairman*), Belknap, Perry, Winters, Ellison, Jackson, Morris, Bowling, Allen, Mitchell, McKown, Hall (of Boone), Wylie, Burchett, Hannig, Reed, Bowers, Boreman and Young.

FORESTRY AND CONSERVATION

Messrs. Bowling (*Chairman*), Morris, Jackson, Perry, Allen, Eddy, Mitchell, Bean, Bowers, Hannig and Reed.

FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

Messrs. Bean (*Chairman*), Eddy, Belknap, Burchett, Jackson, Johnston, Davis, Musgrave and Hannig.

INSURANCE

Messrs. Hall (of Raleigh) (*Chairman*), Johnston, Hardesty, Bean, McKown, Bambrick, Young, Davis and Morrison.

INTERSTATE COOPERATION

Messrs. McKown (*Chairman*), Hardesty, Allen, Johnston and Harmer.

JUDICIARY

Messrs. Johnston (*Chairman*), Bambrick, Bean, Boner, Belknap, Burchett, Hall (of Boone), McKown, Hall (of Raleigh), Allen, Mitchell, Bowling, Musgrave, Morrison, Davis, Harmer, Burgess and Staats.

LABOR

Messrs. Winters (*Chairman*), Morris, Boner, Hall (of Boone), Burchett, Hardesty, Staats, Hannig and Bowers.

MEDICINE AND SANITATION

Messrs. Wylie (*Chairman*), Bean (*Vice Chairman*), Allen, Morris, Eddy, Bambrick, Boreman, Staats and Young.

MILITIA

Messrs. Mitchell (*Chairman*), Winters, Jackson, Wylie, Boner, Perry, Burgess, Harmer and Musgrave.

MINES AND MINING

Messrs. Burchett (*Chairman*), Hall (of Boone), Winters, Belknap, Jackson, Hardesty, Morrison, Harmer and Reed.

PENITENTIARY

Messrs. Perry (*Chairman*), Mitchell, McKown, Wylie, Ellison, Hall (of Raleigh), Staats, Reed and Burgess.

PRIVILEGES AND ELECTIONS

Messrs. Hall (of Boone) (*Chairman*), Burchett, McKown, Mitchell, Bean, Bowling, Morrison, Hannig and Young.

PUBLIC BUILDINGS AND HUMANE INSTITUTIONS

Messrs. Hall (of Raleigh) (*Chairman*), Morris, Winters, McKown, Eddy, Burchett, Bowling, Boner, Hall (of Boone), Davis, Staats and Musgrave.

PUBLIC LIBRARY

Messrs. Hall (of Raleigh) (*Chairman*), Ellison, Morris, Wylie, Hardesty, Johnston, Boreman, Musgrave and Reed.

PUBLIC PRINTING

Messrs. Burchett (*Chairman*), Hall (of Raleigh), Boner, Wylie, Eddy, McKown, Hannig, Harmer and Reed.

ROADS AND NAVIGATION

Messrs. Jackson (*Chairman*), Perry, Morris, Boner, Ellison, Winters, Mitchell, Wylie, Bambrick, Allen, Johnston, Burchett, Burgess, Bowers, Hannig, Reed and Musgrave.

RAILROADS

Messrs. Belknap (*Chairman*), Winters, Ellison, Bowling, Bambrick, Bean, Boreman, Davis and Young.

REDISTRICTING

Messrs. Eddy (*Chairman*), Bowling, Ellison, Hall (of Raleigh), Hall (of Boone), Johnston, Bowers, Davis and Staats.

RULES

The President (*ex officio*, *Chairman*), Johnston, Allen, McKown, Bowling, Hardesty, Hannig, Young and Morrison.

TEMPERANCE

Messrs. Perry (*Chairman*), Belknap, Hall (of Boone), Burchett, Mitchell, Bambrick, Hannig, Musgrave and Burgess.

VETERANS' AFFAIRS

Messrs. Allen (*Chairman*), Johnston, Mitchell, Bowling, Perry, Belknap, Morrison, Davis and Burgess.

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE SENATE

The President (*ex officio*, *Chairman*), Johnston and Morrison.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE SENATE

Messrs. Morris (*Chairman*), Boner, Eddy, Perry and Young.

STANDING COMMITTEES OF THE HOUSE OF DELEGATES

AGRICULTURE

Messrs. Trumbo (*Chairman*), Meredith (*Vice Chairman*), Adkins, Ansel, Carroll, Casey, Chambers, Downs, Moler, McCoy, McElwee, McVey, Rodes, Vaughan, Carder, Douglas, Harvey, Sayre, Strickling, Underwood and Welton.

ARTS, SCIENCE AND GENERAL IMPROVEMENTS

Messrs. Shannon (*Chairman*), Adkins (*Vice Chairman*), Board, Cavender, Cavendish, Craddock, Desist, Downs, Maness, Morris and Rogers.

BANKS AND CORPORATIONS

Messrs. Moler (*Chairman*), Staley (of Wayne) (*Vice Chairman*), Ballard, Board, Dawson, Doring, Downs, Hall, Hansbarger, Matthews, Payne, Roach, Tetrick, Ward, White, McCulty, Miller, Moore, Osborne, Ross (of Upshur), Stealey (of Wood) and Underwood.

CLAIMS AND GRIEVANCES

Messrs. Sharpe (*Chairman*), Burt (*Vice Chairman*), Cavendish, Cline, Craddock, Dawson, Flint, Goff, James, Knight, Lubliner, Meredith, Roach, Sycamore, Walker, Young, Carder, Hugus, Raese, Rairden, Strickling and Welton.

COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS

Messrs. Flint (*Chairman*), Doring (*Vice Chairman*), Board, Cavender, Cline, Freshwater, Goff, Hansbarger, Hudson, James, Matthews, McVey, Roach, Swann, Callahan, Carder, Douglas, Hathaway, Hugus, Jeffries, Miller and Stealey (of Wood).

EDUCATION

Messrs. Ward (*Chairman*), Blankenship (*Vice Chairman*), Craddock, Curry, Davis, Freshwater, Goff, Hall, James, Jones, McClung, Postalwait, Roach, Rodes, Schupbach, Vaughan, White, Harvey, Jeffries, Maness, Rice, Ross (of Upshur), Strickling, Underwood and Welton.

ELECTIONS AND PRIVILEGES

Messrs. Lubliner (*Chairman*), Goff (*Vice Chairman*), Ansel, Carroll, Cline, Dawson, Flannery, Freshwater, Jones, McClung, Vaughan, Jeffries, Rice, Strickling and Yoho.

EXECUTIVE OFFICES AND LIBRARY

Messrs. Matthews (*Chairman*), Roach (*Vice Chairman*), Burt, Curry, Goff, Beard, Carder and Creel.

FEDERAL RELATIONS

Messrs. Curry (*Chairman*), Knight (*Vice Chairman*), Jones, Roach, Ross (of Mercer), Schupbach, Sharpe, Hathaway, Maness and Underwood.

FORESTRY AND CONSERVATION

Messrs. McClung (*Chairman*), Trumbo (*Vice Chairman*), Blankenship, Cavendish, Chambers, Cline, Craddock, de Gruyter, Desist, Doring, Evans, Freshwater, Hall, McElwee, Rodes, Sharpe, Beard, Creel, Hartigan, Maness, Morris, Sayre, Underwood and Welton.

FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

Messrs. McCoy (*Chairman*), Young (*Vice Chairman*), Caverder, Flannery, Hansbarger, Holt, Hudson, James, Johnson, Poling, Ross (of Mercer), Sycamore, Tetrick, Warden, Carder, Moore, Powell, Raese, Rairden and Rogers.

GAME AND FISH

Messrs. Knight (*Chairman*), McCoy (*Vice Chairman*), Ansel, Blankenship, de Gruyter, Hall, Lubliner, McClung, Payne, Roach, Schupbach, Shannon, Swann, Sharpe, Trumbo, Beard, Creel, Harvey, Osborne, Rice, Ross (of Upshur), Sayre and Welton.

HUMANE INSTITUTIONS AND PUBLIC BUILDINGS

Messrs. Postalwait (*Chairman*), Downs (*Vice Chairman*), Carroll, Chambers, Curry, de Gruyter, Desist, Evans, McVey, Sharpe, Swann, Tetrick, Mrs. Walker, Messrs. White, Hartigan, Harvey, Maness, McCulty, Ross (of Upshur), Underwood and Yoho.

INSURANCE

Messrs. Ansel (*Chairman*), Cavender (*Vice Chairman*), Ballard, Board, Burt, Chambers, Davis, de Gruyter, Evans, Flint, Holt, Jones, Moler, Callahan, Flaccus, Hathaway, Jeffries, Maness and Miller.

JUDICIARY

Messrs. Davis (*Chairman*), Ansel (*Vice Chairman*), Casey, de Gruyter, Doring, Flannery, James, Jones, Meredith, McCoy, Poling, Ross (of Mercer), Sycamore, Mrs. Walker, Messrs. Young, Callahan, Flaccus, Morris, Moore, Osborne, Ross (of Upshur) and Stealey (of Wood).

LABOR

Mrs. Walker (*Chairman*), Messrs. Meredith (*Vice Chairman*), Adkins, Ansel, Ballard, Board, Casey, Davis, Flint, Freshwater, Johnson Moler, Postalwait, Shannon, Young, Creel, Flaccus, Hathaway, Hugus, Moore, McCully and Powell.

MEDICINE AND SANITATION

Messrs. Evans (*Chairman*), White (*Vice Chairman*), Adkins, Burt, Cavender, Cavendish, Cline, Curry, Dawson, Freshwater, Holt, McClung, Poling, Swann, Trumbo, Vaughan, Mrs. Walker, Messrs. Warden, Beard, Douglas, Hartigan, Rogers, Strickling, Welton and Yoho.

MILITARY AFFAIRS

Messrs. Jones (*Chairman*), Schupbach (*Vice Chairman*), Adkins, Casey, Desist, Downs, Evans, Hudson, Knight, Lubliner, Payne, Rodes, Staley (of Wayne), Sycamore, Vaughan, Creel, McCully, Raese, Rice, Rogers, Ross (of Upshur) and Strickling.

MINES AND MINING

Messrs. Staley (of Wayne) (*Chairman*), Tetrick (*Vice Chairman*), Blankenship, Board, Cavendish, Craddock, Doring, Johnson, Lubliner, Payne, Shannon, Van Sickler, Ward, Warden, Young, Callahan, Hartigan, Maness, Moore, Osborne, Raese and Ross (of Upshur).

PENITENTIARY

Messrs. Schupbach (*Chairman*), Poling (*Vice Chairman*), Brady, Carroll, Casey, Chambers, Craddock, Downs, Flannery, Flint, Jones, McClung, Postalwait, Ross (of Mercer), Shannon, Staley (of Wayne), Swann, Vaughan, Warden, Carder, Osborne, Rice, Ross (of Upshur), Underwood and Yoho.

PRINTING AND CONTINGENT EXPENSES

Messrs. Tetrick (*Chairman*), White (*Vice Chairman*), Ballard, Chambers, Downs, Hall, McVey, Young, Miller, Sayre and Welton.

RAILROADS

Messrs. McElwee (*Chairman*), Hudson (*Vice Chairman*), Ansel, Board, Davis, Hansbarger, Holt, Johnson, Moler, Payne, Sharpe, Staley (of Wayne), Van Sickler, White, Beard, Creel, Flaccus, Harvey, Hugus, Moore, Osborne, Rogers and Stealey (of Wood).

REDISTRICTING

Messrs. Desist (*Chairman*), Poling (*Vice Chairman*), Adkins, Blankenship, Brady, Cavender, Doring, Flannery, Johnson, Matthews, McElwee, McVey, Ross (of Mercer), Shannon, Ward, White, Douglas, Hathaway, Jeffries, Miller, Morris and Rairden.

ROADS

Messrs. Poling (*Chairman*), Flannery (*Vice Chairman*), Board, Brady, Burt, Carroll, Cavendish, Curry, Desist, Goff, Hall, Meredith, McCoy, Rodes, Sharpe, Sycamore, Trumbo, Beard, Carder, Douglas, Flaccus, Jeffries, Raese, Rogers and Sayre.

RULES

Messrs. Amos (*Chairman ex officio*), Davis, Hansbarger, Meredith, Ward, Hugus, Moore and Stealey (of Wood).

STATE BOUNDARIES

Messrs. Payne (*Chairman*), Burt, (*Vice Chairman*), Cavendish, Freshwater, Hansbarger, Trumbo, Flaccus, Hugus and Moore.

TAXATION AND FINANCE

Messrs. Hansbarger (*Chairman*), McElwee (*Vice Chairman*), Ballard, Cline, Holt, Johnson, Knight, Lubliner, Matthews, Moler, McVey, Payne, Schupbach, Swann, Tetrick, Ward, Hartigan, Hathaway, Hugus, Miller, McCulty, Powell and Rairden.

TEMPERANCE

Messrs. Meredith (*Chairman*), Ballard (*Vice Chairman*), Burt, Chambers, Cline, Dawson, Desist, Knight, Matthews, Payne, Postalwait, Vaughan, Mrs. Walker, Messrs. Warden, Beard, Callahan, Maness, Morris, Rairden, Stealey (of Wood) and Yoho.

VETERANS' AFFAIRS

Messrs. Ross (of Mercer) (*Chairman*), Powell (*Vice Chairman*), Ballard, Freshwater, Holt, Jones, Lubliner, Postalwait, Young, Ward, Creel, Douglas, Hartigan, Hugus, McCulty, Miller, Osborne, Raese, Rairden, Rice, Underwood and Yoho.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE HOUSE

Messrs. de Gruyter (*Chairman*), Carroll, Curry, Jeffries and Yoho.

JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE HOUSE

Messrs. Amos (*Speaker*) (*Chairman ex officio*), Davis and Hugus.

HOUSE MEMBERS OF THE COMMISSION ON INTERSTATE COOPERATION

Messrs Knight (*Chairman*), Moler, Schupbach, Osborne and Powell.

LEGISLATIVE INTERIM COMMITTEES

CONSERVATION

Senate Members

ARNOLD M. VICKERS (*President*)
JOHN H. BOWLING
THEODORE M. BOWERS

House Members

JOHN E. AMOS (*Speaker*)
FRANK A. KNIGHT
WRIGHT HUGUS

[For the duties of the Committee on Conservation, See, Item 27, Chapter 11, Page 99 of this volume.]

EDUCATION AND OTHER GOVERNMENTAL PROBLEMS

Senate Members

ARNOLD M. VICKERS (*President*)
C. HOWARD HARDESTY
C. H. MCKOWN
HARDIN R. HARMER
JOHN C. MORRISON

House Members

JOHN E. AMOS (*Speaker*)
JULIAN C. HANSBARGER
JOHN C. WARD
WILLIAM O. CALLAHAN
BLAINE M. MILLER

PUBLIC HEALTH AND RELATED PROBLEMS

Senate Members

ARNOLD M. VICKERS (*President*)
FRED C. ALLEN
GLENN JACKSON
W. BROUGHTON JOHNSTON
H. S. BOREMAN
G. O. YOUNG

House Members

JOHN E. AMOS (*Speaker*)
J. HORNOR DAVIS
FRED L. DORINGER
RUSH D. HOLT
O. C. HATHAWAY
EVERETT F. MOORE

[The President of the Senate and the Speaker of the House of Delegates are co-chairmen of the Interim Committees on Education and Public Health. The Committee on Education was created by Senate Concurrent Resolution No. 6. For text of resolution, giving authority and functions of the committee, See, page 663 of this volume. The Committee on Public Health was created by House Concurrent Resolution No. 4. For text of this resolution, giving authority and duties of the committee, See, page 628 of this volume.]

MEMORIAL TO FOUNDER OF MOTHER'S DAY, ETC.

Senate Members

RALPH J. BEAN
A. L. REED

House Members

J. W. HARTIGAN
FRED H. CARDER
D. F. DESIST

[For the resolution creating the committee to recommend a suitable marker for the birthplace of the founder of Mother's Day, and the location of a suitable memorial, See, House Concurrent Resolution No. 16, page 634 of this volume.]

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1945

REGULAR SESSION

CHAPTER 1

(House Bill No. 156—By Mr. Davis and Mr. Moore, by request)

AN ACT to amend article four, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding a new section thereto to be designated section thirty-one, pertaining to the ascertainment and designation of boundary lines between coterminous land-owners.

[Passed February 23, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 4. Ejectment

Section

31. How boundary line or lines of real estate may be ascertained and established; petition may be filed for that purpose.

Be it enacted by the Legislature of West Virginia:

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

- Section 31. *How Boundary Line or Lines of Real Estate*
2 *May Be Ascertained and Established; Petition May Be*
3 *Filed for That Purpose.*—Any person having a subsisting
4 interest in real estate and a right to its possession, or to
5 the possession of some share, interest or portion thereof,

6 upon petition filed in the court which would have juris-
7 diction in an action of ejectment concerning such real
8 estate, shall have the right to have ascertained and
9 designated by the said court, the true boundary line or
10 lines to such real estate, as to one or more of the co-
11 terminous landowners. Petitioner in his petition shall
12 state whether his interest is in fee, for life, for a term
13 or otherwise, and shall describe with reasonable cer-
14 tainty said real estate and the boundary line or lines
15 thereof which he seeks to establish. A plat showing
16 such real estate and boundary line or lines, filed with
17 the petition, may serve the purposes of such descrip-
18 tion.

19 The petitioner shall make defendants to said petition all
20 persons having a present interest in the boundary line or
21 lines sought to be ascertained and designated, and the
22 case shall be commenced by serving a copy of the petition
23 upon the defendant or defendants. If the petition shall
24 have been served on the defendant or defendants and
25 filed in the clerk's office not less than thirty days pre-
26 ceding the first day of a term of court the case shall be
27 matured for trial at said term. The defendant or defend-
28 ants may file an answer to said petition which shall state
29 the grounds of defense, if any, and the parties shall be
30 deemed to be at issue, which issue shall be the true
31 boundary line or lines of such real estate. The trial
32 shall be conducted as other trials at law, and the same
33 rules of evidence shall apply and the same defenses may
34 be made as in other actions at law. A trial by jury may
35 be waived by consent of the parties, and the case be
36 tried by the court. Counsel for the petitioner shall have
37 the right to open and conclude the argument. The judg-
38 ment of the court shall be recorded in the law order book,
39 and in the current deed book in the office of the clerk of
40 the county court, and indexed in the names of the parties.
41 The judge of the court in term time or vacation may
42 direct such surveys to be made as he may deem necessary.
43 The judgment of the court, unless reversed, shall for-
44 ever settle, determine, and designate the true boundary
45 line or lines in question, and be binding upon the parties,

46 their heirs, devisees, and assigns. The judgment may be
47 enforced in the same manner as a judgment in an action
48 of ejectment. A writ of error from the supreme court
49 of appeals shall lie to such judgment in like manner as
50 in a common law action.

51 In a proceeding under this section, no claim for rents,
52 profits or damages shall be considered.

CHAPTER 2

(Com. Sub. for House Bill No. 29—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section eight, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, relating to the termination or abatement of action for injury upon the death of either party and providing for the survival of action against the personal representative of the wrongdoer.

[Passed February 23, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 7. Actions for Injuries.

Section

8. When action not to abate; survival of action for personal injury against wrongdoer.

Be it enacted by the Legislature of West Virginia:

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

Section 8. *When Action Not to Abate; Survival of Action for Personal Injury Against Wrongdoer.*—Where an
2 action is brought by a person injured for damage caused.
3 by the wrongful act, neglect or default of any person
4 or corporation, and the person injured dies pending the
5 action, the action shall not abate by reason of his death
6 but, his death being suggested, it may be revived in the
7

8 name of his personal representative, and the declaration
9 and other pleadings shall be amended so as to conform
10 to an action under sections five and six of this article,
11 and the case proceeded with as if the action had been
12 brought under said sections. But in such case there shall
13 be but one recovery for the same injury. And any right
14 of action which may hereafter accrue by reason of any
15 injury done to the person of another, and not resulting
16 in death, by the wrongful act, neglect or default of any
17 person, shall survive the death of the wrongdoer and
18 may be enforced against his executor or administrator,
19 either by reviving against such personal representative
20 a suit which may have been brought against the wrong-
21 doer himself in his lifetime, or by bringing an original
22 suit against his personal representative after his death,
23 whether or not the death of the wrongdoer occurred
24 before or after the death of the injured party. Nothing
25 contained in this section shall be construed to extend
26 the time within which an action for any other tort
27 shall be brought, nor to give the right to assign a claim
28 for a tort not otherwise assignable.

CHAPTER 3

(Senate Bill No. 152—By Mr. Mitchell)

AN ACT to amend and reenact sections one, eight and twelve, article fifteen, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to the appointment of committees and guardians of incompetent and minor beneficiaries who have heretofore or who hereafter may receive benefits from the United States or any bureau or agency thereof; and the administration of the assets of such beneficiaries and the accountings of committees and guardians.

[Passed March 7, 1945; in effect from passage. Approved by the Governor.]

Article 15. Veterans' Guardianship and Commitment.

Section

1. Scope of article.

- 8. Settlement of accounts.
- 12. Disbursements.

Be it enacted by the Legislature of West Virginia:

That sections one, eight and twelve, 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 1. *Scope of Article.*—Whenever pursuant to
2 any law of the United States or regulation of any bureau
3 or agency thereof, the appointment of a guardian or com-
4 mittee to act in a fiduciary capacity for any person is
5 required prior to payment of benefits, pensions, compen-
6 sation for service or for any other reason for which pay-
7 ments are due to such person from the government of
8 the United States or any bureau or agency thereof,
9 the United States, or the chief officer of any such bureau
10 or agency of the government, shall be a party in interest
11 in any proceeding for the appointment or removal of a
12 committee or of a guardian or for the removal of the
13 disability of minority or mental incapacity of a ward,
14 or in any suit or other proceeding affecting in any manner
15 the administration by the committee or the guardian of
16 the estate of any ward whose estate includes assets de-
17 rived in whole or in part from benefits heretofore or here-
18 after paid by the United States, or any bureau or agency
19 thereof. Not less than fifteen days prior to the hearing
20 in such matter notice in writing of the time and place
21 thereof shall be given by mail (unless waived in writing)
22 to the office of the United States, or any bureau or agency
23 thereof having jurisdiction in such matters over the area
24 in which any such suit or proceeding is pending.

25 Whenever, pursuant to any law of the United States
26 or regulation of any bureau or agency thereof, it is neces-
27 sary, prior to the payment of benefits, that a committee
28 or guardian be appointed, the appointment may be made
29 in the manner hereinafter provided.

2 Sec. 8. *Settlement of Accounts.*—Every guardian, who
shall receive on account of his ward any moneys from

3 the government of the United States or any agency there-
4 of, shall file with a commissioner of accounts annually,
5 on the anniversary date of the appointment, or within
6 thirty days thereafter, in addition to such other accounts
7 as may be required, a full, true, and accurate account
8 under oath of all moneys so received by him, of all dis-
9 bursements thereof, and showing the balance thereof
10 in his hands at the date of such account and how invested:
11 *Provided*, That in cases where the income received by
12 the committee or guardian does not average annually
13 more than three hundred dollars, the committee or
14 guardian may make his report of account to the com-
15 missioner once in every three years. A true copy of each
16 such account filed with such commissioner of accounts
17 shall be sent by such commissioner of accounts to the
18 office of the bureau or other agency of the government
19 having jurisdiction over the area in which such court is
20 located and from which payments are made. The com-
21 missioner of accounts shall fix a time and place for the
22 hearing on such account not less than fifteen nor more
23 than thirty days from the date of filing same, and notice
24 thereof shall be given by the commissioner of accounts
25 to the aforesaid bureau or other agency of the govern-
26 ment not less than fifteen days prior to the date fixed
27 for the hearing. Notice of such hearing shall in like man-
28 ner be given to the guardian.

Sec. 12. *Disbursements*.—A committee shall not apply
2 any portion of the income or the estate for the support
3 or maintenance of any person other than the ward, the
4 spouse and the minor children of the ward, except upon
5 petition to and prior order of the court after a hearing.
6 A signed duplicate or certified copy of said petition shall
7 be furnished the proper office of the United States or any
8 bureau or agency thereof, and notice of hearing thereon
9 shall be given said office as provided in the case of hearing
10 on a committee's account or other pleading.

CHAPTER 4

(Senate Bill No. 43—By Mr. Ellison, by request)

AN ACT to amend article six, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto three new sections to be known and designated as sections six, seven and eight, relating to investments by fiduciaries and permitting the establishment of common trust funds and investments therein by fiduciaries.

[Passed February 22, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 6. Investments by Fiduciaries.

Section

6. Establishment of common trust funds.
7. Accounting required of fiduciaries as to common trust funds.
8. How act cited; purpose; provisions severable.

Be it enacted by the Legislature of West Virginia:

That article six, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto three new sections to be known as sections six, seven and eight, to read as follows:

Section 6. *Establishment of Common Trust Funds; Investments.*—Any bank or trust company qualified to act as fiduciary in this state may establish common trust funds for the purpose of furnishing, or making available, investments to itself as fiduciary, or to itself and others, as co-fiduciaries, and may, as such fiduciary or co-fiduciary, invest funds which it lawfully holds for investment in interests in such common trust funds, if such investment is not prohibited by the instrument, judgment, decree, or order creating its fiduciary status or relationship, and if, in the case of co-fiduciaries, the bank or trust company procures the consent of its co-fiduciaries to such investment: *Provided, however,* That such common trust funds shall only be invested in securities legal for fiduciary investment under the provisions of section two of this article, and any amendments

17 or reenactments thereof, unless each fiduciary acquiring
18 or holding any interest in any common trust fund, is
19 specifically permitted by an instrument creating the
20 fiduciary status or relationship to invest in securities
21 other than those set forth in subdivisions (a) to (g) of
22 said section two, or any amendments or reenactments
23 thereof.

Sec. 7. *Accounting Required of Fiduciaries as to Com-*
2 *mon Trust Funds.*—Unless ordered by a court of compe-
3 tent jurisdiction, the bank or trust company operating
4 such common trust fund, as provided for in section six of
5 this article, shall not be required to render an accounting
6 with regard to such fund, before any commissioner of
7 accounts, but it may, by application to the circuit court
8 of the county in which is located the principal place of
9 business of said bank or trust company, secure the ap-
10 proval of an accounting in such condition as the court
11 may fix: *Provided, however,* That nothing herein shall be
12 interpreted as relieving any fiduciary acquiring, holding
13 or disposing of an interest in any common trust fund
14 from making an accounting as required by law with
15 respect of such interest.

Sec. 8. *How Act Cited; Purpose; Provisions Severable.*—
2 This act, being said sections six, seven and eight of this
3 article, may be cited as the "Uniform Common Trust Fund
4 Act." It shall be so interpreted and construed as to effectu-
5 ate its general purpose to make uniform the law of those
6 states which have or may hereafter enact it, or similar
7 legislation. It shall apply to a fiduciary relationship, or
8 status, now in existence or hereafter established. If any
9 of its provisions or the application thereof to any person
10 or circumstance be held invalid, such invalidity shall not
11 affect the other provisions or applications which can be
12 given effect without the invalid provision or application,
13 and to this end its provisions are declared to be severable.

CHAPTER 5

(Com. Sub. for Senate Bill No. 168—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section four, chapter four, acts of the Legislature, regular session, one thousand nine hundred thirty-one, relating to the board of aeronautics, the director of aeronautics, administrative and clerical assistants, and prescribing their powers and duties, and providing that said chapter and all acts amendatory thereof be designated article two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 2-a. State Board of Aeronautics.

Section

4. Director of aeronautics, appointment, qualifications, compensation, powers and duties; administrative and other assistants, their powers and duties.

Be it enacted by the Legislature of West Virginia:

That chapter four, acts of the Legislature, regular session, one thousand nine hundred thirty-one, be and the same is hereby designated article two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, and that section four of said article be amended and reenacted to read as follows:

Section 4. *Director of Aeronautics, Appointment, Qualifications, Compensation, Powers and Duties; Administrative and Other Assistants, Their Powers and Duties.*—A director of aeronautics shall be appointed by the board, who shall serve for an indefinite term at the pleasure of the board. He shall be appointed with due regard to his fitness, by aeronautical education and by knowledge of and recent practical experience in aeronautics, for the efficient dispatch of the powers and duties vested in and imposed upon him by this act. He shall hold or have held a federal commercial pilot's license. He shall devote his entire time to the duties of his office as required and pre-

13 scribed by this act, and shall not be actively engaged or
14 employed in any other business, vocation or employment,
15 nor shall he have any pecuniary interest in or any stock
16 in or bonds of any civil aeronautical enterprise. He shall
17 receive such compensation as the board may determine,
18 and shall be reimbursed for all traveling and other ex-
19 penses incurred by him in the discharge of his official
20 duties. The director shall be the executive officer of the
21 board and under its supervision shall administer the
22 provisions of this act and the rules, regulations and orders
23 established thereunder and all other laws of the state
24 relative to aeronautics, but neither the board nor the
25 director shall make or promulgate any rules, regulations
26 or orders applicable to persons engaged in interstate air
27 commerce in contravention of or inconsistent with the
28 rules, regulations or orders of the civil aeronautics board
29 or the civil aeronautics authority of the United States. The
30 director shall attend, but not vote, at all meetings of the
31 board. He shall be in charge of the offices of the board and
32 responsible to the board for the preparation of reports and
33 collection and dissemination of data and other public in-
34 formation relating to aeronautics. At the direction of the
35 board he shall, together with the chairman of the board,
36 execute all contracts entered into by the board which are
37 legally authorized and for which funds are provided in
38 any appropriations act. The board may, by written order
39 filed in its office, delegate to the director any of the
40 powers or duties vested or imposed upon it by this act.
41 Such delegated powers and duties may be exercised by
42 such director in the name of the board. The board may
43 also employ such administrative, engineering, technical
44 and clerical assistants as may be required. The director
45 and such other assistants may, under the supervision of
46 the board, insofar as reasonably possible, offer the engi-
47 neering and other technical services of the board, with-
48 out charge, to any county or municipality in connection
49 with the construction, maintenance or operation, or pro-
50 posed construction, maintenance or operation of any air-
51 port or landing field. The board, the director and such
52 other assistants shall see that the state and federal laws

53 governing aviation and the rules and regulations of the
54 board are carried out. They shall have police powers and
55 may make arrests for the violation of this article, or the
56 rules and regulations of the board.

CHAPTER 6

(Com. Sub. for Senate Bill No. 170—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section one, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, and further to amend said article by adding thereto two new sections to be designated section five-a and section five-b, for the purpose of facilitating the acquisition, construction, management and use of airports and for the advancement of aeronautics; defining aeronautical words, terms and phrases; and authorizing the state and its political subdivisions to lease airports, grounds and portions thereof.

[Passed March 9, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 11. Airports and Avigation.

Section

1. Definitions.
- 5-a. Federal aid.
- 5-b. The state and political subdivisions empowered to lease airports, landing fields and grounds.

Be it enacted by the Legislature of West Virginia:

That section one, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted, and that said article be further amended by adding thereto two new sections to be designated section five-a and section five-b, for the purpose of facilitating the acquisition, construction, management and use of airports and for the advancement of aeronautics, all to read as follows:

- Section 1. *Definitions.*—As used in the statutes of West
2 Virginia, unless the context otherwise requires:

3 (a) "Aeronautics" means transportation by aircraft;
4 the operation, construction, repair, or maintenance of air-
5 craft, aircraft power plants and accessories, including the
6 repair, packing, and maintenance of parachutes; the de-
7 sign, establishment, construction, extension, operation,
8 improvement, repair, or maintenance of airports, re-
9 stricted landing areas, or other air navigation facilities,
10 and air instruction.

11 (b) "Aircraft" means any contrivance now known, or
12 hereafter invented, used or designed for navigation of
13 or flight in the air.

14 (c) "Public aircraft" means an aircraft used exclusively
15 in the service of any government of any state, territory,
16 or possession of the United States, or the District of Col-
17 umbia, but not including any government-owned aircraft
18 engaged in carrying persons or property for commercial
19 purposes.

20 (d) "Civil aircraft" means any aircraft other than a
21 public aircraft.

22 (e) "Airport" means any area of land or water desig-
23 nated and set aside for the landing and taking off of air-
24 craft and utilized or to be utilized, in the interest of the
25 public, for such purposes.

26 (f) "Board" means the West Virginia board of aero-
27 nautics; "state" or "this state" means the state of West
28 Virginia; and "director" means the director of aeronautics
29 of this state.

30 (g) "Restricted area" means any area of land, water,
31 or both, which is used or is made available for the landing
32 and take-off of aircraft, the use of which shall, except in
33 case of emergency, be only as provided from time to time
34 by the board.

35 (h) "Air navigation facility" means any facility other
36 than the one owned or controlled by the federal govern-
37 ment, used in, available for use in, or designed for use in
38 aid of air navigation, including airports, restricted land-
39 ing areas, and any structures, mechanisms, lights, beacons,
40 marks, communicating systems, or other instrumental-
41 ities or devices used or useful as an aid, or constituting an
42 advantage or convenience, to the safe taking-off, naviga-

43 tion, and landing of aircraft, or the safe and efficient
44 operation or maintenance of an airport or restricted land-
45 ing area, and any combination of any or all of such
46 facilities.

47 (i) "Air navigation" or "avigation" means the opera-
48 tion or navigation of aircraft in the air space over this
49 state, or upon any airport or restricted landing area within
50 this state.

51 (j) "Operation of aircraft" or "operate aircraft" means
52 the use of aircraft for the purpose of air navigation, and
53 includes the navigation or piloting of aircraft. Any per-
54 son who causes or authorizes the operation of aircraft,
55 whether with or without the right of legal control (in
56 the capacity of owner, lessee, or otherwise) of the air-
57 craft, shall be deemed to be engaged in the operation of
58 aircraft within the meaning of the statutes of this state.

59 (k) "Airman" means any individual who engages, as
60 the person in command, or as pilot, mechanic, or member
61 of the crew, in the navigation of aircraft while under
62 way and (excepting individuals employed outside the
63 United States, any individual employed by a manu-
64 facturer of aircraft, aircraft engines, propellers, or appli-
65 ances to perform duties as inspector or mechanic in con-
66 nection therewith, and any individual performing inspec-
67 tion or mechanical duties in connection with aircraft
68 owned or operated by him) any individual who is directly
69 in charge of the inspection, maintenance, overhauling, or
70 repair of aircraft engines, propellers, or appliances; and
71 any individual who serves in the capacity of aircraft
72 dispatcher or air-traffic control-tower operator.

73 (l) "Air instructions" means the imparting of aero-
74 nautical information by any aeronautics instructor or in-
75 or by any air school or flying club.

76 (m) "Air school" means any persons engaged in giving,
77 or offering to give, instruction, in aeronautics, either in
78 flying or ground subjects, or both, for or without hire or
79 reward, and advertising, representing, or holding himself
80 out as giving or offering to give such instruction. It does
81 not include any public school or university of this state,
82 or any institution of higher learning duly accredited and
83 approved for carrying on collegiate work.

84 (n) "Aeronautics instructor" means any individual en-
85 gaged in giving instruction, or offering to give instruction,
86 in aeronautics, either in flying or ground subjects, or both,
87 for hire or reward, without advertising such occupation,
88 without calling his facilities an "air school" or anything
89 equivalent thereto, and without employing or using other
90 instructors. It does not include any instructor in any
91 public school or university of this state, or any institution
92 of higher learning duly accredited and approved for
93 carrying on collegiate work, while engaged in his duties
94 as such instructor.

95 (o) "Navigable air space" means air space above the
96 minimum altitudes of flight prescribed by the laws of this
97 state or by regulations of the board consistent therewith.

98 (p) "Political subdivision" means any municipality,
99 city, town, village or county.

100 (q) "Airport protection privileges" means easements
101 through, or other interests in, air space over land or
102 water, interests in airport hazards outside the boundaries
103 of airports or restricted landing areas, and other pro-
104 tection privileges, the acquisition or control of which is
105 necessary to insure safe approaches to the landing areas
106 of airports and restricted landing areas and the safe and
107 efficient operation thereof.

108 (r) "Airport hazard" means any structure, object of
109 natural growth, or use of land, which obstructs the air
110 space required for the flight of aircraft in landing or tak-
111 ing off at any airport or restricted landing area or is
112 otherwise hazardous to such landing or taking off.

113 (s) "Airport hazard area" means any area of land or
114 water upon which an airport hazard might be established
115 if not prevented as provided in this article.

116 (t) "Structure" means any object constructed or in-
117 stalled by men, including, but without limitation, build-
118 ings, towers, smokestacks, and overhead transmission
119 lines.

120 (u) "Tree" means any object of natural growth.

121 (v) "Person" means any individual, firm, co-partner-
122 ship, corporation, company, association, joint stock asso-
123 ciation, or body politic, and includes any trustee, receiver,
124 assignee, or other similar representative thereof.

125 (w) The singular shall include the plural and the plural
126 the singular.

Sec. 5-a. *Federal Aid.*—(a) The board is authorized to
2 cooperate with the government of the United States, and
3 any agency or department thereof, in the acquisition,
4 construction, improvement, maintenance and operation
5 of airports and other air navigation facilities in this state,
6 and is authorized to accept federal aid either outright or
7 by way of matching the same in whole or in part as may
8 be required, and to comply with the provisions of the
9 laws of the United States and any regulations made there-
10 under for the expenditure of federal moneys upon such
11 airports and other navigation facilities.

12 (b) The board is authorized to accept, receive, and
13 receipt for federal moneys and other moneys, either pub-
14 lic or private, for and in behalf of this state, or any
15 county or municipality thereof, for the acquisition, con-
16 struction, improvement, maintenance, and operation of
17 airports and other air navigation facilities, whether such
18 work is to be done by the state or by such county or
19 municipality, or jointly, aided by grants of aid from the
20 United States, upon such terms and conditions as are or
21 may be prescribed by the laws of the United States and
22 any rules or regulations made thereunder, and it is hereby
23 designated as the agency of the state, and is authorized
24 to and may act as agent of any county or munici-
25 pality of this state upon the request of such county or
26 municipality, in accepting, receiving and receipting for
27 such moneys in its behalf for airports or other air navi-
28 gation facility purposes, and in contracting for the ac-
29 quisition, construction, improvement, maintenance, or
30 operation of airports or other air navigation facilities,
31 financed either in whole or in part by federal moneys;
32 and the governing body of any such county or munici-
33 pality is authorized to and may, and the state hereby does,
34 designate the board as its agent for such purposes and to
35 enter into an agreement with it prescribing the terms and
36 conditions of such agency in accordance with federal laws,
37 rules and regulations and with this act. Such moneys as
38 are paid over by the United States government shall be

39 retained by the state or paid over to said counties or
40 municipalities under such terms and conditions as may be
41 imposed by the United States government in making such
42 grants.

43 (c) All contracts for the acquisition, construction, im-
44 provement, maintenance, and operation of airports, or
45 other air navigation facilities made by the board, either
46 as the agent of this state or as the agent of any county or
47 municipality, shall be made pursuant to the laws of this
48 state governing the making of like contracts: *Provided,*
49 *however,* That where the acquisition, construction, im-
50 provements, maintenance, and operation of any airport,
51 landing strip, or other air navigation facility is financed
52 wholly or partially with federal moneys, the board, as
53 agent of the state, a county, or of any municipality there-
54 of, may let contracts in the manner prescribed by the
55 federal authorities, acting under the laws of the United
56 States, and any rules or regulations made thereunder, not-
57 withstanding any other state law to the contrary.

58 (d) All moneys accepted for disbursement by the board
59 pursuant to this section shall be deposited in the state
60 treasury, and, unless otherwise prescribed by the authority
61 from which the money is received, kept in separate funds,
62 designed according to the purposes for which the moneys
63 were made available, and held by the state in trust for
64 such purposes. All such moneys are hereby appropriated
65 for the purposes for which the same were made available,
66 to be expended in accordance with federal laws and regu-
67 lations and with this act. The board is authorized, whether
68 acting for this state or as the agent of any county or mu-
69 nicipality, or when requested by the United States govern-
70 ment or any agency or department thereof, to disburse
71 such moneys for the designated purposes, but this shall not
72 preclude any other authorized method of disbursement.

73 (e) The state and any county, incorporated city, town
74 or village thereof, is authorized to cooperate with the gov-
75 ernment of the United States, and any agency or depart-
76 ment thereof, in the acquisition, construction, improve-
77 ment, maintenance and operation of airports and other
78 air navigation facilities in this state, and authorized to

79 accept federal aid, either by way of outright grant or by
80 matching the same in whole or in part as may be required,
81 and to comply with the provisions of the laws of the
82 United States and any regulations made thereunder for
83 the expenditure of federal moneys upon such airports
84 and other navigation facilities.

Sec. 5-b. *The State and Political Subdivisions Empow-
2 ered to Lease Airports, Landing Fields and Grounds.*—The
3 state, acting through the board, or any county, incorpor-
4 ated city, town or village owning, either severally or
5 jointly with other like governmental units, an airport
6 or landing field and any grounds used or useful in con-
7 nection therewith may severally or jointly lease the same,
8 for use as such airport or landing field and for any other
9 purposes incidental to and not inconsistent therewith, for
10 a term not exceeding thirty years: *Provided, however,*
11 *That no lease shall be executed by such owner or owners*
12 *of any such airport, landing field or grounds unless and*
13 *until such owner or owners shall have given notice by*
14 *publication once a week for two successive weeks in two*
15 *newspapers of opposite politics and of general circulation*
16 *in the territory of the governmental unit or units affected,*
17 *and by publication once a week for two successive weeks*
18 *in such other journal or magazine, or journals or maga-*
19 *zines, as such owner or owners may deem advisable, of*
20 *its or their intent to lease said airport, landing field or*
21 *grounds, which said notice shall accurately describe what*
22 *is proposed to be leased, the purpose or purposes for which*
23 *it may be used and the terms of said lease, and shall state*
24 *the time and place for the public opening of proposals*
25 *for such lease, and shall reserve the right to reject any*
26 *and all proposals. Nothing herein contained, however,*
27 *shall prevent such owner or owners of such airport,*
28 *landing field or grounds from granting or renting landing*
29 *rights for airplanes, hangar space, gasoline storage or*
30 *handling facilities, ticket or general office space, or any*
31 *other facilities or rights in connection with such airport,*
32 *landing field or grounds, covering or affecting less than*
33 *the whole thereof, without notice and upon such terms*
34 *as such owner or owners may deem advisable. All in-*

35 come received by a county court, or incorporated city,
36 town or village, under the terms of any such lease or
37 grant shall be paid to the state sinking fund commis-
38 sion to retire the bonded indebtedness, if any, created for
39 the acquisition, building and construction of such air-
40 port, landing field or grounds. If there be no such out-
41 standing bonded indebtedness, then such income shall be
42 paid into the general fund of such county, incorporated
43 city, town or village.

CHAPTER 7

(House Bill No. 149—By Mr. Hugus and Mr. Burt)

AN ACT to amend and reenact section two, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to the establishment and operation of airports by counties and municipalities, by making provision for the jurisdiction of a county court over any portion of such airport lying outside the territorial boundaries of the county establishing the same.

[Passed March 10, 1945; in effect from passage. Approved by the Governor.]

Article 11. Airports and Avigation.

Section

2. Counties and municipalities may establish and operate airports.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Counties and Municipalities May Establish and Operate Airports.*—Any county, city, town or village, may establish, lease, construct, equip, maintain and operate for such county, city, town or village, an airport or landing field for the use of aeroplanes and other aircraft, and may acquire or lease for such purpose real property within or without such county, or within or outside the

8 corporate limits of such city, town or village, or may set
9 apart and use for such purpose real property owned by
10 the county, city, town or village, which is not needed for
11 any other public use, however such real property was ac-
12 quired. The county court now owning or leasing or here-
13 after acquiring or leasing any real property without the
14 limits of its county for the purpose of constructing and
15 operating an airport or landing field, shall have the same
16 and all jurisdiction over such property, its maintenance
17 and operation, as it has with respect to real property
18 owned or leased and operated by it for airport and land-
19 ing field purposes within the limits of its own county.

CHAPTER 8

(Com. Sub. for House Bill No. 81—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section nine, article six, 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, and as amended and reenacted by chapter fourteen, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, relating to intoxication or drinking in public places, illegal possession of alcoholic liquor, arrests by sheriffs or their deputies for violations thereof committed in their presence, and prescribing penalties.

[Passed February 8, 1945; in effect from passage. Approved by the Governor.]

Article 6. Miscellaneous Provisions.

Section

9. Intoxication or drinking in public places; illegal possession of alcoholic liquors; arrests by sheriffs or their deputies for violation in their presence; penalties.

Be it enacted by the Legislature of West Virginia:

That section nine, article six, 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, and as amended and reenacted by chapter fourteen, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, be amended and reenacted to read as follows:

Section 9. *Intoxication or Drinking in Public Places; Illegal Possession of Alcoholic Liquor; Arrests by Sheriffs or Their Deputies for Violation in Their Presence; Penalties.*—A person shall not:

(1) Appear in a public place in an intoxicated condition;

(2) Drink alcoholic liquor in a public place;

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

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

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

(6) Possess any alcoholic liquor which was manufactured or acquired in violation of the provisions of this chapter.

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

34 The sheriff of any county or his deputy is hereby au-
35 thorized and empowered to arrest and hold in custody,
36 without a warrant, until complaint may be made before a
37 justice and a warrant issued, any person who in the pres-
38 ence of such sheriff or deputy violates any one or more
39 of subsections one to six, both inclusive, of this section.

CHAPTER 9

(House Bill No. 106—By Mr. Hansbarger)

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 enacted by chapter four, acts of the Legislature, regular session, one thousand nine hundred thirty-five, as amended, relating to the operating and reserve funds of the state liquor control commission, providing state aid to municipalities, and disposition of excess receipts of said commission.

[Passed February 15, 1945; in effect from passage. 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 enacted by chapter four, acts of the Legislature, regular session, one thousand nine hundred thirty-five, as amended, be amended and reenacted to read as follows:

Section 19. *Amount of Operating and Reserve Funds; Disposition of Excess; Aid to Municipalities.*—All moneys collected by the commission shall be credited to the operating fund until that fund reaches an amount sufficient for the current and routine requirements of the department, this amount to be fixed by the commission

7 with the approval of the governor, and not to exceed
8 at any time the sum of one million five hundred thou-
9 sand dollars. The receipts in excess of the requirements
10 of the operating fund shall be paid into the reserve fund
11 until the amount of the reserve fund equals three hun-
12 dred fifty thousand dollars.

13 From receipts in excess of the requirements of the op-
14 erating and reserve funds, the sum of fifty thousand
15 dollars shall, upon requisition of the governor, be paid
16 monthly into the state treasury and credited to a special
17 fund to be established for the purpose of state aid to
18 municipalities. The money in such fund shall be ap-
19 portioned by the treasurer among the incorporated muni-
20 cipalities of the state, on the basis of population as shown
21 by the last federal census or by any later census taken
22 by the state of West Virginia, and shall be distributed
23 quarterly by the treasurer upon warrants of the audi-
24 tor. The amount paid to each municipality, as the
25 state's contribution toward the expense of enforcement
26 by the municipality of state laws for the protection of
27 life and property, shall be for the purpose of reimburs-
28 ing the municipality for its expenditures in enforcing
29 such laws.

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

CHAPTER 10

(Com. Sub. for House Bill No. 254—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section fourteen, article five, chapter fifty-eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to appeal bonds.

[Passed March 8, 1945; in effect from passage. Approved by the Governor.]

Article 5. Appellate Relief in Supreme Court of Appeals.

Section

14. Appeal bond.

Be it enacted by the Legislature of West Virginia:

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

Section 14. *Appeal Bond.*—Except when an appeal, writ of error or supersedeas is proper to protect the estate of a decedent, convict or insane person, the same shall not take effect until bond is given by the appellants or petitioners, or one of them, or some other person, in a penalty to be fixed by the court or judge by or in which the appeal, writ of error or supersedeas is allowed or entered with condition: If a supersedeas be awarded, to abide by and perform the judgment, decree or order of affirmation, and to pay to the opposite party, and to any person injured all such costs and damages as they, or either of them, may incur or sustain by reason of said appeal, in case such judgment, decree or order, or such part, be affirmed, or the appeal, writ of error or supersedeas be dismissed, and also, to pay all damages, costs and fees, which may be awarded against or incurred by the appellant or petitioners; and if it be an appeal from an order or decree dissolving an injunction, or dismissing a bill of injunction, with a further condition, to indemnify and save harmless the surety in the injunction bond against loss or damage in consequence of his suretyship; and with condition when no supersedeas is awarded to pay such specific damages, and such costs and fees as may be awarded or incurred: *Provided*, That whenever a writ of error, appeal or supersedeas shall be awarded in any action or suit wherein a judgment or decree for the payment of money has been entered against an insured in an action which is defended by an insurance corporation, or other insurer, on behalf of the insured under a policy of insurance, the limit of liability of which is less than the amount of said judgment, execution on the judgment to the extent of the policy coverage shall be stayed until final determination of such appeal, writ of error or supersedeas, and no execution shall be issued, or action brought, maintained or continued against such insured, insurance cor-

36 poration, or other insurer, for the amount of such judg-
37 ment or decree so stayed, by either the injured party, the
38 insured, or the legal representative, heir or assigns of any
39 of them, during the pendency of such proceeding, pro-
40 vided such insurance corporation, or other insurer, shall:

41 1. File with the clerk of the court in which the judg-
42 ment was entered, a sworn statement of one of its offi-
43 cers, describing the nature of the policy and the amount
44 of coverage thereof;

45 2. Give or cause to be given by the judgment debtor or
46 some other person for him a bond in a penalty to be fixed
47 by the court or judge by or in which the appeal, writ of
48 error or supersedeas is allowed or entered, not to exceed
49 the amount of such insurance coverage set out in the
50 sworn statement above required, with condition to pay
51 the amount of such coverage upon said judgment if the
52 judgment or decree or such part be affirmed or the ap-
53 peal, writ of error or supersedeas be dismissed, plus in-
54 terest on said sum and costs;

55 3. Serve a copy of such sworn statement and bond upon
56 the judgment creditor or his attorney;

57 4. Deliver or mail to the insured at the latest address
58 of the insured appearing upon the records of such in-
59 surance corporation, or other insurer, written notice that
60 execution on such judgment to the extent that it is not
61 covered by such insurance is not stayed in respect to the
62 insured: *Provided further*, That the filing of a bond by the
63 insured or someone for him, conditioned upon the pay-
64 ment of the balance of the judgment or decree and inter-
65 est not stayed by the insured as aforesaid if the judgment
66 or decree be affirmed or the appeal, writ of error or super-
67 sedeas be dismissed, shall stay execution on the balance
68 of said judgment not covered by such insurance: *And*
69 *provided further*, That the filing of such statement and
70 bond hereunder by an insurance corporation or other in-
71 surer shall not thereby make such insurance corporation
72 or other insurer a party to such action, either in the trial
73 court or in the appellate court.

CHAPTER 11

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

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

[Passed March 10, 1945; in effect from passage.]

Title

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

Title 1. General Provisions

Section

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

Be it enacted by the Legislature of West Virginia:

Section 1. *General Policy.*—The purpose of this act is to appropriate the money necessary for economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal years one thousand nine hundred forty-six and one thousand nine hundred forty-seven. To give effect to this purpose, the Board of Public Works shall supervise the fiscal policy, control the assumption of obligations, and regulate the expenditures of the agencies of the state.

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

- 2 "Board" shall mean the board of public works;
- 3 "Spending Unit" shall mean the department, agency, or institution to which an appropriation is made;
- 5 The "fiscal year one thousand nine hundred forty-six" shall mean the period from July first, one thousand nine hundred forty-five, through June thirtieth, one thousand nine hundred forty-six, and the "fiscal year one thousand nine hundred forty-seven" shall mean the period from

10 July first, one thousand nine hundred forty-six, through
11 June thirtieth, one thousand nine hundred forty-seven.

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

24 "Regular teachers" shall include any person holding a
25 teachers' certificate and a continuing contract employed
26 by the county board of education for services in the public
27 schools. "Substitute teachers" shall include any person
28 holding a teacher's certificate without a contract employed
29 by the county board of education to serve in any school
30 during the absence of the regular teacher on account of
31 illness or other legitimate cause.

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 the oper-
7 ating costs other than personal services or capital outlay;

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

11 "Equipment" shall be expended only for things which
12 have an appreciable and calculable period of usefulness in
13 excess of one year. Equipment appropriations are not
14 transferable to other items of appropriation;

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

19 "Lands" shall be expended only for the purchase of
20 lands or interest in lands;

21 Buildings and/or lands appropriations are not trans-
22 ferable to other items of appropriation.

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

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

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

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

Title 2. Appropriations.

Section

1. Governmental appropriations.

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17. 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 thirty-nine, the following amounts, as itemized, for expenditures during the fiscal years one thousand nine hundred forty-six and one thousand nine hundred forty-seven.

LEGISLATIVE

1—Senate

Acct. No. 101

Fiscal Years

	<i>1945-46</i>	<i>1946-47</i>
1 Salaries of Members	\$ 16,000.00	\$ 16,000.00
2 To pay Clerk of the Senate for		
3 compiling and publishing the		
4 West Virginia Blue Book, in-		
5 cluding all expenses incurred		
6 in the employment of contrib-		
7 utors, preparation of matter,		
8 clerical hire, stenographic		
9 services and proofreading,		
10 and the shipping charges in		
11 connection with the distribu-		
12 tion of the Blue Book; which		
13 distribution shall include		
14 seventy-five copies each to		
15 members of the Legislature...	10,000.00	8,000.00
16 To pay cost of printing 1945 and		
17 1946 editions of Blue Book....	32,000.00	32,000.00
18	<i>Fiscal Year 1944-45</i>	
19 Mileage of Members	\$ 741.80	
20 Compensation and per diem of		
21 officers and attaches	50,000.00	
22 Current Expenses and Contin-		
23 gent Fund	100,000.00	
24 Of the last above appropria-		
25 tion, not more than \$12,500.00		
26 shall be expended for the		
27 expenses of the interim com-		
28 mittee raised under House		
29 Concurrent Resolution No. 4,		
30 and \$37,500.00 for the ex-		
31 penses of the interim commit-		
32 tee raised under Senate		
33 Concurrent Resolution No.		
34 6.		
35 The above appropriations for		

36 the fiscal year 1944-45 are to
 37 remain in full force and ef-
 38 fect until the convening of the
 39 regular session of the Legis-
 40 lature, 1947.

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

55 To aid in the discharge of his
 56 duties, the Clerk may expend
 57 for stenographic services a
 58 sum not exceeding \$2,400.00
 59 per annum, and for janitor
 60 services a sum not exceeding
 61 \$1,500 per annum, both pay-
 62 able monthly from the con-
 63 tingent fund of the Senate.

2—House of Delegates

Acct. No. 102

1	Salaries of Members	\$ 48,000.00	\$ 47,000.00
2			<i>Fiscal Year 1944-45</i>
3	Mileage of Members		2,661.00
4	Compensation and per diem of		
5	attaches and officers		63,500.00
6	Contingent Fund (S. C. R. No.		
7	6)		37,500.00
8	Contingent Fund (H. C. R. No.		
9	4)		12,500.00

10 Current Expense and Contin-
11 gent Fund _____

85,000.00

12 The above appropriations for
13 the fiscal year 1944-45 are to
14 remain in full force and ef-
15 fect until the convening of
16 the regular session of the
17 Legislature in 1947.

18 The Clerk of the House of Dele-
19 gates, with the approval of
20 the Speaker of the House, is
21 authorized to draw his requi-
22 sitions upon the Auditor,
23 payable out of the contingent
24 fund, for any bills for sup-
25 plies and services that may
26 have been incurred by the
27 House of Delegates and not
28 included in this appropria-
29 tion bill, for bills for supplies
30 and services incurred after
31 adjournment, the requisition
32 for same to be accompanied
33 by a bill to be filed with the
34 Auditor, but no payment shall
35 be made to attaches under
36 this paragraph.

37 For duties imposed by law and
38 by the House of Delegates,
39 including the salary allowed
40 by law as keeper of the rolls,
41 the Clerk of the House of
42 Delegates shall be paid a
43 monthly salary at the rate of
44 \$5,000.00 per annum, payable
45 from the contingent fund of
46 the House of Delegates, and
47 the Clerk may employ a sec-
48 retary at a salary of not to
49 exceed \$2,000.00 per annum,

50 payable monthly from the
51 same fund.

52 During the sessions of the Leg-
53 islature the Clerk of the
54 House of Delegates shall keep
55 his office open during such
56 hours as the House may di-
57 rect. When the Legislature
58 is not in session the office of
59 the Clerk of the House of
60 Delegates shall be kept open
61 as other public offices in the
62 capitol are kept open.

3—Joint Expenses

Acct. No. 103

1 To pay the cost of legislative		
2 printing and stationery, the		
3 appropriation to be available		
4 for the year ending June		
5 thirtieth, one thousand nine		
6 hundred forty-five. If this		
7 work is not completed prior		
8 to June thirtieth, one thou-		
9 sand nine hundred forty-five,		
10 then the appropriation shall		
11 continue until completed.....\$		75,000.00

JUDICIAL

6—Supreme Court of Appeals

Acct. No. 110

1 Salaries of Judges.....\$	50,000.00	\$	50,000.00
2 Other Personal Services.....	40,630.00		40,630.00
3 Current Expenses	14,000.00		14,000.00
4 Total	\$ 104,630.00	\$	104,630.00

7—Circuit Courts

Acct. No. 111

1 Salaries of Judges of the Cir-		
2 cuit Courts	\$ 165,000.00	\$ 165,000.00

3	Current Expenses	25,000.00	25,000.00
4	Total	\$ 190,000.00	\$ 190,000.00

8—*Compensation of Special Judges*

Acct. No. 113

1	To pay Salaries of Special		
2	Judges, Total	\$ 5,000.00	\$ 5,000.00

9—*State Law Library*

Acct. No. 114

1	Personal Services, including		
2	Salaries of Librarian and As-		
3	sistants	\$ 5,900.00	\$ 5,900.00
4	Current Expenses	700.00	700.00
5	Equipment	5,000.00	5,000.00
6	Total	\$ 11,600.00	\$ 11,600.00

10—*Criminal Charges*

Acct. No. 119

1	Total	\$ 61,500.00	\$ 61,500.00
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11—*The Judicial Council*

Acct. No. 118

1	To pay per diem to Members		
2	and other General Expenses		
3	Total	\$ 2,900.00	\$ 2,900.00

EXECUTIVE

12—*Governor's Office*

Acct. No. 120

1	Salary of Governor	\$ 10,000.00	\$ 10,000.00
2	Other Personal Services, in-		
3	cluding Salaries of Secre-		
4	taries, Stenographers and As-		
5	sistants	20,000.00	20,000.00
6	Civil Contingent and Current		
7	Expenses	10,000.00	10,000.00
8	To be expended upon the order		
9	of the Governor. One hun-		
10	dred dollars annual dues to		

11 the Governors' conference
12 shall be included in this item.
13 Emergency Fund -----\$ 120,000.00 \$ 120,000.00
14 Of this appropriation \$25,000
15 may be expended for the pur-
16 pose of protecting the state's
17 credit as to bond issues by
18 state institutions to cover fed-
19 eral loans to such institutions.
20 Of this appropriation there may
21 be expended an amount not
22 to exceed \$5,000.00 in each
23 year to provide instruction,
24 care and maintenance for
25 persons who are deaf and
26 blind, and for whom the
27 state provides no facilities.
28 Any unexpended balance re-
29 maining in the Emergency
30 Fund at the close of the fiscal
31 year 1945-46 is hereby re-
32 appropriated for expenditure
33 during the fiscal year 1946-47.
34 Custodial -----\$ 17,000.00 \$ 17,000.00
35 To be used for current general
36 expenses, including compen-
37 sation of servants and em-
38 ployees, household mainte-
39 nance, cost of official func-
40 tions, and any additional
41 household expenses occa-
42 sioned by such official func-
43 tions. In the event Napoleon
44 Gardner, now and for many
45 years in the service of the
46 Governor and his predecés-
47 sors in office, shall become un-
48 able to perform such services
49 for which he may earn com-
50 pensation, an amount not in

51 excess of \$50.00 per month
 52 may be expended out of this
 53 appropriation by the Gov-
 54 ernor, at his discretion, for
 55 the use and benefit of the
 56 said Napoleon Gardner.

57 Total\$ 177,000.00 \$ 177,000.00

13—*Parole and Probation Investigation and Supervision*

Acct. No. 123

1 Personal Services, including

2 Salary of Director\$ 35,000.00 \$ 35,000.00

3 Current Expenses 15,500.00 15,500.00

4 Equipment 750.00 750.00

5 Total\$ 51,250.00 \$ 51,250.00

FISCAL

150—*Auditor's Office*

Acct. No. 150

1 Salary of State Auditor.....\$ 6,000.00 \$ 6,000.00

2 Other Personal Services 80,000.00 80,000.00

3 Current Expenses 11,000.00 11,000.00

4 Equipment 3,000.00 3,000.00

5 Total\$ 100,000.00 \$ 100,000.00

6 From Collections 3,000.00 3,000.00

151—*Auditor's Office: Land Department*

Acct. No. 704

TO BE PAID FROM THE GENERAL SCHOOL FUND

1 Personal Services\$ 70,860.00 \$ 54,000.00

2 Current Expenses 5,000.00 3,000.00

3 Equipment 3,000.00 2,000.00

4 Total\$ 78,860.00 \$ 59,000.00

16—*Treasurer's Office*

Acct. No. 160

1 Salary of State Treasurer.....\$ 6,000.00 \$ 6,000.00

2 Other Personal Services..... 33,440.00 33,440.00

3	Current Expenses	5,190.00		6,110.00
4	Equipment	6,175.00		5,015.00
5	Total	\$ 50,805.00	\$	50,565.00

17—Sinking Fund Commission

Acct. No. 170

1	Personal Services	\$ 8,940.00	\$	8,940.00
2	Current Expenses	600.00		600.00
3	Total	\$ 9,540.00	\$	9,540.00

18—Tax Commissioner

Acct. No. 180

1	Salary of Tax Commissioner.....	\$ 6,000.00	\$	6,000.00
2	Other Personal Services	255,000.00		255,000.00
3	Technical and Legal Services.....	15,000.00		15,000.00
4	Current Expenses	90,000.00		90,000.00
5	Equipment	5,000.00		5,000.00
6	Total	\$ 371,000.00	\$	371,000.00
7	This appropriation shall in-			
8	clude all expenditures for the			
9	operation of the Gasoline De-			
10	partment formerly appropri-			
11	ated from the State Road			
12	Fund.			

19—West Virginia Board of Control

Acct. No. 190

1	Salaries of the three members			
2	of the Board of Control.....	\$ 15,000.00	\$	15,000.00
3	Other Personal Services.....	25,500.00		25,500.00
4	Current Expenses	8,000.00		8,000.00
5	Equipment	1,200.00		1,200.00
6	Total	\$ 49,700.00	\$	49,700.00
7	In the event an act is passed by			
8	the present Legislature in-			
9	creasing the salaries of the			
10	members of the West Vir-			

11 ginia board of control, then
 12 a sum sufficient to pay such
 13 increase may be paid each
 14 year of the biennium on the
 15 salary of each member of
 16 the board of control out of
 17 the appropriation for "Other
 18 Personal Services."

21—*Director of the Budget*

Acct. No. 210

1	Personal Services, including			
2	Salary of the Director of the			
3	Budget	\$ 32,160.00	\$	32,160.00
4	Current Expenses	1,800.00		4,000.00
5	Equipment	1,500.00		500.00
6	Total	\$ 35,460.00	\$	36,660.00

LEGAL

25—*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 proceed-			
9	ings affecting same. Any un-			
10	expended balance remaining			
11	in this fund at the close of the			
12	fiscal year 1945-46 is hereby			
13	reappropriated for expendi-			
14	ture during the fiscal year			
15	1946-47	12,500.00		12,500.00
16	Total	\$ 61,750.00	\$	61,750.00

26—*State Court of Claims*

Acct. No. 243

1	Personal Services	\$ 10,850.00	\$ 11,100.00
2	Current Expenses	2,875.00	4,625.00
3	Equipment	600.00	600.00
4	Total	\$ 14,325.00	\$ 16,325.00
5	To pay per diem of members,		
6	and other general expenses		
7	in accordance with chapter		
8	twenty, acts of the Legisla-		
9	ture, regular session, one		
10	thousand nine hundred forty-		
11	one.		

27—*Commission on Uniform State Laws*

Acct. No. 245

1	Total	\$ 250.00	\$ 250.00
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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	17,400.00	17,400.00
3	Current Expenses	3,200.00	3,200.00
4	Equipment	300.00	300.00
5	Total	\$ 26,900.00	\$ 26,900.00

29A—*Clerk of Court: State Court of Claims*

Acct. No. 260

1	Personal Services	\$ 3,600.00	\$ 3,600.00
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30—*State Election Commission*

Acct. No. 256

1	Total	\$ 500.00	\$ 500.00
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CUSTODIAL AND SERVICE

31—*Capitol Building and Grounds*

Acct. No. 270

1	Personal Services	\$ 70,000.00	\$ 70,000.00
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	\$ 117,000.00	\$ 117,000.00

32—Central Mailing Office

Acct. No. 280

1	Personal Services	\$ 8,300.00	\$ 8,300.00
2	Current Expenses	70,000.00	70,000.00
3	Equipment	2,500.00	200.00
4	Total	\$ 80,800.00	\$ 78,500.00

5 Out of the item "Current Ex-
6 penses" in the above appro-
7 priation, in the amount of
8 \$70,000.00, no moneys shall be
9 available for the purchase of
10 United States postage stamps.
11 It shall be available only for
12 the purchase of postage meter
13 service and routine current
14 expense. All State spending
15 units domiciled in or adjacent
16 to the Capitol building, ex-
17 cept the Department of Un-
18 employment Compensation,
19 the Supreme Court of Ap-
20 peals and the State Road
21 Commission as applies to
22 auto license tags, shall dis-
23 patch all mail through the
24 Central Mailing Office: *Pro-*
25 *vided, however,* That such
26 spending units may, by requi-
27 sition purchase postage
28 stamps for necessary emer-
29 gency mailing in an amount
30 not to exceed \$5.00 monthly,
31 which mail may be dispatched
32 in the manner most conven-
33 ient to the spending unit:

34 *Provided further*, That the
35 state treasurer and the Su-
36 preme Court of Appeals may,
37 upon requisition, use such
38 funds as may be necessary for
39 the payment of postage, reg-
40 istry fees, surcharges, and
41 other necessary fees, if any,
42 on registered mail, and may
43 dispatch such mail through
44 the main postoffice in the City
45 of Charleston, and any sums
46 he or it may collect in reim-
47 bursement or in partial reim-
48 bursement of the sums ex-
49 pended for such postage, reg-
50 istry fees, surcharges, and
51 other necessary fees on reg-
52 istered mail, shall be by him
53 or it redeposited in his or its
54 current expenses account and
55 be again available for use.

56 The Workmen's Compensation
57 Commission and the West
58 Virginia Public Service Com-
59 mission shall reimburse the
60 Current Expense appropri-
61 ation of the Central Mailing
62 Office monthly for all meter
63 service. Any spending unit
64 receiving reimbursement for
65 postage costs from the Fed-
66 eral Government shall re-
67 fund to the Current Expense
68 account of the Central Mail-
69 ing Office such amounts.
70 Should this appropriation for
71 Current Expense be insuffi-
72 cient to meet the mailing re-
73 quirements of the State

74 spending units as set out
 75 above, any excess postage
 76 meter service requirements
 77 shall be a proper charge
 78 against the units, and each
 79 spending unit shall refund to
 80 the Current Expense appro-
 81 priation of the Central Mail-
 82 ing Office any amounts re-
 83 quired for that Department
 84 for postage in excess of this
 85 appropriation.

33—Department of Purchases

Acct. No. 290

1 Salary of Director of Purchases \$	6,000.00	\$	6,000.00
2 Other Personal Services _____	33,000.00		33,000.00
3 Current Expenses _____	6,000.00		6,000.00
4 Equipment _____	1,000.00		1,000.00
5 Total _____	\$ 46,000.00	\$	46,000.00

6 The revolving fund appropri-
 7 ated by chapter seventy-six,
 8 Acts of Legislature, Regular
 9 Session, 1935, for printing,
 10 binding and stationery is
 11 hereby reappropriated for the
 12 fiscal years 1945-46 and 1946-
 13 47.

EDUCATIONAL

360--State Board of Education

Acct. No. 700

TO BE PAID FROM THE GENERAL SCHOOL FUND

1 Salaries of Members of the			
2 State Board of Education ... \$	4,800.00	\$	4,800.00
3 Other Personal Services	6,800.00		6,800.00
4 Current Expenses	2,325.00		2,900.00
5 Equipment	200.00		200.00
6 Out-of-State Aid to Negroes ...	7,500.00		7,500.00
7 Total	\$ 21,625.00	\$	22,200.00

361—*State Board of Education—Vocational Division*

Acct. No. 701

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Personal Services	\$ 17,500.00	\$ 17,500.00
2	Current Expenses	7,500.00	7,500.00
3	Equipment	300.00	300.00
4	Vocational Aid	165,000.00	165,000.00

5	Total	\$ 190,300.00	\$ 190,300.00
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362—*State Board of Education—Rehabilitation Division*

Acct. No. 702

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Current Expenses	\$ 105,000.00	\$ 105,000.00
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370—*Department of Education*

Acct. No. 703

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Salary of Superintendent of		
2	Free Schools	\$ 6,000.00	\$ 6,000.00
3	Other Personal Services	70,000.00	70,000.00
4	Current Expenses	35,000.00	35,000.00
5	Equipment	1,350.00	1,350.00
6	Salaries of County Superin-		
7	tendents	60,000.00	60,000.00

8	Total	\$ 172,350.00	\$ 172,350.00
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9 Out of the above appropriation
 10 an amount not to exceed
 11 \$11,000.00 each year from the
 12 personal service account, and
 13 \$5,000.00 each year from the
 14 current expense account shall
 15 be available for expenditure
 16 at the direction of the Board
 17 of School Finance in the per-
 18 formance of its duties as pre-
 19 scribed by law.

371—*Department of Education—Hot Lunches*

Acct. No. 705

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Personal Services	\$ 5,100.00	\$ 5,100.00
2	Current Expenses	2,200.00	2,200.00
3	Aid to Counties	75,000.00	75,000.00
4	Includes hot lunches and canning		
5	for hot lunches.		
6	Total	\$ 82,300.00	\$ 82,300.00

372—*Department of Education*

Acct. No. 6407

1	State Aid to supplement the		
2	General School Fund	\$20,597,714.00	\$20,597,714.00
3	To be transferred to the Gen-		
4	eral School Fund upon the		
5	requisition of the Governor.		
6	To be distributed according to		
7	Chapter 46, Acts of Legisla-		
8	ture, Regular Session, 1939,		
9	as amended, except an amount		
10	not to exceed \$25,000.00 for		
11	each year of the biennium,		
12	which sum shall be available		
13	to the State Board of School		
14	Finance to aid counties in		
15	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.		
25	In making distribution of state		
26	aid to counties as provided by		
27	said Chapter 46, the State		

28 Board of School Finance may
 29 at its discretion increase the
 30 allocation to any county that
 31 is otherwise unable with all
 32 available revenues to main-
 33 tain a full nine months' term,
 34 such increase not to be great-
 35 er than is required to provide
 36 for a nine months' term of
 37 school on a minimum pro-
 38 gram: *Provided*, That the
 39 total that may be distributed
 40 under this special provision
 41 shall not exceed fifty thou-
 42 sand dollars in any year.

373—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 Gen-			
4 eral School Fund upon the			
5 requisition of the Governor,			
6 to provide an equalization			
7 fund for distribution to mar-			
8 ginal counties by the State			
9 Board of School Finance in			
10 addition to the State Aid			
11 allocated in accordance with			
12 Chapter 46, Acts of Legis-			
13 lature, Regular Session, 1939,			
14 as amended: <i>Provided</i> , how-			
15 ever, That the State Board of			
16 School Finance shall deter-			
17 mine at the time the budget			
18 is approved that additional aid			
19 is needed to complete a nine			
20 months' term of school, or			
21 such part thereof as the above			
22 appropriation will permit.			

23 Any balance remaining in the
 24 above appropriations after
 25 the allocating of aid to mar-
 26 ginal counties shall revert to
 27 the State Fund — General
 28 Revenue.

374—Department of Education

Acct. No. 6408

1	Textbooks for Schools	\$ 125,000.00	\$ 125,000.00
2	To be distributed according to		
3	Chapter 51, Acts of Legisla-		
4	ture, Regular Session, 1939.		

38—Teachers' Retirement Board

Acct. No. 6409

1	Benefit Fund—Payments to		
2	Retired Teachers	\$ 425,000.00	\$ 440,000.00
3	Expense Fund	29,000.00	29,000.00
4	Employers Accumulation Fund		
5	—to match contributions of		
6	Members	1,039,524.00	1,039,524.00
7	Reserve Fund	100,000.00	100,000.00
8	Total	\$ 1,593,524.00	\$ 1,608,524.00

39—West Virginia University

Acct. No. 300

1	Personal Services, including		
2	Salary of President	\$ 1,201,900.00	\$ 1,311,900.00
3	Current Expenses	160,000.00	165,000.00
4	Repairs and Alterations	60,000.00	55,000.00
5	Equipment	50,000.00	75,000.00
6	State Aid to Medical Students..	40,000.00	80,000.00
7	Total	\$ 1,511,900.00	\$ 1,686,900.00
8	From Collections	175,000.00	225,000.00
9	Out of the above appropriation		
10	a sum, not to exceed \$116,-		
11	900.00 per annum, shall be		
12	expended only for compensa-		
13	tion for the services of staff		

14 members now on leave in the
 15 armed services and who may
 16 return to the staff and com-
 17 pensation for whose positions
 18 on the staff has not otherwise
 19 been provided for by appro-
 20 priation.

21 Out of the above appropriation
 22 a sum, not to exceed \$40,-
 23 000.00 per annum, shall be ex-
 24 pended only for essential edu-
 25 cation courses for returning
 26 war veterans and other stu-
 27 dents returning from de-
 28 fense industries in sufficient
 29 numbers to make such an
 30 expenditure necessary.

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

Acct. No. 301

1 Personal Services	\$ 33,500.00	\$ 33,500.00
2 Current Expenses	11,000.00	11,000.00
3 Repairs and Alterations	400.00	400.00
4 Equipment	400.00	500.00
5 Total	\$ 45,300.00	\$ 45,400.00

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

Acct. No. 302

1 Personal Services	\$ 47,500.00	\$ 47,500.00
2 Current Expenses	5,500.00	5,500.00
3 Repairs and Alterations	1,000.00	1,000.00
4 Equipment	1,000.00	1,000.00
5 Total	\$ 55,000.00	\$ 55,000.00

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

Acct. No. 303

1 Personal Services	\$ 15,500.00	\$ 15,500.00
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2	Current Expenses	10,000.00	10,000.00
3	Repairs and Alterations	6,500.00	6,500.00
4	Equipment	2,500.00	2,500.00
5	Total	\$ 34,500.00	\$ 34,500.00

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

Acct. No. 304

1	Total	\$ 2,500.00	\$ 2,500.00
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394—*West Virginia University—Extension Division*

Acct. No. 305

1	To pay Salaries and Traveling		
2	Expenses of County Agricultural Agents	\$ 67,100.00	\$ 67,100.00
3	To pay Salaries and Expenses		
5	of County Home Demonstration Agents	29,000.00	29,000.00
6	Total	\$ 96,100.00	\$ 96,100.00

395—*West Virginia University—Engineering Experiment Station*

Acct. No. 306

1	Personal Services	\$ 7,000.00	\$ 7,000.00
2	Current Expenses	1,500.00	1,500.00
3	Equipment	1,500.00	1,500.00
4	Total	\$ 10,000.00	\$ 10,000.00

396—*West Virginia University—Agricultural Experiment Station*

Acct. No. 310

1	Personal Services	\$ 44,000.00	\$ 44,000.00
2	Current Expenses	9,000.00	9,000.00
3	Repairs and Alterations	3,000.00	3,000.00
4	Equipment	3,000.00	3,000.00
5	Total	\$ 59,000.00	\$ 59,000.00

397—*West Virginia University Experiment Farm—
Kearneysville*

Acct. No. 311

1	Maintenance and Operation.....	\$	5,000.00	\$	5,000.00
2	Equipment		1,000.00		1,000.00
3	Total	\$	6,000.00	\$	6,000.00

398—*West Virginia University—Reymann Memorial Farm*

Acct. No. 312

1	Total	\$	3,000.00	\$	3,000.00
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399—*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	\$	3,500.00	\$	3,500.00

399A—*West Virginia University Experiment Farm—Reedsville*

Acct. No. 314

1	Maintenance and Operation.....	\$	5,000.00	\$	5,000.00
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399AA—*West Virginia University Gas and
Petroleum Research*

Acct. No. 3140

1	Personal Services	\$	10,000.00	\$	10,000.00
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399B—*West Virginia University—Stadium*

Acct. No. 3142

1	Repairs and Alterations.....	\$	10,000.00	\$	10,000.00
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400—*Potomac State School of West Virginia University*

Acct. No. 315

1	Personal Services, including				
2	Salary of President	\$	70,000.00	\$	70,000.00
3	Current Expenses		13,000.00		13,000.00
4	Repairs and Alterations		5,000.00		5,000.00
5	Equipment		4,000.00		4,000.00
6	Total	\$	92,000.00	\$	92,000.00
7	From Collections		13,000.00		13,000.00

401—Marshall College

Acct. No. 320

1	Personal Services, including			
2	Salary of President.....	\$ 383,000.00	\$ 383,000.00	✓
3	Current Expenses	40,000.00	40,000.00	✓
4	Repairs and Alterations	15,000.00	15,000.00	✓
5	Equipment	25,000.00	25,000.00	✓
6	Building, Payment to Fairfield			
7	Stadium Corporation	5,000.00	5,000.00	✓
8	Flood Wall Assessment.....	4,700.00	2,700.00	
9	Total	\$ 472,700.00	\$ 470,700.00	
10	From Collections	100,000.00	100,000.00	

402—Fairmont State College

Acct. No. 321

1	Personal Services, including			
2	Salary of President	\$ 156,200.00	\$ 156,200.00	
3	Current Expenses	15,000.00	15,000.00	
4	Repairs and Alterations	5,000.00	5,000.00	
5	Equipment	5,000.00	5,000.00	
6	Total	\$ 181,200.00	\$ 181,200.00	
7	From Collections	25,000.00	30,000.00	

403—Glenville State College

Acct. No. 322

1	Personal Services, including			
2	Salary of President.....	\$ 77,000.00	\$ 77,000.00	
3	Current Expenses	12,500.00	12,500.00	
4	Repairs and Alterations.....	6,000.00	6,000.00	
5	Equipment	4,000.00	4,000.00	
6	Total	\$ 99,500.00	\$ 99,500.00	
7	From Collections	15,000.00	15,000.00	

404—West Liberty State College

Acct. No. 323

1	Personal Services, including	
2	services rendered at Wheel-	
3	ing Downtown Center, and	

4	Salary of President _____	\$ 73,000.00	\$ 73,000.00
5	Current Expenses _____	10,000.00	10,000.00
6	Repairs and Alterations _____	3,000.00	3,000.00
7	Equipment _____	3,000.00	3,000.00
8	Music Foundation Fund _____	1,000.00	1,000.00
9	Total _____	\$ 90,000.00	\$ 90,000.00
10	<i>From Collections</i> _____	12,000.00	14,000.00
11	The above appropriation, "Music		
12	Foundation Fund," provides		
13	salary for music instruction.		
14	This amount will be matched		
15	by Mrs. Gibson Caldwell.		

405—Shepherd College

Acct. No. 324

1	Personal Services, including		
2	Salary of President _____	\$ 69,000.00	\$ 69,000.00
3	Current Expenses _____	11,000.00	11,000.00
4	Repairs and Alterations _____	4,000.00	4,000.00
5	Equipment _____	2,500.00	2,500.00
6	Total _____	\$ 86,500.00	\$ 86,500.00
7	<i>From Collections</i> _____	12,000.00	12,000.00

406—Concord College

Acct. No. 325

1	Personal Services, including		
2	Salary of President _____	\$ 114,000.00	\$ 114,000.00
3	Current Expenses _____	15,000.00	15,000.00
4	Repairs and Alterations _____	5,000.00	5,000.00
5	Equipment _____	5,000.00	5,000.00
6	Total _____	\$ 139,000.00	\$ 139,000.00
7	<i>From Collections</i> _____	30,000.00	30,000.00

407—West Virginia Institute of Technology

Acct. No. 327

1	Personal Services, including		
2	Salary of President _____	\$ 115,000.00	\$ 115,000.00
3	Current Expenses _____	19,000.00	19,000.00

4	Repairs and Alterations _____	7,000.00	7,000.00
5	Equipment _____	8,000.00	8,000.00
6	Total _____	\$ 149,000.00	\$ 149,000.00
7	From Collections _____	20,000.00	20,000.00

408—West Virginia State College

Acct. No. 328

1	Personal Services, including		
2	Salary of President _____	\$ 180,000.00	\$ 180,000.00
3	Current Expenses _____	44,000.00	44,000.00
4	Repairs and Alterations _____	15,000.00	15,000.00
5	Equipment _____	10,000.00	10,000.00
6	Library Books—To be expended		
7	subject to the approval of the		
8	State Superintendent of		
9	Schools _____	5,000.00	5,000.00
10	Extension Service _____	17,500.00	17,500.00
11	Total _____	\$ 271,500.00	\$ 271,500.00
12	From Collections _____	46,000.00	46,000.00

409—West Virginia State College—4-H Camp for Colored

Boys and Girls

Acct. No. 330

1	Personal Services _____	\$ 6,750.00	\$ 6,750.00
2	Current Expenses _____	3,000.00	3,000.00
3	Repairs and Alterations _____	1,500.00	1,500.00
4	Equipment _____	2,000.00	2,000.00
5	Total _____	\$ 13,250.00	\$ 13,250.00

410—Bluefield State College

Acct. No. 329

1	Personal Services, including		
2	Salary of President _____	\$ 78,500.00	\$ 78,500.00
3	Current Expenses _____	16,000.00	16,000.00
4	Repairs and Alterations _____	7,500.00	7,500.00
5	Equipment _____	5,000.00	5,000.00
6	Library Books—To be expended		
7	subject to the approval of the		
8	State Superintendent of		

9	Schools _____	3,000.00	3,000.00
10	Total _____	\$ 110,000.00	\$ 110,000.00
11	From Collections _____	14,000.00	14,000.00

411—Storer College

Acct. No. 338

1	Total _____	\$ 12,000.00	\$ 12,000.00
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420—West Virginia Schools for the Deaf and Blind

Acct. No. 333

1	Personal Services, including		
2	Salary of Superintendent _____	\$ 133,000.00	\$ 133,000.00
3	Current Expenses _____	60,000.00	60,000.00
4	Repairs and Alterations _____	6,000.00	6,000.00
5	Equipment _____	6,000.00	4,000.00
6	Total _____	\$ 205,000.00	\$ 203,000.00

421—West Virginia School for the Colored Deaf and Blind

Acct. No. 334

1	Personal Services, including		
2	Salary of President _____	\$ 21,000.00	\$ 21,000.00
3	Current Expenses _____	13,000.00	13,000.00
4	Repairs and Alterations _____	4,000.00	3,000.00
5	Equipment _____	2,000.00	2,000.00
6	Total _____	\$ 40,000.00	\$ 39,000.00

44—Department of Archives and History

Acct. No. 340

1	Personal Services, including		
2	Salary of State Archivist and		
3	Historian _____	\$ 9,000.00	\$ 9,000.00
4	Current Expenses _____	3,000.00	3,000.00
5	Equipment _____	1,500.00	1,500.00
6	Total _____	\$ 13,500.00	\$ 13,500.00
7	All revenues from sales of the		
8	above spending unit, includ-		
9	ing periodicals, magazines,		

- 10 etc., shall be deposited to
 11 State Fund — General Reve-
 12 nue.

45—*West Virginia Library Commission*

Acct. No. 350

1	Personal Services	\$	7,000.00	\$	7,000.00
2	Current Expenses		1,500.00		1,500.00
3	Equipment		500.00		500.00
4	Books and Periodicals		7,350.00		7,350.00
5	Total	\$	16,350.00	\$	16,350.00

CHARITIES AND CORRECTION

460—*West Virginia Industrial School for Boys*

Acct. No. 370

1	Personal Services, including				
2	Salary of Superintendent —	\$	65,000.00	\$	65,000.00
3	Current Expenses		49,000.00		49,000.00
4	Repairs and Alterations		5,000.00		5,000.00
5	Equipment		5,000.00		5,000.00
6	Total	\$	124,000.00	\$	124,000.00
7	From Collections		11,250.00		11,250.00
8	Out of the appropriation for				
9	Personal Services, \$600.00				
10	shall be paid each year in				
11	monthly installments to each				
12	of the following 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				
2	Salary of Superintendent	\$	14,000.00	\$	14,000.00
3	Current Expenses		16,000.00		16,000.00

4	Repairs and Alterations _____	2,000.00	1,500.00
5	Equipment _____	1,500.00	1,000.00
6	Total _____	\$ 33,500.00	\$ 32,500.00
7	From Collections _____	4,500.00	4,500.00

462—West Virginia Industrial Home for Girls

Acct. No. 372

1	Personal Services, including		
2	Salary of Superintendent _____	\$ 35,500.00	\$ 35,500.00
3	Current Expenses _____	30,000.00	30,000.00
4	Repairs and Alterations _____	4,000.00	4,000.00
5	Equipment _____	2,500.00	2,500.00
6	Total _____	\$ 72,000.00	\$ 72,000.00
7	From Collections _____	11,250.00	11,250.00

463—West Virginia Industrial Home for Colored Girls

Acct. No. 373

1	Personal Services, including		
2	Salary of Superintendent _____	\$ 6,500.00	\$ 6,500.00
3	Current Expenses _____	7,000.00	7,000.00
4	Repairs and Alterations _____	1,000.00	1,000.00
5	Equipment _____	500.00	500.00
6	Total _____	\$ 15,000.00	\$ 15,000.00
7	From Collections _____	1,000.00	1,000.00

47—West Virginia Penitentiary

Acct. No. 375

1	Personal Services, including		
2	Salary of Warden _____	\$ 161,000.00	\$ 161,000.00
3	Current Expenses _____	186,000.00	186,000.00
4	Repairs and Alterations _____	8,000.00	8,000.00
5	Equipment _____	6,000.00	6,000.00
6	Total _____	\$ 361,000.00	\$ 361,000.00
7	Out of the appropriation for		
8	Personal Services, \$600.00		
9	shall be paid each year in		
10	monthly installments to Ray		

- 11 Estep, permanently injured
 12 while employed in the peni-
 13 tentiary coal mine.

470—West Virginia Penitentiary—Medium Security Prison

Acct. No. 376

1	Personal Services	\$	50,000.00	\$	50,000.00
2	Current Expenses		65,000.00		65,000.00
3	Repairs and Alterations		5,000.00		5,000.00
4	Equipment		3,500.00		3,500.00
5	Total	\$	123,500.00	\$	123,500.00

49—West Virginia Children's Home

Acct. No. 380

1	Personal Services, including				
2	Salary of Superintendent	\$	12,000.00	\$	12,000.00
3	Current Expenses		15,000.00		15,000.00
4	Repairs and Alterations		3,000.00		1,500.00
5	Equipment		2,000.00		1,000.00
6	Total	\$	32,000.00	\$	29,500.00
7	From Collections		3,600.00		3,600.00

491—West Virginia Colored Children's Home

Acct. No. 381

1	Personal Services, including				
2	Salary of Superintendent	\$	6,750.00	\$	6,750.00
3	Current Expenses		9,500.00		9,500.00
4	Repairs and Alterations		2,000.00		2,000.00
5	Equipment		1,500.00		1,500.00
6	Total	\$	19,750.00	\$	19,750.00

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

Acct. No. 382

1	Personal Services, including				
2	Salary of Superintendent	\$	15,000.00	\$	15,000.00
3	Current Expenses		20,000.00		20,000.00
4	Repairs and Alterations		3,500.00		3,500.00

5	Equipment _____	2,000.00	2,000.00
6	Total _____	\$ 40,500.00	\$ 40,500.00
7	From Collections _____	17,000.00	17,000.00

493—West Virginia Training School

Acct. No. 383

1	Personal Services, including		
2	Salary of Superintendent _____	\$ 19,000.00	\$ 19,000.00
3	Current Expenses _____	19,000.00	19,000.00
4	Repairs and Alterations _____	4,000.00	3,000.00
5	Equipment _____	4,000.00	4,000.00
6	Total _____	\$ 46,000.00	\$ 45,000.00
7	From Collections _____	5,000.00	5,000.00

HEALTH AND WELFARE

520—State Health Department and Public Health Council

Acct. No. 400

1	Salary of Commissioner _____	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services _____	150,000.00	150,000.00
3	Current Expenses _____	40,000.00	40,000.00
4	Equipment _____	10,000.00	10,000.00
5	Cancer Control & Treatment _____	50,000.00	50,000.00
6	Hospitalization of Needy		
7	Tubercular _____	325,000.00	325,000.00
8	Total _____	\$ 581,000.00	\$ 581,000.00
9	From Collections _____	35,000.00	35,000.00

521—State Water Commission

Acct. No. 401

1	Personal Services _____	\$ 10,500.00	\$ 10,500.00
2	Current Expenses _____	2,400.00	2,400.00
3	Total _____	\$ 12,900.00	\$ 12,900.00

522—State Committee of Barbers and Beauticians

Acct. No. 402

1	Personal Services, including		
2	Salary of Director _____	\$ 15,000.00	\$ 15,000.00

3	Current Expenses	8,500.00	8,500.00
4	Total	\$ 23,500.00	\$ 23,500.00
5	From Collections	23,500.00	23,500.00

530—Department of Public Assistance

Acct. No. 641

1	Public Assistance Grants		
2	(Classified Aid)	\$ 3,500,000.00	\$ 3,500,000.00
3	General Relief Grants:		
4	Aid to Crippled Children	250,000.00	250,000.00
5	Conservation of Vision and		
6	Prevention of Blindness	10,000.00	10,000.00
7	General Medical and Hos-		
8	pitalization	300,000.00	300,000.00
9	Child Welfare Services	200,000.00	200,000.00
10	Direct Relief	250,000.00	250,000.00

11	Total	\$ 4,510,000.00	\$ 4,510,000.00
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12 The totals of the various items
 13 of this appropriation shall in-
 14 clude costs of administration
 15 thereof, including a sum not
 16 to exceed \$35,000 annually
 17 for the administration of the
 18 West Virginia Merit System
 19 Council. None of the funds so
 20 appropriated for administra-
 21 tive items of any nature
 22 whatsoever shall be avail-
 23 able for expenditure except
 24 and unless the spending unit
 25 comply fully with the pro-
 26 visions of sections 25, 26 and
 27 27, of article 5, of chapter 39,
 28 Acts of the Legislature, 1939:
 29 *Provided, however:* That of
 30 the total funds, from all
 31 sources, state, county and
 32 federal, for classified aid and

33 direct relief for each fiscal
34 year made available to the
35 Department of Public Assist-
36 ance for all programs, not
37 more than six per cent
38 thereof shall be used for the
39 combined overhead expenses
40 of the state and county de-
41 partments for each such fiscal
42 year. The term "overhead"
43 shall include all "adminis-
44 tration" and "service" costs
45 and all other charges and
46 expenses incidental to the dis-
47 tribution of net grants and
48 awards in classified and gen-
49 eral relief assistance.

50 The unexpended balance, if
51 any, remaining in the appro-
52 priation for this department
53 as of June 30, 1945, is hereby
54 reappropriated for expendi-
55 ture in the fiscal years 1945-
56 1946 and 1946-1947: *Provided*
57 *further*, That in cases involv-
58 ing children and in which the
59 restrictions, of the Standard
60 Budget or Guide, work a dis-
61 tinct and distressing hardship
62 on persons trying, through
63 employment, to help them-
64 selves, and which come to
65 the Director of the state de-
66 partment on appeal, the sum
67 of \$5,000.00 a year may be
68 used to correct inequities
69 at the discretion of the Di-
70 rector, but in no case shall
71 supplemental aid be given in

- 72 excess of \$10.00 a month to
 73 the case as a whole.

531—*Bureau of Negro Welfare and Statistics*

Acct. No. 403

1	Salary of Director	\$ 3,600.00	\$ 3,600.00
2	Other Personal Services	5,000.00	5,000.00
3	Current Expenses	3,370.00	3,450.00
4	Equipment	640.00	295.00
5	Total	\$ 12,610.00	\$ 12,345.00

532—*West Virginia Veterans' Bureau*

Acct. No. 4046

1	Unclassified appropriation	\$ 100,000.00	\$ 75,000.00
2	In the event no law is enacted		
3	by this session of the Legis-		
4	lature with respect to Vet-		
5	erans' Services, fifty thou-		
6	sand dollars each year of the		
7	above appropriation shall be		
8	available for expenditure for		
9	services to war veterans by		
10	the Department of Public		
11	Assistance.		

540—*Weston State Hospital*

Acct. No. 420

1	Personal Services, including		
2	Salary of Superintendent	\$ 210,000.00	\$ 210,000.00
3	Current Expenses	210,000.00	210,000.00
4	Repairs and Alterations	20,000.00	20,000.00
5	Equipment	8,000.00	8,000.00
6	Total	\$ 448,000.00	\$ 448,000.00
7	From Collections	70,000.00	70,000.00

541—*Spencer State Hospital*

Acct. No. 421

1	Personal Services, including		
2	Salary of Superintendent	\$ 80,000.00	\$ 80,000.00
3	Current Expenses	110,000.00	110,000.00

4 Repairs and Alterations	8,500.00	8,500.00
5 Equipment	5,000.00	5,000.00

6 Total	\$ 203,500.00	\$ 203,500.00
7 From Collections	25,000.00	25,000.00

542—Huntington State Hospital

Acct. No. 422

1 Personal Services, including		
2 Salary of Superintendent	\$ 100,000.00	\$ 100,000.00
3 Current Expenses	160,000.00	160,000.00
4 Repairs and Alterations	8,000.00	8,000.00
5 Equipment	8,000.00	8,000.00

6 Total	\$ 276,000.00	\$ 276,000.00
7 From Collections	110,000.00	110,000.00

543—Lakin State Hospital

Acct. No. 423

1 Personal Services, including		
2 Salary of Superintendent	\$ 35,000.00	\$ 35,000.00
3 Current Expenses	55,000.00	55,000.00
4 Repairs and Alterations	8,500.00	8,500.00
5 Equipment	6,000.00	6,000.00

6 Total	\$ 104,500.00	\$ 104,500.00
7 From Collections	16,000.00	16,000.00

544—Huntington State Hospital—Barboursville Unit

Acct. No. 424

1 Personal Services	\$ 35,000.00	\$ 35,000.00
2 Current Expenses	57,500.00	57,500.00
3 Repairs and Alterations	6,000.00	6,000.00
4 Equipment	6,000.00	6,000.00

5 Total	\$ 104,500.00	\$ 104,500.00
6 From Collections	15,000.00	15,000.00

545—Fairmont Emergency Hospital

Acct. No. 425

1 Personal Services, including		
2 Salary of Superintendent	\$ 25,000.00	\$ 25,000.00
3 Current Expenses	33,000.00	33,000.00

4 Repairs and Alterations _____	3,000.00	3,000.00
5 Equipment _____	3,000.00	3,000.00
6 Total _____	\$ 64,000.00	\$ 64,000.00
7 From Collections _____	25,000.00	25,000.00

546—Welch Emergency Hospital

Acct. No. 426

1 Personal Services, including		
2 Salary of Superintendent _____	\$ 34,000.00	\$ 34,000.00
3 Current Expenses _____	27,500.00	27,500.00
4 Repairs and Alterations _____	5,000.00	5,000.00
5 Equipment _____	4,000.00	4,000.00
6 Total _____	\$ 70,500.00	\$ 70,500.00
7 From Collections _____	24,000.00	24,000.00

548—Hopemont Sanitarium

Acct. No. 430

1 Personal Services, including		
2 Salary of Superintendent _____	\$ 192,500.00	\$ 192,500.00
3 Current Expenses _____	215,000.00	215,000.00
4 Repairs and Alterations _____	17,500.00	17,500.00
5 Equipment _____	10,000.00	10,000.00
6 Surgery Fund _____	10,000.00	10,000.00
7 Total _____	\$ 445,000.00	\$ 445,000.00
8 From Collections _____	150,000.00	150,000.00

548B—Andrew S. Rowan Memorial Home

Acct. No. 437

1 Personal Services _____	\$ 50,000.00	\$ 50,000.00
2 Current Expenses _____	50,000.00	50,000.00
3 Repairs and Alterations _____	10,000.00	10,000.00
4 Equipment _____	3,000.00	3,000.00
5 Total _____	\$ 113,000.00	\$ 113,000.00
6 From Collections _____	25,000.00	25,000.00

549—Pinecrest Sanitarium

Acct. No. 431

1 Personal Services, including		
2 Salary of Superintendent _____	\$ 227,500.00	\$ 227,500.00

3	Current Expenses _____	260,000.00	260,000.00
4	Repairs and Alterations _____	12,000.00	12,000.00
5	Equipment _____	9,000.00	9,000.00
6	Surgery Fund _____	10,000.00	10,000.00
7	Total _____	\$ 518,500.00	\$ 518,500.00
8	From Collections _____	235,000.00	235,000.00

550—Denmar Sanitarium

Acct. No. 432

1	Personal Services, including		
2	Salary of Superintendent_____	\$ 45,000.00	\$ 45,000.00
3	Current Expenses _____	58,000.00	58,000.00
4	Repairs and Alterations _____	6,000.00	6,000.00
5	Equipment _____	7,000.00	7,000.00
6	Total _____	\$ 116,000.00	\$ 116,000.00
7	From Collections _____	36,000.00	36,000.00

West Virginia Foundation for Crippled Children "Pines"

Acct. No. 433

1	Grading, Driveway and Porch		
2	on Nurses Home at the		
3	"Pines" _____	\$ 5,000.00	

551—Tuberculosis Field Clinic

Acct. No. 434

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

Acct. No. 435

1	Equipment and Improvements \$	40,000.00	
2	Expenditures from this appro-		
3	priation shall not be made		
4	without the approval of the		
5	Board of Public Works.		

553—Berkeley Springs Sanitarium

Acct. No. 436

1	Personal Services, including		
2	Salary of Superintendent_____	\$ 8,250.00	\$ 8,250.00
3	Current Expenses _____	4,500.00	4,500.00

4	Repairs and Alterations.....	1,500.00	1,500.00
5	Equipment	750.00	750.00
6	Total	\$ 15,000.00	\$ 15,000.00
7	From Collections	6,000.00	6,000.00

BUSINESS AND INDUSTRIAL RELATIONS

57—Department of Labor

Acct. No. 450

1	Salary of Commissioner.....	\$ 5,000.00	\$ 5,000.00
2	Other Personal Services	56,000.00	56,000.00
3	Current Expenses	32,000.00	32,000.00
4	Equipment	2,500.00	2,500.00
5	Total	\$ 95,500.00	\$ 95,500.00
6	In the event an act is passed		
7	by the present session of the		
8	Legislature increasing the		
9	salary of the commissioner of		
10	labor to six thousand dollars		
11	per annum, then the sum of		
12	one thousand dollars may be		
13	paid each year of the bien-		
14	nium on the salary of the		
15	commissioner out of the ap-		
16	propriation for "Other Per-		
17	sonal Services."		

59—Department of Mines

Acct. No. 460

1	Salary of Chief.....	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services	275,000.00	275,000.00
3	Current Expenses	80,000.00	80,000.00
4	Repairs and Alterations.....	10,000.00	10,000.00
5	Equipment	15,000.00	15,000.00
6	Total	\$ 386,000.00	\$ 386,000.00

600—Public Service Commission

Acct. No. 470

1 Salaries of three Members of

2	the Public Service Commis-		
3	sion, Total	\$ 13,500.00	\$ 13,500.00

601—Public Service Commission

Acct. No. 6617

TO BE PAID FROM SPECIAL REVENUE FUND

1	Personal Services	\$ 140,000.00	\$ 140,000.00
2	Current Expenses	18,000.00	18,000.00
3	Equipment	4,000.00	4,000.00

4	Total	\$ 162,000.00	\$ 162,000.00
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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 representa-
 19 tion in matters before the In-
 20 terstate Commerce Commis-
 21 sion and other Federal Depart-
 22 ments at Washington, D. C.

23 Out of the above appropriation,
 24 \$1,800.00 may be expended
 25 annually to cooperate with
 26 the U. S. Geological Survey
 27 in 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
3	the Public Service Commis-

4 sion pursuant to and in the
5 exercise of regulatory author-
6 ity over motor vehicle car-
7 riers, to be paid into the spe-
8 cial fund designated "Public
9 Service Commission Motor
10 Carrier Fund", as authorized
11 by law, are hereby appro-
12 priated for the purpose of
13 paying the expenses of the
14 Commission, salaries of the
15 commissioners and the sal-
16 aries, compensation, costs and
17 expenses of its employees in
18 administering such law, and
19 for the expenditures by the
20 Public Service Commission
21 for the administration of such
22 regulation, as authorized and
23 provided by law: *Provided,*
24 *however,* That no expendi-
25 ture shall be made from
26 moneys hereby appropriated
27 except in compliance with
28 and in conformity to the pro-
29 visions of Chapter 39, Acts of
30 the Legislature, Regular Ses-
31 sion, one thousand nine hun-
32 dred thirty-nine; and the Pub-
33 lic Service Commission shall,
34 by proper minute order, file
35 with the Director of the Bud-
36 get on July 1, 1945, an exact
37 schedule of all encumbrances
38 against the Public Service
39 Commission — Motor Carrier
40 Division Fund as of that date,
41 and shall thereafter submit

- 42 to the Director of the Budget
 43 for approval all payrolls,
 44 requisitions for purchases,
 45 contracts and other prospec-
 46 tive encumbrances.

61—Department of Banking

Acct. No. 480

1 Salary of Commissioner	6,000.00	\$	6,000.00
2 Other Personal Services	23,520.00		23,520.00
3 Current Expenses	12,000.00		12,000.00
4 Equipment	635.00		635.00
5 Total	\$ 42,155.00	\$	42,155.00
6 From Collections	20,000.00		20,000.00

62—Beer Commissioner

Acct. No. 490

1 Personal Services	\$ 58,200.00	\$	58,200.00
2 Current Expenses	42,500.00		42,500.00
3 Equipment	10,000.00		
4 Total	\$ 110,700.00	\$	100,700.00

63—Workmen's Compensation Commission

Acct. No. 900

TO BE PAID FROM THE WORKMEN'S COMPENSATION FUND

1 Salary of Commissioner	\$ 6,000.00	\$	6,000.00
2 Other Personal Services	260,000.00		260,000.00
3 Current Expenses	110,000.00		110,000.00
4 Repairs and Alterations	4,000.00		4,000.00
5 Equipment	10,000.00		10,000.00
6 Total	\$ 390,000.00	\$	390,000.00

- 7 There is hereby authorized to
 8 be paid out of the appropria-
 9 tion for Current Expenses
 10 the amount necessary for the
 11 premiums on bonds given by
 12 the State Treasurer and bond

- 13 custodian for the protection
 14 of the Compensation Fund.

63A—*Workmen's Compensation Commission: Silicosis*
 Acct. No. 905

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 79,			
4 Acts of Legislature, Regular			
5 Session, 1935, and to pay pre-			
6 miums on bonds given by the			
7 State Treasurer as custodian			
8 of the fund.			
9 Total	\$ 10,740.00	\$	10,740.00

64—*West Virginia Liquor Control Commission*
 Acct. No. 6676

TO BE PAID FROM SPECIAL REVENUE FUND

1 Salaries of three Members of			
2 the Commission	\$ 18,000.00	\$	18,000.00
3 Other Personal Services	285,000.00		285,000.00
4 Current Expenses	35,000.00		35,000.00
5 Total	\$ 338,000.00	\$	338,000.00
6 The total amount of this appro-			
7 priation shall be paid from			
8 the Special Revenue Fund			
9 out of liquor revenues.			
10 The above appropriation does			
11 not include the salaries of			
12 store personnel, store inspec-			
13 tors, store operating expenses			
14 or equipment, purchase of			
15 liquor, or equipment for ad-			
16 ministration offices. There is			
17 hereby appropriated from			
18 liquor revenues, in addition			
19 to the above appropriation,			
20 the necessary amounts to pay			
21 salaries of store personnel,			

22 store inspectors, store oper-
 23 ating expenses, purchase of
 24 liquor and transportation
 25 thereof, and purchase of ad-
 26 ministration equipment, in-
 27 cluding expenses deemed
 28 necessary by the Commission
 29 in connection with its liquor
 30 rationing program during
 31 the present war emergency:
 32 *Provided, however,* That no
 33 expenditures shall be made
 34 from moneys hereby appro-
 35 priated, except in compliance
 36 with and in conformity to the
 37 provisions of Chapter 39, Acts
 38 of the Legislature, Regular
 39 Session, one thousand nine
 40 hundred thirty-nine. The
 41 State Liquor Control Com-
 42 mission shall, by proper
 43 minute order, file with the
 44 Director of the Budget, on
 45 July 1, 1945, an exact sched-
 46 ule of all encumbrances
 47 against the liquor revenues
 48 as of that date, and shall
 49 thereafter submit to the Di-
 50 rector of the Budget for ap-
 51 proval all payrolls, requis-
 52 itions for purchases, contracts
 53 and other prospective encum-
 54 brances.

650—*Racing Commission*

Acct. No. 6082

1	To pay per diem of Members			
2	and Other General Expenses.			
3	Total	\$	15,000.00	\$ 15,000.00
4	From Collections		15,000.00	15,000.00

651—*Commission on Interstate Cooperation*

Acct. No. 4727

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

651A—*Interstate Commission on Potomac River Basin*

Acct. No. 4728

1	West Virginia's contribution to				
2	Potomac Basin Interstate				
3	Commission,				
4	Total	\$	1,800.00	\$	1,800.00

652—*Board of Aeronautics*

Acct. No. 485

1	Personal Services	\$	9,000.00	\$	9,000.00
2	Current Expenses		3,500.00		3,500.00
3	Equipment		5,000.00		5,000.00
4	Airport Development		20,000.00		20,000.00
5	Total	\$	37,500.00	\$	37,500.00
6	The total of this appropriation				
7	shall be available for opera-				
8	tion of the Board of Aero-				
9	navics and for state aid to				
10	county and municipal air-				
11	ports.				

653—*West Virginia Industrial and Publicity Commission*

Acct. No. 4866

1	Unclassified	\$	40,000.00	\$	50,000.00
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654—*West Virginia Planning Commission*

Acct. No. 4729

1	To be expended in accordance				
2	with Chapter 79, Acts of the				
3	Legislature, 1941	\$	2,500.00	\$	2,500.00

HIGHWAYS

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

Acct. No. 670

TO BE PAID FROM THE STATE ROAD FUND

1	Salary of Commissioner.....	\$	6,000.00	\$	6,000.00
2	Other Personal Services		390,000.00		390,000.00
3	Current Expenses		30,000.00		30,000.00
4	Equipment		12,000.00		15,000.00
5	Materials and Supplies		75,000.00		75,000.00

6	Total	\$	513,000.00	\$	516,000.00
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7 In addition to the foregoing ap-
8 propriations and any other
9 appropriations or claims, as
10 authorized by this act to be
11 paid from the state road fund,
12 the balance or residue of the
13 annual receipts of the state
14 road fund are hereby appro-
15 priated first for the payment
16 of interest on and principal of
17 outstanding road bonds, and
18 thereafter for maintenance,
19 construction and reconstruc-
20 tion of state roads, in accord-
21 ance with the provisions of
22 article three, chapter seven-
23 teen of the Code of West Vir-
24 ginia, 1931, as amended: *Pro-*
25 *vided, however,* That no funds
26 from the blanket appropria-
27 tion in lines 7 to 29, inclusive,
28 shall be available for expendi-
29 ture except in compliance with
30 and in conformity to the pro-
31 visions of chapter 39, Acts of
32 the Legislature, Regular Ses-
33 sion, one thousand nine hun-

34 dred thirty-nine. The State
 35 Road Commission shall, by
 36 proper minute order, file with
 37 the Director of the Budget, on
 38 July 1, 1945, an exact sched-
 39 ule of all encumbrances
 40 against the state road fund as
 41 of that date, and shall there-
 42 after submit to the Director
 43 of the Budget for approval
 44 all payrolls, requisitions for
 45 purchases, contracts, right-of-
 46 way acquisitions, debt service
 47 requirements and other pro-
 48 spective encumbrances. And
 49 the Director of the Budget
 50 shall have the right to allo-
 51 cate expenditures under pros-
 52 pective encumbrances.

672—*State Road Commission*

Acct. No. 6406

TO BE PAID FROM GENERAL REVENUE FUND

1 Primary Roads	\$ 1,000,000.00	\$ 1,000,000.00
2 Secondary Roads	2,500,000.00	2,500,000.00
3 Total	\$ 3,500,000.00	\$ 3,500,000.00
4 To supplement the State Road		
5 Fund for maintenance and re-		
6 construction of primary and		
7 secondary roads, including		
8 cooperation with the Federal		
9 Government, or any of its		
10 agencies.		
11 To be transferred to the State		
12 Road Fund upon order of the		
13 Board of Public Works.		

AGRICULTURE

70—Department of Agriculture

Acct. No. 510

1	Salary of Commissioner	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services	90,000.00	90,000.00
3	Current Expenses	60,000.00	60,000.00
4	Equipment	6,000.00	6,000.00
5	Aid to Dairy Development		
6	Program	10,000.00	10,000.00
7	For the Eradication and Pre-		
8	vention of Livestock Dis-		
9	eases—To be expended at		
10	the direction of the Commis-		
11	sioner of Agriculture	65,000.00	65,000.00
12	Total	\$ 237,000.00	\$ 237,000.00
13	From Collections	34,800.00	34,800.00

70A—Department of Agriculture: Soil Conservation
Committee

Acct. No. 510

1	Total	\$ 15,000.00	\$ 15,000.00
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71—Department of Agriculture—Agricultural Awards

Acct. No. 515

1	Incorporated County and Dis-		
2	trict Fairs and Regional 4-H		
3	Fairs	\$ 9,300.00	\$ 9,300.00
4	State Agricultural Fairs and		
5	Agricultural and Industrial		
6	Exhibits	5,000.00	5,000.00
7	Total	\$ 14,300.00	\$ 14,300.00
8	To be expended at the direction		
9	of the Commissioner of Agri-		
10	culture for awards to prize		
11	winners at agricultural fairs		
12	and exhibits.		

72A—*Department of Agriculture—Soil Conservation
Commission*

Acct. No. 6547

- 1 To be paid from Special Reve-
2 nue Fund—processing, distri-
3 bution and sale of lime and
4 limestone products —————\$ 50,000.00 \$ 50,000.00
5 The above appropriation of
6 \$100,000.00 is predicated on
7 collections from sale of lime
8 and limestone products. This
9 sum may be used as a revolv-
10 ing fund and shall be avail-
11 able for expenditure at any
12 time within the biennium:
13 *Provided, however, That no*
14 *part of this appropriation*
15 *may be used for purchase of*
16 *equipment.*

31A—*Capitol Building and Grounds—Salvage Fund*

Acct. No. 6510

TO BE PAID FROM STATE FUND SPECIAL REVENUE

- 1 All revenues derived from the
2 disposal of salvage material,
3 including waste paper, shall
4 be deposited in State Fund—
5 Special Revenue, and are
6 hereby appropriated for the
7 purpose of paying for pro-
8 cessing salvage, for minor
9 repairs on building and
10 grounds, for equipment, and
11 for cleaning and painting
12 walls, windows and grounds.
13 Expenditures shall be made
14 only upon approval of the
15 Capitol Salvage Committee
16 appointed by the Governor.

State Armory Board

Acct. No. 6539

TO BE PAID FROM STATE FUND SPECIAL REVENUE

1	For purchase of lands and min-		
2	eral rights and for Repairs		
3	and Alterations	\$	10,000.00

CONSERVATION AND DEVELOPMENT

730—West Virginia Geological Survey

Acct. No. 520

1	Personal Services, including		
2	Salary of State Geologist	\$ 35,000.00	\$ 35,000.00
3	Current Expenses	13,000.00	13,000.00
4	Equipment	2,000.00	2,000.00
5	Total	\$ 50,000.00	\$ 50,000.00
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

TO BE PAID FROM SPECIAL REVENUE FUND

1	Salary of Commissioner	\$ 5,000.00	\$ 5,000.00
2	Other Personal Services	30,000.00	30,000.00
3	Current Expenses	31,000.00	31,000.00
4	Equipment	2,000.00	2,000.00
5	Total	\$ 68,000.00	\$ 68,000.00
6	The total amount of this appro-		
7	priation shall be paid from		
8	the Special Revenue fees col-		
9	lected by the Conservation		

10 Commission.

11 Above items are for admini-
12 stration purposes only and
13 shall not be construed as a
14 limit upon the expenditures
15 from the Special Revenue
16 collections of said depart-
17 ment, except for administra-
18 tion.

19 In the event an act is passed
20 by the present session of the
21 Legislature increasing the sal-
22 ary of the commissioner of
23 conservation to six thousand
24 dollars per annum, then the
25 sum of one thousand dollars
26 may be paid each year of the
27 biennium on the salary of the
28 commissioner out of the ap-
29 propriation for "Other Per-
30 sonal Services."

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

Acct. No. 521

1	Personal Services	\$	22,000.00	\$	22,000.00
2	Current Expenses		6,500.00		6,500.00
3	Equipment		3,000.00		3,000.00
4	Buildings		4,000.00		4,000.00
5	White Pine Blister Rust Control		5,500.00		5,500.00
6	For Soil Conservation, Preven-				
7	tion of Soil Erosion, Forestry				
8	Service and Private Forestry				
9	Service Programs, any part of				
10	which may be used for match-				
11	ing Federal Funds		10,000.00		10,000.00
12	Total	\$	51,000.00	\$	51,000.00

733—Conservation Commission: Division of State Parks

Acct. No. 522

1	Personal Services	\$ 50,000.00	\$ 51,000.00
2	Current Expenses	34,000.00	34,000.00
3	Repairs and Alterations	17,500.00	17,500.00
4	Equipment	15,800.00	17,500.00
5	Total	\$ 117,300.00	\$ 120,000.00
6	From Collections	40,000.00	40,000.00

733A—Conservation Commission: Division of State Parks

Acct. No. 522

1	Current Expenses for initial		
2	stock of Concessions and		
3	Restaurants. Total	\$ 10,000.00	
4	This appropriation constitutes		
5	a revolving fund for the pur-		
6	pose of stocking and oper-		
7	ating concessions and restau-		
8	rants. All collections in excess		
9	of this appropriation shall be		
10	deposited to the State Fund		
11	General Revenue.		

734—Clarke-McNary

Acct. No. 523

1	For Cooperation with the		
2	United States Department of		
3	Agriculture in Fire Preven-		
4	tion and Control. Total	\$ 60,000.00	\$ 60,000.00

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

3	Major repairs to Monument.....	5,000.00		
4	Total	\$ 6,200.00	\$	1,200.00

742—*Rumseyan Society*

Acct. No. 5629

1	For maintenance of Historical			
2	Monument.			
3	Total	\$ 200.00	\$	200.00

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 Patri-			
2	otic Exercises.			
3	Total	\$ 500.00	\$	500.00
4	To be expended subject to the			
5	approval of the Board of			
6	Public Works upon presenta-			
7	tion of satisfactory plans by			
8	Grafton G. A. R. Post, Ameri-			
9	can Legion, Veterans of For-			
10	oreign Wars and Sons of			
11	Veterans.			

PROTECTION

770—*Department of Public Safety*

Acct. No. 570

1	Salary of Superintendent.....	\$ 6,000.00	\$	6,000.00
2	Other Personal Services	435,000.00		450,000.00
3	Current Expenses	325,000.00		340,000.00
4	Repairs and Alterations	18,500.00		18,500.00
5	Equipment	28,000.00		28,000.00
6	Total	\$ 812,500.00	\$	842,500.00
7	This appropriation shall include			

8 all expenditures for the De-
9 partment of Public Safety, in-
10 cluding radio division and
11 enforcement of traffic.

12 Out of the appropriation for
13 "Current Expenses" there
14 may be expended not to ex-
15 ceed \$205,000.00 for each year
16 of the biennium for subsist-
17 ence only for officers and en-
18 listed men.

771—*Adjutant General: State Militia*

Acct. No. 580

1 Salary of Adjutant General	\$ 5,000.00	\$ 5,000.00
2 Other Personal Services	8,000.00	8,000.00
3 Current Expenses	40,000.00	40,000.00
4 Repairs and Alterations	4,000.00	4,000.00
5 Equipment	2,500.00	2,500.00
6 Compensation of Commanding		
7 Officers, Clerical Services		
8 and Care of Property	20,000.00	20,000.00
9 Training Camps and Other		
10 Active Duty Pay	17,500.00	17,500.00
11 Total	\$ 97,000.00	\$ 97,000.00

12 Out of the above appropriation
13 there may be expended a sum
14 sufficient to maintain the
15 West Virginia State Guard
16 during the absence of the
17 National Guard, or National
18 Guard when released from
19 Federal services, and re-
20 turned to state services.

773—*Auditor's Office: Fire Marshal*

Acct. No. 6605

TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services	\$ 20,000.00	\$ 20,000.00
---------------------------	--------------	--------------

2	Current Expenses _____	6,500.00	6,500.00
3	Equipment _____	1,500.00	1,500.00
4	Total _____ \$	28,000.00	\$ 28,000.00
5	The total amount of this appro-		
6	priation shall be paid from		
7	the Special Revenue collec-		
8	tions of special tax of $\frac{1}{2}$ of		
9	one per cent of fire insurance		
10	companies premiums as pro-		
11	vided by the Code of West		
12	Virginia, 1931.		

775—Fire Insurance

Acct. No. 591

1	Fire Insurance _____ \$	30,000.00	\$ 30,000.00
2	Boiler Insurance _____	5,000.00	
3	Total _____ \$	35,000.00	\$ 30,000.00
4	To be expended under the rules		
5	and regulations adopted by		
6	the Board of Control to pay		
7	fire insurance premiums on		
8	buildings and contents of		
9	State Institutions: <i>Provided,</i>		
10	<i>however,</i> That insurance		
11	agencies in any one county		
12	shall not receive more than		
13	10% of this appropriation.		
14	The above appropriation for		
15	boiler insurance is for a three-		
16	year period.		

780—State Board of Law Examiners

Acct. No. 6005

1	To pay the per diem of mem-		
2	bers and other general ex-		
3	penses.		
4	Total _____ \$	1,500.00	\$ 1,500.00

781—*State Board of Examiners of Accountants*

Acct. No. 6007

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses.			
4	Total	\$	1,000.00	\$ 1,000.00
5	From Collections		1,000.00	1,000.00

782—*State Athletic Commission*

Acct. No. 6017

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses.			
4	Total	\$	3,500.00	\$ 3,500.00
5	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 mem-			
2	bers and other general ex-			
3	penses.			
4	Total	\$	6,500.00	\$ 6,500.00
5	From Collections		6,500.00	6,500.00

784—*State Board of Dental Examiners*

Acct. No. 6045

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses.			
4	Total	\$	1,000.00	\$ 1,000.00
5	From Collections		1,000.00	1,000.00

785—*State Board of Pharmacy*

Acct. No. 6046

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses.			
4	Total	\$	5,000.00	\$ 5,000.00
5	From Collections		5,000.00	5,000.00

786—State Board of Osteopathy

Acct. No. 6047

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses.			
4	Total	\$	500.00	\$ 500.00
5	From Collections		500.00	500.00

787—State Board of Optometry

Acct. No. 6048

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses.			
4	Total	\$	1,500.00	\$ 1,500.00
5	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 mem-			
2	bers and other general ex-			
3	penses.			
4	Total	\$	6,700.00	\$ 6,700.00
5	From Collections		6,700.00	6,700.00

789—State Board of Registration for Professional Engineers

Acct. No. 6068

1	To pay the per diem of mem-			
2	bers and other general ex-			
3	penses.			
4	Total	\$	4,000.00	\$ 4,000.00
5	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 mem-			
2	bers and other general ex-			
3	penses.			
4	Total	\$	2,000.00	\$ 2,000.00
5	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 mem-			
2	bers and other general ex-			
3	penses.			
4	Total _____	\$	500.00	\$ 500.00
5	From Collections _____		500.00	500.00

THE FOLLOWING SUPPLEMENTAL APPROPRIATIONS
SHALL BE AVAILABLE FOR EXPENDITURE UPON
DATE OF PASSAGE

150—*Auditor's Office*

Acct. No. 150

1	Other Personal Services _____	\$	1,000.00
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16—*Treasurer's Office*

Acct. No. 160

1	Other Personal Services _____	\$	1,000.00
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29—*Secretary of State*

Acct. No. 250

1	To supplement the 1944-45 ap-		
2	propriation:		
3	Personal Services _____	\$	600.00

38—*Teachers' Retirement Board*

Acct. No. 6409

1	To supplement the 1944-45 ap-		
2	propriation:		
3	Employers Accumulation Fund		
4	—To Match Contribution of		
5	Members _____	\$	125,190.00

44—*Department of Archives and History*

Acct. No. 340

1	To supplement the 1944-45 ap-		
2	propriation:		
3	Personal Services _____	\$	1,100.00

540—Weston State Hospital

Acct. No. 420

1	To supplement the 1944-45 ap-		
2	propriations:		
3	Personal Services _____	\$	2,700.00
4	Current Expenses _____		20,000.00
5	Repairs and Alterations _____		4,000.00
6	Equipment _____		1,000.00
			<hr/>
7	Total _____	\$	27,700.00

548—Hopemont Sanitarium

Acct. No. 430

1	To supplement the 1944-45 ap-		
2	propriations:		
3	Current Expenses _____	\$	7,500.00
4	Repairs and Alterations _____		10,000.00
5	Equipment _____		2,500.00
			<hr/>
6	Total _____	\$	20,000.00

771—Adjutant General: State Militia

Acct. No. 580

1	Appropriation for the fiscal		
2	year 1943-44:		
3	Per diem of officers and men		
4	of the West Virginia State		
5	Guard attending training		
6	camps in 1943 _____	\$	16,087.54

771—Adjutant General: State Militia

Acct. No. 580

1	Appropriation for the fiscal		
2	year 1944-45:		
3	Per diem of officers and men		
4	of the West Virginia State		
5	Guard attending training		
6	camps in 1944 _____	\$	16,050.06

400—Potomac State School of West Virginia University

Acct. No. 315

- | | | | |
|---|--------------------------------|----|-----------|
| 1 | For acquisition of Lands known | | |
| 2 | as the "Cadden Property"---- | \$ | 10,000.00 |

548B—Andrew S. Rowan Memorial Home

Acct. No. 437

- | | | | |
|---|--------------------------------|----|-----------|
| 1 | Special Equipment, Repairs and | | |
| 2 | Alterations ----- | \$ | 30,000.00 |

546—Welch Emergency Hospital

Acct. No. 426

- | | | | |
|---|-------------------------------|----|----------|
| 1 | Repairs and Alterations ----- | \$ | 2,000.00 |
| 2 | Equipment ----- | | 3,500.00 |

460—West Virginia Industrial School for Boys

Acct. No. 370

To supplement the 1944-45 appropriation

- | | | | |
|---|-------------------------|----|----------|
| 1 | Personal Services ----- | \$ | 5,374.25 |
|---|-------------------------|----|----------|

47—West Virginia Penitentiary

Acct. No. 375

- | | | | |
|---|---------------------------------|----|-----------|
| 1 | For the acquisition of coal un- | | |
| 2 | der land now under lease by | | |
| 3 | the State and known as the | | |
| 4 | Gallegar and Eller tracts ----- | \$ | 15,000.00 |

Sec. 2. *Awards for Claims Against the State.*—Appropriations to pay awards for claims against the State as approved and certified by the State Court of Claims are for the remainder of the fiscal year 1944-45, and to remain in effect until June 30, 1947.

Claims Versus State Tax Commissioner

TO BE PAID FROM GENERAL REVENUE FUND

- | | | | |
|---|-------------------------------------|----|--------|
| 1 | Dulaney, Luther C., d/b/a | | |
| 2 | Dulaney Motor Company ---- | \$ | 302.17 |
| 3 | Fredeking, J. G., et als., Partners | | |
| 4 | d/b/a Fredeking & Fredeking | | 601.75 |
| 5 | Fredeking, J. G., Price, T. H., | | |
| 6 | et als., partners, d/b/a | | |
| 7 | T. H. Price Oil Company ---- | | 747.44 |

8	Fredeking, J. G., et als.,		
9	partners, d/b/a Service		
10	Oil and Gas Company _____		602.78
11	Producers Gas Company _____		74.45
12	Teleweld, Inc. _____		948.67
13	Total _____	\$	3,277.26

*Claim Versus State Conservation Commission
Division of Forestry*

TO BE PAID FROM GENERAL REVENUE FUND

1	Moore, Tom _____	\$	145.00
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*Claim Versus State Conservation Commission
Division of State Parks*

TO BE PAID FROM GENERAL REVENUE FUND

1	Firestone Tire and Rubber		
2	Company _____	\$	43.31

Claim Versus Capitol Building and Grounds

TO BE PAID FROM GENERAL REVENUE FUND

1	Dixie, Elizabeth _____	\$	22.50
---	------------------------	----	-------

Claims Versus State Board of Control

TO BE PAID FROM GENERAL REVENUE FUND

1	Fletcher, James M. _____	\$	51.76
2	Johnson, Robert (Mrs.) _____		35.00
3	Total _____	\$	86.76

Claim Versus Department of Mines

TO BE PAID FROM GENERAL REVENUE FUND

1	Firestone Tire and Rubber		
2	Company _____	\$	32.56

Claim Versus State Board of Control

TO BE PAID FROM GENERAL REVENUE FUND

1	B. Preiser Company, Inc. _____	\$	50.00
---	--------------------------------	----	-------

Claim Versus State Auditor

TO BE PAID FROM GENERAL REVENUE FUND

1	Roy Fairchild (trustee for Hot-		
2	coal Coal Co.) _____	\$	40.00

Claim Versus West Virginia Liquor Control Commission

TO BE PAID FROM SPECIAL REVENUE FUND

1 Thornton, Grayson D. _____	\$	22.04
------------------------------	----	-------

Claims Versus State Road Commission

TO BE PAID FROM THE STATE ROAD FUND

1 Adkins, Roy H., Admr. of Es-		
2 tate of Roy Herbert Adkins,		
3 Jr., deceased _____	\$	3,500.00
4 Baltimore and Ohio Railroad		
5 Co. _____		160.00
6 Barker, A. C. _____		24.94
7 Bassitt, George S. & Son _____		39.91
8 Baylous, E. L. _____		25.00
9 Beane, L. W. _____		50.00
10 Bennett, Mrs. S. E. _____		47.99
11 Bland, Lester _____		100.00
12 Buck, V. K. _____		30.00
13 Burgess, C. E. _____		60.00
14 Burgess, J. P., Admr. of Estate		
15 of Edward Sinclair Burgess,		
16 deceased _____		3,500.00
17 Burnette, Edward D., Admr. of		
18 Estate of Edward D. Burnette,		
19 Jr., deceased _____		3,500.00
20 Burns, S. E. _____		169.79
21 Campbell, James M. _____		20.40
22 Cassady, V. E. _____		146.93
23 Clark, Dr. T. C. _____		243.71
24 Coulter, Helen Roper _____		139.95
25 Crow, Elmer _____		147.50
26 Darling Shops, Inc. _____		110.37
27 Davisson, Fred W. _____		8.16
28 Doolittle, Ralph _____		18.36
29 Downs, J. N. _____		34.68
30 Dyer, Dr. Allen M. _____		9.00
31 Ely, Catherine D., and Farm		
32 Bureau Mutual Auto Ins. Co.		117.12
33 Everhart, T. O. _____		5.00
34 Fahey, Margaret _____		385.76
35 Fitzwater, Pearl _____		43.00

36	Gandee, J. D. _____	9.00
37	Goff, G. H. _____	114.69
38	Golden, Pauline _____	4,000.00
39	Gray, Dewey _____	80.60
40	Gregg, Frank T. _____	47.18
41	Grissell Funeral Home and	
42	Elmer E. Schweizer _____	623.16
43	Grisur, Ignacy _____	19.80
44	Grose, Roy L. _____	25.00
45	Hager, Hubert _____	38.83
46	Heldreth, Henry L., and United	
47	States Casualty Company —	39.96
48	Hiley, L. C. _____	53.00
49	Hill, C. R. _____	102.84
50	Hill, L. B. _____	18.01
51	Ice, Bert _____	17.85
52	Johnson, Wilsie _____	110.09
53	Jones, C. J., Admr. of Estate of	
54	Esther Jones, deceased _____	3,500.00
55	Kentucky-West Virginia Junk	
56	Company _____	20.25
57	Kuznior, Adam _____	255.00
58	Lantz, Willis _____	47.53
59	Legg, Katie H. _____	120.98
60	Lester, Bee _____	750.00
61	Little, Charles L. _____	4.59
62	Lively, E. W., Admr. of Estate	
63	of Ruth Ann Lively, deceased	3,500.00
64	Logan Baking Corporation _____	29.84
65	McMillion, Luther _____	7.14
66	Mabscott Supply Company _____	50.00
67	Mallow, Paul and Beula _____	30.25
68	Marshall, Frank T. _____	3,000.00
69	Maryland New River Coal Com-	
70	pany _____	100.00
71	May, Hugh W. _____	71.02
72	Meyers, Otto L., and Iona	
73	Meyers _____	50.00
74	Myer, Q. Edward _____	32.40
75	Norris, E. R. _____	2.54

76	Perdue, Arthur B. _____	3,000.00
77	Perdue, Dollie E. _____	1,500.00
78	Petry, Florence E. _____	33.66
79	Pierson, R. Clarence _____	250.00
80	Pocahontas Amusement Cor-	
81	poration _____	356.63
82	Poland, A. C. _____	52.59
83	Rathbone, Thomas A. _____	80.24
84	Reimer, A. G. _____	49.47
85	Rentschler, Carl _____	117.75
86	Reynolds, Mary Harris _____	8.16
87	Rial, L. D. _____	60.00
88	Riggs, B. W., Funeral Home _____	35.70
89	Rose, Ruben _____	8.00
90	Rudolph, H. L. _____	7.65
91	Sadd, Shaker _____	23.16
92	Sanitary Baking Company _____	55.00
93	Sargent, Charley _____	2,568.03
94	Schmidt, Teresa _____	10.00
95	Shaffer (M. D.), C. F. _____	71.66
96	Shreve, O. R. _____	133.57
97	Sibbald, Minerva L. _____	8.57
98	Simms, Benton _____	10.00
99	Smith, F. M. _____	144.74
100	Smock, Helen _____	34.43
101	Snaith, C. B., and Bob Rodgers _____	20.40
102	Spragg, F. J. _____	40.00
103	Standard Advertising Corpora-	
104	tion _____	188.22
105	Stewart, Lewis _____	9.20
106	Stillmack, Lewis _____	15.00
107	Stone, E. L. _____	21.50
108	Stuter, W. O. _____	153.87
109	Surber, Joe, Admr. of Estate of	
110	Marguerette Francis Surber,	
111	deceased _____	3,500.00
112	Swint (Bishop), John J. _____	900.00
113	Tomlinson, Robert _____	25.70
114	Tyler County Auto Sales _____	30.75
115	Underwood, Ray _____	7.94

116 Van Horn, Grace _____	6.12
117 Varner, G. B. _____	59.53
118 Webb, W. V. _____	60.59
119 West, George M. _____	71.62
120 Wheeling Public Service Com-	
121 pany _____	255.86
122 White, C. P. _____	25.00
123 Wolf, Junior _____	48.26
124 Wolfe, Edward L. _____	98.94
125 Wood, David W. _____	49.98
126 Workman, Albert _____	20.00
127 Phillip Adams _____	92.28
128 John Africano _____	75.00
129 R. C. Atkins _____	15.00
130 Jacob F. Bennett _____	312.00
131 Jacob F. Bennett _____	936.00
132 Jacob F. Bennett	
133 (The latter amount, \$936.00,	
134 to be paid in monthly in-	
135 stallments of \$52.00 each from	
136 7-1-45 to 12-31-46.)	
137 Doris C. Bowman (Infant, by	
138 Mary Margaret Gilbert, her	
139 next friend) _____	72.00
140 Dr. Roy O. Bowles _____	7.50
141 Clarence Brown _____	250.00
142 Okey Clark _____	16.75
143 Columbian Carbon Company _____	30.62
144 Gene Coonts _____	15.00
145 Nathan Carihfield _____	451.00
146 Kathryn E. Custer _____	42.84
147 H. C. Dempsey _____	149.00
148 Mary Alice Emerick (Infant,	
149 by William P. Bradford, her	
150 next friend) _____	100.00
151 Bettie T. Gemrose _____	69.62
152 Frank I. Haller _____	39.99
153 Jack Headley _____	8.16
154 Mrs. Sallie Hoard _____	15.00
155 A. R. Holbert _____	179.93

156	F. J. Hranka	19.50
157	Mayford Hughart	32.13
158	Roy Jarrell	34.82
159	Alice E. McClung	720.00
160	(To be paid in monthly install-	
161	ments of \$30.00 each from	
162	1-1-45 to 12-31-46.)	
163	J. A. McKinney	150.00
164	J. F. Means	50.00
165	J. E. Neff	40.80
166	Sam Ofsay	75.00
167	Ohio Valley Bus Company	57.82
168	Effie Savage Pratt	240.00
169	(To be paid in monthly install-	
170	ments of \$10.00 each from	
171	1-1-45 to 12-31-46.)	
172	Robert Ragase	1,500.00
173	R. O. Robertson	161.26
174	L. D. Spence	97.60
175	Lottie Stewart	10.00
176	Total	\$ 49,803.23

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 58 of the First		
8	Extraordinary Session of the		
9	1933 Legislature to pay non-		
10	bonded debts existing at the		
11	time of the adoption of the		
12	tax limitation amendment.		
13	Total	\$ 335,000.00	\$ 325,000.00

Sec. 3-a. *Capital Expenditures for Post-war Projects.*—

2 The following items are appropriated from the General
3 Revenue Fund, subject to the following terms and con-
4 ditions:

5 (a) The following items are hereby appropriated and
6 are to be available for expenditure only out of the sur-
7 plus in the treasury on the first day of July, 1945, subject
8 to the conditions and limitations hereinafter expressed.
9 On the best information which can be secured at this
10 time, it is estimated the amount of such surplus will be
11 approximately \$15,000,000.00.

12 Before making funds available or encumbering such sur-
13 plus for expenditure hereunder, the Board of Public Works
14 shall review the revenues of the State from the first day
15 of July, 1945, to the date that appropriations hereunder
16 are expected to be made available or encumbered for
17 expenditure hereunder, and determine whether, in its
18 opinion, revenues then in prospect or on hand will be suf-
19 ficient to meet all appropriations under sections 1, 2, 3, 6, 8,
20 10, 11, 12, 13, 14 and 17 under title two of this act for
21 the biennium ending the first day of July, 1947, and make
22 a finding with respect thereto. If in its opinion the reve-
23 nues will not equal appropriations as aforesaid, the Board
24 of Public Works shall enter an order setting aside for
25 payment of said appropriations so much of said surplus
26 as remains unexpended or unencumbered at that date,
27 in an amount which will be sufficient to guarantee the
28 payment of said appropriations, and the amount so en-
29 cumbered or set aside shall not be available for expendi-
30 ture hereunder except upon authority of the Legislature.
31 Such findings of said board at any date shall be final insofar
32 as subsequent encumbrances for purposes of appropriations
33 under this section are concerned without regard to sub-
34 sequent shrinkage or increase in revenues.

35 If it appear to said board at any time a finding is made
36 under this section that there will be a balance in said
37 surplus which will leave funds sufficient to permit con-
38 struction or allocation of parts thereof for any of the
39 items numbered 1 to 43, inclusive, hereinafter mentioned,
40 said board may encumber said surplus to the extent of

41 the amounts appropriated for any such item, or items, as
42 the same may be subject to revision under subsection (d)
43 hereof, and thereafter may release or expend the amount
44 so encumbered for such purpose.

45 (b) The following items of this section may be made
46 available by the Board of Public Works at any time within
47 the biennium, but none of the items, other than items 27
48 through 43, shall be available for expenditure until the
49 war in which the nation is now engaged shall end, or un-
50 til one phase of that war shall come to an end, that is to
51 say, the European phase or the Asiatic phase, or until the
52 war, or some part of it, shall reach such a stage that a large
53 number of persons now in military or naval service have
54 been released from those services, or from one of them, and
55 economic conditions make it desirable to provide employ-
56 ment for persons released from such military or naval
57 service and for persons displaced from employment by
58 persons released from military or naval service, and for
59 persons unable to obtain employment by reason of can-
60 cellation of war contracts or failure to renew war con-
61 tracts. Such facts may be ascertained by the Board of
62 Public Works with respect to any one or more of the
63 items of this section, severally or collectively.

64 (c) The order in which the items of this section are
65 named does not indicate a legislative preference in order
66 of expenditure. The Board of Public Works may author-
67 ize the expenditure of any one or more of said items
68 without regard to the order in which they are here listed.

69 (d) The amounts of the several items in each group
70 classification are suggestive, and are not to be considered
71 as absolute. The board may revise or reduce any item
72 downward, without restriction, or eliminate it entirely,
73 and may increase any one or more of the items by not
74 more than twenty-five per cent, so long as such increases,
75 if any, as to items so increased and released do not exceed
76 the total amount made available under this section, and
77 corresponding decreases or eliminations are made to offset
78 increases.

79 (e) Expenditures authorized, which are for construc-
80 tion purposes, shall be for a complete and usable unit or

81 project, and in any case where additional funds are avail-
82 able, by aid from a federal agency or other source, such
83 fact may be considered by the board in determining what
84 items should at any time be encumbered or released for
85 expenditure, provided, that in making such release the
86 board shall first determine that all funds available will
87 provide for completion of a complete and usable project
88 or unit.

89 (f) Items 8 to 18, both inclusive, shall not be released or
90 encumbrances made therefor until the interim committee,
91 authorized by Senate Concurrent Resolution No. 6, shall
92 have made report upon its work, or the part thereof deal-
93 ing with higher educational institutions, and the pro-
94 priety of building the units included in said items, and
95 further expenditures of any of said items is expressly sanc-
96 tioned by the Legislature following receipt of such re-
97 port.

98 (g) Items 2 to 7, both inclusive, shall not be released or
99 encumbrances made therefor until the interim committee,
100 authorized by House Concurrent Resolution No. 4, shall
101 have made report upon its work, or the part thereof deal-
102 ing with state institutions and the propriety of building
103 new units or facilities therefor, included in said items,
104 and further expenditures of any of said items are expressly
105 sanctioned by the Legislature following receipt of such re-
106 port.

107 (h) All other items may be released or encumbrances
108 made therefor at any time after the 1st day of July, 1945,
109 as the board may deem proper, subject to the limitations of
110 subsection (a) herein.

111 Subject to the foregoing conditions, the following appro-
112 priations are made for the construction, maintenance and
113 repair of secondary roads, and for the construction, in-
114 cluding, if necessary, needed land acquisition, and equip-
115 ment of buildings, and for the purposes named in Items
116 27 through 43:

117 **Institutional Group Classification:**

118 *Item 1:* West Virginia Industrial School
119 for Boys, for such building or buildings as may
120 be designated by the Board of Public Works,

121 upon recommendation of the State Board of	
122 Control. A part of this appropriation may be	
123 used for the acquisition of needed land.....\$	200,000.00 ✓
124 <i>Item 2: West Virginia Training School, for</i>	
125 vocational training school and dormitory for	
126 boys, or for such other building or buildings	
127 as may be designated by the Board of Public	
128 Works, upon recommendation of the State	
129 Board of Control	225,000.00 ✓
130 <i>Item 3: Spencer State Hospital, for such</i>	
131 building or buildings as may be designated	
132 by the Board of Public Works, and for a new	
133 filtration plant, upon recommendation of the	
134 State Board of Control	55,000.00
135 <i>Item 4: Huntington State Hospital, for such</i>	
136 building or buildings as may be designated by	
137 the Board of Public Works, and for a new boiler	
138 and for such repairs to buildings as may be	
139 designated by the Board of Public Works,	
140 upon recommendation of the State Board of	
141 Control	119,600.00
142 <i>Item 5: Huntington State Hospital (Bar-</i>	
143 <i>boursville Unit) for such building or buildings</i>	
144 as may be designated by the Board of Public	
145 Works, and for such equipment as may be	
146 designated by the Board of Public Works,	
147 upon recommendation of the State Board of	
148 Control	105,000.00
149 <i>Item 6: Hopemont Sanitarium, for water</i>	
150 system and sewage system, and for improve-	
151 ments or additions to the same, to be desig-	
152 nated by the Board of Public Works, upon rec-	
153 ommendation of the State Board of Control....	100,000.00
154 <i>Item 7: Denmar Sanitarium, for such build-</i>	
155 ings and improvements to buildings as may be	
156 designated by the Board of Public Works, upon	
157 recommendation of the State Board of Con-	
158 trol	205,000.00
159 Releases of appropriations in the preceding	
160 items Nos. 2 through 7, inclusive, are to be	

161 at all times controlled by subsection (g)
162 hereof.

163 **Educational Group Classification:**

164 *Item 8:* Potomac State School of West Vir-
165 ginia University, for science building or such
166 other buildings as may be designated by the
167 Board of Public Works _____

165,000.00 ✓

168 *Item 9:* Glenville State College, for such
169 building or buildings as may be designated by
170 the Board of Public Works _____

50,000.00 ✓

171 *Item 10:* West Liberty State College, for
172 dormitory or for such other building or build-
173 ings as may be designated by the Board of
174 Public Works _____

150,000.00 ✓

175 *Item 11:* Fairmont State College, for such
176 building or buildings as may be designated by
177 the Board of Public Works _____

300,000.00 ✓

178 *Item 12:* Shepherd College, for library
179 building or for such other buildings as may
180 be designated by the Board of Public Works _____

125,000.00 ✓

181 *Item 13:* Concord College, for science hall,
182 or for such other building or buildings as may
183 be designated by the Board of Public Works _____

225,000.00 ✓

184 *Item 14:* West Virginia Institute of Tech-
185 nology, for such building or buildings as may
186 be designated by the Board of Public Works _____

250,000.00 ✓

187 *Item 15:* West Virginia State College, for
188 such building or buildings as may be desig-
189 nated by the Board of Public Works. A part
190 of this appropriation may be expended for
191 needed lands _____

450,000.00 ✓

192 *Item 16:* West Virginia State College, for
193 such building or buildings at 4-H Camp for
194 colored boys and girls as may be designated
195 by the Board of Public Works _____

25,000.00 ✓

196 *Item 17:* Bluefield State College, for such
197 buildings as may be designated by the Board
198 of Public Works. A part of this appropria-
199 tion may be used for the acquisition of needed
200 land _____

250,000.00 ✓

201	<i>Item 18:</i> West Virginia Schools for the	
202	Deaf and Blind, for such building or build-	
203	ings as may be designated by the Board of	
204	Public Works	100,000.00 ✓
205	Releases of appropriations in the preceding	
206	items 8 through 18, both inclusive, are to be	
207	at all times controlled by subsection (f) here-	
208	of.	
209	Unlimited Release Group Classification:	
210	<i>Item 19:</i> West Virginia University, for such	
211	building or buildings as may be designated by	
212	the Board of Public Works, upon recommen-	
213	dation by the Board of Governors of West Vir-	
214	ginia University. A part of this appropria-	
215	tion may be expended for needed lands	2,000,000.00 ✓
216	<i>Item 20:</i> West Virginia University, Kear-	
217	neysville Farm, for garage and machine shop	10,000.00 ✓
218	<i>Item 21:</i> Marshall College, for science hall	
219	and purchase of filling station, and for the	
220	construction of such building or buildings	
221	as may be designated by the Board of Pub-	
222	lic Works	800,000.00 ✓
223	<i>Item 22:</i> West Virginia Penitentiary, for	
224	building to be occupied by female prisoners.	
225	A part of this appropriation may be used for	
226	the acquisition of land	203,000.00 ✓
227	<i>Item 23:</i> Weston State Hospital, for such	
228	building or buildings, and for the repair of	
229	such building or buildings, as may be desig-	
230	nated by the Board of Public Works, and for	
231	the construction or acquisition of a new water	
232	system and sewage disposal plant, upon rec-	
233	ommendation of the State Board of Control.	150,000.00
234	<i>Item 24:</i> Pinecrest Sanitarium, for milk	
235	house and cold storage building	13,500.00
236	<i>Item 25:</i> Geological Survey, for storage	
237	building and clay laboratory, or for such other	
238	building or buildings as may be designated	
239	by the Board of Public Works	20,000.00
240	<i>Item 26:</i> State Road Commission, for con-	

241 struction, maintenance and repair of second-
242 ary farm-to-market roads to match federal
243 funds on a dollar to dollar basis 4,000,000.00 ✓

244 *Item 27: Conservation Commission, for con-*
245 *servation of natural resources by the propa-*
246 *gation and restocking of game and fish, by*
247 *reforestation, planting of trees, and plant-*
248 *ing of food and cover crops, and for the im-*
249 *provement of fishing streams and the acquisi-*
250 *tion and development of additional fishing*
251 *waters, and for the purchase of necessary land*
252 *and equipment and construction of neces-*
253 *sary buildings for the creation and/or en-*
254 *largement of game and fish hatcheries, and*
255 *by other appropriate means, and for the acqui-*
256 *sition of land for state parks and the con-*
257 *struction, improvement and development of*
258 *state parks. Any part of this appropriation*
259 *may be expended by matching funds with the*
260 *funds furnished by the federal government,*
261 *or may be expended without being so matched.*
262 *No part of this appropriation for this item*
263 *may be expended without the approval of a*
264 *joint legislative committee, to be composed of*
265 *the President of the Senate and two other*
266 *members thereof, one of whom shall be a*
267 *Democrat and one a Republican, to be ap-*
268 *pointed by him, and the Speaker of the House*
269 *and two other members thereof, one of whom*
270 *shall be a Democrat and one a Republican, to*
271 *be appointed by him; and not less than ten per*
272 *cent of the total amount appropriated for this*
273 *item shall be expended in any one congres-*
274 *sional district 1,100,000.00*

275 *Item 28: Department of Public Safety, for*
276 *such building or buildings as may be desig-*
277 *nated by the Board of Public Works 60,000.00*

278 *Item 29: Capitol Building and Grounds, for*
279 *landscaping, building sidewalks, and for such*
280 *other improvements as may be designated*

281 by the Board of Public Works	150,000.00
282 <i>Item 30:</i> For repairs to Capitol Building	
283 and Mansion	100,000.00
284 <i>Item 31:</i> State Office Building Commission,	
285 for acquisition of additional land needed for	
286 the construction of a State Office Building...	400,000.00
287 <i>Item 32:</i> West Virginia University, to equip	
288 chemistry building	40,000.00
289 <i>Item 33:</i> Potomac State School of West Vir-	
290 ginia University, buildings	6,500.00
291 <i>Item 34:</i> Marshall College, to complete and	
292 equip dining hall	30,000.00 ✓
293 <i>Item 35:</i> Fairmont State College, to equip	
294 gymnasium	5,000.00 ✓
295 <i>Item 36:</i> West Liberty State College, sew-	
296 age and water system	15,000.00 ✓
297 <i>Item 37:</i> Concord College, water and sew-	
298 age system	30,000.00 ✓
299 <i>Item 38:</i> West Virginia State College, 4-H	
300 Camp for colored boys and girls, sewage and	
301 water system	25,000.00 ✓
302 <i>Item 39:</i> West Virginia Penitentiary, sew-	
303 age disposal plant	19,000.00
304 <i>Item 40:</i> West Virginia Colored Children's	
305 Home—Buildings (Hog House and Cold Stor-	
306 age Unit)	5,000.00
307 <i>Item 41:</i> Conservation Commission—Divi-	
308 sion of State Parks, lands	4,000.00
309 <i>Item 42:</i> Conservation Commission—Divi-	
310 sion of State Parks, major building repairs	
311 and land improvement	40,000.00
312 <i>Item 43:</i> Department of Public Safety,	
313 Death, Disability and Retirement fund, created	
314 by section twenty-seven, article two, chapter	
315 fifteen of the code of West Virginia, one thou-	
316 sand nine hundred thirty-one, as last amended	700,000.00
317. In the discretion of the Board of Public Works, an	
318 amount not in excess of seven per cent of any item in	
319 the Unlimited Release Group Classification may be re-	
320 leased at any time within the biennium, without regard	

321 to war conditions, for the purpose or purposes of cover-
322 ing the expense of preliminary studies and surveys, filing
323 applications for federal aid, and the preparation of bidding
324 documents for the construction of any building or buildings
325 covered by the item.

Sec. 4. *Special Revenue Appropriations.*—There is here-
2 by appropriated for expenditure during the fiscal years one
3 thousand nine hundred forty-six and one thousand nine
4 hundred forty-seven: Appropriations made by general
5 law from special revenue which is not paid into the state
6 fund as general revenue under the provisions of section
7 two, article two, chapter twelve of the Code of West Vir-
8 ginia, one thousand nine hundred thirty-one: *Provided,*
9 *however,* That collections from the sale of farm and dairy
10 products shall be expended only for the improvement and
11 operation of the farm on which such products were raised
12 and for such of the operating and maintenance expenses
13 of the institution making the sales as are customarily paid
14 out of its current expense account: *Provided further,* That
15 none of the moneys so appropriated by this section shall
16 be available for expenditure except in compliance with
17 and in conformity to the provisions of Articles 2 and 3, of
18 Chapter 12, Code of West Virginia, and Chapter 39, Acts
19 of the Legislature, Regular Session, one thousand nine
20 hundred thirty-nine, and unless the spending unit has filed
21 with the State Director of the Budget and the State Audi-
22 tor prior to the beginning of each fiscal year:

23 (a) An estimate of the amount and sources of all
24 revenues accruing to such fund;

25 (b) A detailed expenditure schedule showing for what
26 purposes the fund is to be expended.

Sec. 5. *Appropriations Revived and Extended.*—A part of
2 an appropriation to a spending unit that remains un-
3 expended at the end of the fiscal year one thousand nine
4 hundred forty-six may, by order of the Board of Public
5 Works, be revived and extended to meet unforeseen con-
6 tingencies arising during the fiscal year one thousand nine
7 hundred forty-seven.

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

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

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

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

Sec. 9. *Contingent Fund.*—A contingent fund may be
2 expended as appropriated, with the approval of the Board
3 of Public Works, when the expenditure will improve the
4 governmental service and care for unexpended contingen-
5 cies. A part of a contingent fund that remains unexpended
6 at the end of the first fiscal year shall automatically be-
7 come available for expenditure during the second fiscal
8 year.

9 The expenditure of the governor's civil contingent fund
10 and the legislative contingent funds shall not be condi-
11 tioned upon the approval of the Board of Public Works.

Sec. 10. *Sinking Fund Deficiencies.*—There is hereby
2 appropriated to the Board of Public Works a sufficient
3 amount to meet a deficiency that may arise in the fund of
4 the state sinking fund commission because of the failure of
5 any state agency or local taxing district to remit funds

6 necessary for the payment of interest and sinking fund
7 requirements. The Board of Public Works is authorized
8 to transfer from time to time such amounts to the state
9 sinking fund commission as may be necessary for this
10 purpose.

11 The state sinking fund commission shall reimburse the
12 state of West Virginia through the Board of Public Works
13 from the first remittance collected from any state agency
14 or local taxing district for which the Board of Public Works
15 advanced funds, with interest at the rate carried by the
16 bonds for which the advance was made.

Sec. 11. *Appropriations from Taxes and License Fees.*—

2 There is hereby appropriated from all chain store tax fees
3 and general license taxes collected by the state tax com-
4 missioner, all necessary salaries and expenses, not to ex-
5 ceed twenty-five per cent of the gross collections author-
6 ized by law to be expended in the collection of such chain
7 store tax fees and general license taxes. All such salaries
8 and expenses, authorized by law as aforesaid, shall be paid
9 by the tax commissioner through the state treasurer out of
10 gross collections.

Sec. 12. *Appropriations to Pay Premiums on Bonds of*
2 *County Clerks.*—There is hereby appropriated out of the
3 General School Fund, to be paid upon the requisition of the
4 Auditor, a sum sufficient to pay premiums on Bonds of
5 County Clerks to protect funds belonging to the said Gen-
6 eral School Fund, and out of the Special Revenue Fund of
7 the Conservation Commission, to be paid upon the requisi-
8 tion of the Commission, a sum sufficient to pay premiums
9 on Bonds of County Clerks to protect funds belonging to
10 the said Conservation Commission.

Sec. 13. *Appropriations to Pay Costs of Publication of*
2 *Delinquent Corporations.*—There is hereby appropriated
3 out of the State Fund, General Revenue, out of funds not
4 otherwise appropriated, to be paid upon requisition of the
5 auditor and/or the governor, as the case may be, a sum
6 sufficient to pay the cost of publication of delinquent cor-
7 porations as provided by sections seventy-five and seventy-

8 seven, of article twelve, chapter eleven, Code of West Vir-
9 ginia.

Sec. 13-a. *Appropriations for Payment of Dues or Mem-
2 bership in Annual or Other Voluntary Organizations.*—
3 Payment for dues or membership in annual or other
4 voluntary organizations shall be made from the proper
5 item of appropriation only after an itemized schedule of
6 such organizations together with the amount of such dues
7 or membership has been submitted to the Budget Director
8 and approved by the Board of Public Works. A requisition
9 for items of such schedule authorized by the Board of
10 Public Works for payment shall be approved by the Direc-
11 tor of the Budget and honored for payment by the State
12 Auditor.

Sec. 14. *Appropriations for Local Governments.*—There is
2 hereby appropriated for payment to counties, districts, and
3 municipal corporations such amounts as will be necessary
4 to pay taxes due county, district, and municipal corpora-
5 tions and have been paid into the treasury:

- 6 1. For the redemption of lands;
- 7 2. By public service corporations;
- 8 3. For tax forfeitures.

Sec. 15. *Printing Costs.*—The cost of printing, binding
2 and stationery for each spending unit shall be paid from
3 the current expense appropriation for the spending unit.

Sec. 16. *Total Appropriation.*—Where only a total sum is
2 appropriated to a spending unit that total sum shall in-
3 clude personal services, current expenses, and capital out-
4 lay, except as otherwise provided in Title 1, Section 3.

Sec. 17. *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 appro-
4 priated for expenditure in accordance with section six,
5 article nine, chapter eighteen of the code of West Virginia,
6 one thousand nine hundred thirty-one, as amended.

Title 3. Administration.

Section

1. Appropriations conditional.

2. Suspension of certain acts.
- 2-a. Limitation on spending.
- 2-b. Limitation on publicity.
3. Constitutionality.

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

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

Sec. 2-a. *Limitation on Spending.*—The appropriations made by this act are made for the maintenance and operation of the departments, services, and institutions, humane, educational, eleemosynary, and penal, as heretofore established by the Legislature, and may be expended only for the maintenance and operation of the departments, services, and institutions as so established; and no part of any appropriation, including contingent and emergency appropriations, made by this act for any institution, humane, educational, eleemosynary, or penal, shall be expended for any purpose or at any place other than for the maintenance and operation of such institution at the geographical place or location at which such institution has heretofore been established by the Legislature, and for no other purpose and at no other place: *Provided, however,* That where any appropriation appears in the name of an institution, the name of which has been changed by an act of this session of the Legislature, the funds appropriated for the old institution shall be applied to the institution operating under the new name and succeeding to the possession of the physical plant of the former institution, and any officer or person who shall expend or shall participate

23 in the expenditure of any part of any appropriation made
24 by this act in violation of any of the provisions hereof shall
25 be personally liable therefor.

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

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

CHAPTER 12

(House Bill No. 242—By Mr. Schupbach)

AN ACT to provide financial relief, care and comfort for
Achilles T. Robison, a native and resident of Wetzel county,
state of West Virginia, who was permanently injured by
the unlawful act of a convict, escaped from a state highway
prison road camp, near Reeder, Wetzel county, West Vir-
ginia, on the sixth day of May, one thousand nine hundred

forty-four, by the payment to and for his use, of the sum of four thousand eight hundred twenty-six dollars and thirty-five cents (\$4,826.35), payable for his maintenance, support, care and attention; and to appropriate the necessary funds from the state treasury, not otherwise appropriated, or that may remain in the treasury unexpended, to accomplish the object and purpose of this act, and to appropriate revenue raised by this session of the Legislature for said purpose.

[Passed March 9, 1945; in effect from passage. Became a law without the approval of the Governor.]

Section

1. Authorizing payment of damages to Achilles T. Robison for injuries inflicted by an escaped convict.
2. Funds appropriated.

WHEREAS, Achilles T. Robison, a native and resident of New Martinsville, Wetzel county, West Virginia, while in his home, where he had a lawful right so to be, and which home is situate on state highway No. 2, in Wetzel county, West Virginia, on the sixth day of May, one thousand nine hundred forty-four, at or about the hour of three o'clock P. M. on said day, was fired upon by James Clark, a convict who had recently escaped from a state highway prison road camp near Reeder, Wetzel county, West Virginia, at which time the said Achilles T. Robison was struck in the right and left legs with the charge of shot from a shotgun then in the possession of the said James Clark and fired by him at the said Achilles T. Robison, and as a result thereof he lost his right leg and has been and now is a cripple, and will so remain for the rest of his natural life and unable to perform the duties of his occupation at the time of his injury; and

WHEREAS, The said Achilles T. Robison, at the time of the unlawful act of said escaped convict, James Clark, was innocent of any wrongdoing and was in his own home where he had a right so to be, and was conducting himself as a peaceful and law-abiding citizen, and as a result of the injury inflicted upon him by the said escaped convict, the said Achilles T. Robison has been and is now unable to provide for his physical comfort and maintenance and support in the manner in which he

was accustomed prior to the injury suffered by him as aforesaid; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. *Authorizing Payment of Damages to Achilles T. Robison for Injuries Inflicted by An Escaped Convict.*—
That there be paid to the said Achilles T. Robison from the state treasury, the sum of four thousand eight hundred twenty-six dollars and thirty-five cents (\$4,826.35), being the amount to which the said Achilles T. Robison would be entitled under the workmen's compensation law of the state of West Virginia, if said injury had been sustained by him in the course of his employment and his employer had been a subscriber to the workmen's compensation fund. And the auditor of this state is hereby authorized and directed to draw requisition upon the treasury of the state, payable to the said Achilles T. Robison, for the sum of four thousand eight hundred twenty-six dollars and thirty-five cents (\$4,826.35), as herein authorized, in full satisfaction of any and all damages sustained by him by reason of the aforesaid injury.

Sec. 2. *Funds Appropriated.*—Sufficient funds from any revenue of the state not otherwise appropriated, or remaining unexpended for any cause, and from revenue raised by this session of the Legislature, are hereby appropriated to pay the said sum of four thousand eight hundred twenty-six dollars and thirty-five cents (\$4,826.35) to the said Achilles T. Robison.

CHAPTER 13

(House Bill No. 364—By Mr. Davis)

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 purpose of providing a fund for the payment of additional

compensation to the members of the court of claims in accordance with the provisions of committee substitute for house bill number sixty-four, passed at this session of the Legislature.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Appropriation for additional compensation of members of the court of claims.

WHEREAS, Under the provisions of committee substitute for house bill number sixty-four, which was passed at this session of the Legislature, the per diem compensation of the members of the court of claims was increased from fifteen dollars a day to twenty dollars a day; and

WHEREAS, The appropriation made for the court of claims in the regular budget bill is insufficient to pay more than the former per diem of fifteen dollars a day; and

WHEREAS, After the passage of the bill increasing the compensation of the members of the court of claims, it was then too late for the board of public works to present to the Legislature a request for an amendment and supplement to the regular budget bill to provide funds covering such increase in the regular appropriation for the court of claims; and

WHEREAS, It thus 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 Additional Compensation of Members of the Court of Claims.*—Since it appears from the estimates of the existing surplus and the revenues that there will be available for expenditure during the coming biennium sufficient moneys in the state fund general revenue with which to meet the appropriation herein made, there is hereby appropriated from such fund the sum of two thousand two hundred fifty dollars for the fiscal year ending June thirtieth, one thousand nine hundred forty-six, and the sum of two thousand two hundred fifty dollars for the fiscal year ending June

12 thirtieth, one thousand nine hundred forty-seven, for the
13 purpose of paying to the members of the court of claims
14 the five-dollar a day increase in the per diem compensa-
15 tion provided for them under the provisions of committee
16 substitute for house bill number sixty-four, passed at this
17 session of the Legislature.

CHAPTER 14

(Senate Bill No. 88—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact section five, article one, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the alcoholic content of nonintoxicating beer.

[Passed February 23, 1945; in effect July 1, 1945. Approved by the Governor.]

Article 1. General Provisions.

Section

5. Definitions.

Be it enacted by the Legislature of West Virginia:

That section five, article one, 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 5. *Definitions.*—For the purpose of this chapter:

2 “Alcohol” shall mean ethyl alcohol whatever its origin,
3 and shall include synthetic ethyl alcohol but not de-
4 natured alcohol.

5 “Beer” shall mean any beverage obtained by the fer-
6 mentation of barley, malt, hops, or any other similar
7 product or substitute, and containing more than three
8 and two-tenths per cent of alcohol by weight.

9 “Nonintoxicating beer” shall mean any beverage ob-
10 tained by the fermentation of barley, malt, hops, or
11 similar products or substitute, and containing not more
12 than three and two-tenths per cent of alcohol by weight.

13 "Wine" shall mean any alcoholic beverage obtained by
14 the fermentation of the natural content of fruits, or
15 other agricultural products, containing sugar.

16 "Spirits" shall mean any alcoholic beverage obtained by
17 distillation and mixed with potable water and other sub-
18 stances in solution, and includes brandy, rum, whiskey,
19 cordials and gin.

20 "Alcoholic liquor" shall include alcohol, beer, wine, and
21 spirits, and any liquid or solid containing more than
22 three and two-tenths per cent of alcohol by weight and
23 capable of being used as a beverage.

24 "Original package" shall mean any closed or sealed
25 container or receptacle used for holding alcoholic liquor.

26 "Sale" shall mean any transfer, exchange, or barter in
27 any manner or by any means, for a consideration, and
28 shall include all sales made by principal, proprietor, agent
29 or employee.

30 "Selling" shall include solicitation or receipt of orders;
31 possession for sale; and possession with intent to sell.

32 "Person" shall mean an individual, firm, partnership,
33 corporation or voluntary association.

34 "Manufacture" means to distill, rectify, ferment, brew,
35 make, mix, concoct, process, blend, bottle, or fill an
36 original package with any alcoholic liquor.

37 "Manufacturer" shall mean any person engaged in the
38 manufacture of any alcoholic liquor, and among others
39 includes a distiller, a rectifier, a wine maker, and a
40 brewer.

41 "Brewery" shall mean an establishment where beer is
42 manufactured or in any way prepared.

43 "Winery" shall mean an establishment where wine is
44 manufactured or in any way prepared.

45 "Distillery" shall mean an establishment where alco-
46 holic liquor other than wine or beers is manufactured or
47 in any way prepared.

48 "Public place" shall mean any place, building, or con-
49 veyance to which the public has, or is permitted to have
50 access, including restaurants, soda fountains, and hotel
51 dining rooms and lobbies, and corridors of hotels, and any
52 highway, street, lane, park or place of public resort or
53 amusement.

54 "State liquor store" shall mean a store established and
55 operated by the commission under this chapter for the
56 sale of alcoholic liquor in the original package for con-
57 sumption off the premises.

58 "An agency" shall mean a drug store, grocery store or
59 general store designated by the commission as a retail
60 distributor of alcoholic liquor for the West Virginia
61 liquor control commission.

62 "Department" shall mean the organization through
63 which the commission exercises powers imposed upon it
64 by this chapter.

65 "Commission" shall mean the West Virginia liquor con-
66 trol commission.

CHAPTER 15

(Senate Bill No. 89—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact sections two, three, four, five, twelve, thirteen, fourteen, fifteen, sixteen, eighteen and nineteen, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter twelve, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, and to provide that said article fifteen and all subsequent acts amendatory thereto shall hereafter be designated as article sixteen of said chapter, and to further amend said article by adding thereto sections fifteen-a and fifteen-b, all relating to non-intoxicating beer.

[Passed February 27, 1945; in effect July 1, 1945. Approved by the Governor.]

Article 16. Nonintoxicating Beer.

Section

2. Definitions.
3. State license required; alcoholic content of beer manufactured for sale without state.
4. Amount of license tax; class A and class B retail dealers.
5. Bond of brewer, distributor and class A retail dealer; action on bond of retail dealer upon revocation of license; duty of prosecuting attorney.

12. Form of application for license; fee and bond; refusal of license.
13. Unlawful acts of licensees; penalties.
14. Powers of commissioner.
15. Revocation or suspension of license; courts given concurrent jurisdiction with commissioner.
- 15-a. Hearing on revocation or suspension of license; notice to licensee; review of action of commissioner; clerk of court to furnish commissioner copy of order or judgment of conviction of licensee.
- 15-b. Court action for revocation or suspension of retailer's license; complaint; hearing; notice to licensee; duty of prosecuting attorney and peace officers; judgment of court; appeal.
16. Reissuance of license after revocation.
18. Office of West Virginia nonintoxicating beer commissioner created; appointment; term; salary; qualifications; deputy commissioner; bonds; appointment of agents; payment of administration and enforcement expenses.
19. Revenue collected paid to state treasurer; administration expense.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five, twelve, thirteen, fourteen, fifteen, sixteen, eighteen and nineteen, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter twelve, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, be amended and reenacted, that said article be hereafter designated article sixteen of said chapter, and that said article be further amended by adding thereto sections fifteen-a and fifteen-b, all to read as follows:

Section 2. Definitions.—For the purpose of this article:

- 2 "Nonintoxicating beer" shall mean all cereal malt
- 3 beverages or products of the brewing industry commonly
- 4 referred to as beer, lager beer, ale, and all other mixtures
- 5 and preparations produced by the brewing industry, and
- 6 containing not more than three and two-tenths per cent
- 7 of alcohol by weight, which are hereby declared to be
- 8 nonintoxicating and the word "liquor" as used in chap-
- 9 ter sixty of the code of West Virginia shall not be con-
- 10 strued to include or embrace any cereal malt beverage
- 11 or product of the brewing industry, or any mixture
- 12 or preparation of like nature containing not more than
- 13 three and two-tenths per cent of alcohol by weight.
- 14 "Person" shall mean and include an individual, firm,

15 partnership, association or corporation.

16 "Retailer" shall mean any person selling, serving, de-
17 livering or otherwise dispensing nonintoxicating beer at
18 his established and licensed place of business.

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

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

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

Sec. 3. *State License Required; Alcoholic Content of*
2 *Beer Manufactured for Sale Without State.*—No person
3 shall manufacture, sell, possess for sale, transport or dis-
4 tribute nonintoxicating beer except in accordance with
5 the provisions of this act, and after first obtaining a state
6 license therefor, as hereinafter provided: *Provided, how-*
7 *ever,* That nothing herein contained shall prohibit any
8 brewer located within the state from manufacturing or
9 transporting for sale without the state beer of an alcoholic
10 strength greater than three and two-tenths per cent by
11 weight.

Sec. 4. *Amount of License Tax; Class A and Class B*
2 *Retail Dealers.*—There is hereby levied and imposed an
3 annual license tax upon all dealers in and of nonintoxi-
4 cating beer as defined by this act, which license period
5 shall begin on the first day of July of each year and end on
6 the thirtieth day of June of the following year, and if
7 granted for a less period the same shall be computed
8 quarterly in proportion to the remainder of the fiscal
9 year as follows:

10 (a) Retail dealers shall be divided into two classes,
11 Class A and Class B. In the case of a Class A retail dealer
12 the license fee shall be one hundred dollars for each place
13 of business; except such license fee for social, fraternal

14 or private clubs not operating for profit, and having been
15 in continuous operation for two years or more im-
16 mediately preceding the date of application, shall be fifty
17 dollars; and except that railroads operating in this state
18 may dispense nonintoxicating beer upon payment of an
19 annual license tax of ten dollars for each dining, club,
20 or buffet car in which the same is dispensed.

21 Class A licenses issued for social, fraternal or private
22 clubs and for railroad dining, club or buffet cars, as
23 herein provided, shall authorize the licensee to sell non-
24 intoxicating beer at retail for consumption only on the
25 licensed premises where sold. All other Class A licenses
26 shall authorize the licensee to sell nonintoxicating beer
27 at retail for consumption on or off the licensed premises.

28 In the case of a Class B retailer, the license fee shall
29 be five dollars for each place of business. A Class B
30 license shall authorize the licensee to sell nonintoxicating
31 beer at retail in bottles, cans or other sealed containers
32 only, and only for consumption off the licensed premises.
33 Sales under this license to any person at any one time
34 must be in less quantities than five gallons. Such license
35 may be issued only to the proprietor or owner of a grocery
36 store. For the purpose of this act, the term "grocery
37 store" means and includes any retail establishment com-
38 monly known as a grocery store or delicatessen, where
39 food or food products are sold for consumption off the
40 premises.

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

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

Sec. 5. *Bond of Brewer, Distributor and Class A Retail
2 Dealer; Action on Bond of Retail Dealer Upon Revoca-
3 tion of License; Duty of Prosecuting Attorney.*—In addi-
4 tion to furnishing the information required by this act,
5 each brewer or distributor applying for a license under
6 this act shall furnish, as prerequisite to a license, a bond
7 with some solvent surety company as surety, to be ap-
8 proved by the West Virginia nonintoxicating beer com-

9 missioner, payable to the state of West Virginia, con-
10 ditioned for the payment of any and all additional taxes
11 accruing during the period of such license, and conditioned
12 further for the faithful observance of the laws of the state
13 of West Virginia with respect to the sale, transportation,
14 storage and distribution of nonintoxicating beer, which
15 said bond shall be forfeited to the state upon the revoca-
16 tion of the license of any such brewer or distributor. The
17 amount of such bond, in the case of a brewer, shall be not
18 less than five thousand dollars, nor more than ten thou-
19 sand dollars, and in the case of a distributor, not less than
20 two thousand dollars, nor more than five thousand dol-
21 lars for each place of business licensed and conducted
22 within the state, the amount of such bond, between the
23 minimum and maximum amounts, to be determined in the
24 discretion of the commissioner. In the case of brewers
25 shipping nonintoxicating beer into the state, they must
26 also furnish a bond in a penalty of not less than five thou-
27 sand dollars nor more than ten thousand dollars con-
28 ditioned for the fulfillment and observance of state laws.

29 Each and every Class A retail dealer, in addition to
30 furnishing the information required by this act, shall
31 furnish as prerequisite to obtaining a license, a bond
32 with some solvent surety company as surety, to be ap-
33 proved by the commissioner, payable to the state of
34 West Virginia, in an amount not less than two hundred
35 dollars, nor more than five hundred dollars, within the
36 discretion of the commissioner. All such bonds shall be
37 conditioned for the faithful observance of the laws of the
38 state of West Virginia with respect to the distribution,
39 sale and dispensing of nonintoxicating beer, and shall be
40 forfeited to the state in the full amount of said bond upon
41 the revocation of the license of any such retail dealer.
42 Such money received by the state shall be credited to
43 the state fund, general revenue.

44 Upon the revocation of the license of any Class A
45 retail dealer by the commissioner or by any court of
46 competent jurisdiction, the commissioner or the clerk
47 of said court shall notify the prosecuting attorney of the
48 county wherein such retail dealer's place of business
49 is located, or the prosecuting attorney of the county

50 wherein the licensee resides, of such revocation, and
51 upon receipt of said notice it shall be the duty of such
52 prosecuting attorney forthwith to institute appropriate
53 proceedings for the collection of the full amount of said
54 bond. Upon request of such prosecuting attorney, the
55 commissioner shall deliver the bond to him. Wilful re-
56 fusar without just cause therefor by the prosecuting
57 attorney to perform said duty hereby imposed shall sub-
58 ject him to removal from office by the circuit court of
59 the county for which said prosecuting attorney was
60 elected upon proper proceedings and proof in the manner
61 provided by law.

Sec. 12. *Form of Application for License; Fee and*
2 *Bond; Refusal of License.*—A license may be issued by
3 the commissioner to any person who submits an applica-
4 tion therefor, accompanied by a license fee, and, where
5 required, a bond, stating under oath:

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

20 (b) The place of birth of applicant and that he is a
21 citizen of the United States and, if a naturalized citizen,
22 when and where naturalized; and, if a corporation, or-
23 ganized or authorized to do business under the laws of
24 the state, when and where incorporated, with the names
25 and address of each officer; that each officer is a citizen
26 of the United States and a person of good moral character;
27 and if a firm, association or partnership, the place of
28 birth of each member of the firm, association or partner-

29 ship, that each member is a citizen of the United States
30 and if a naturalized citizen, when and where naturalized,
31 each of whom must qualify and sign the application:
32 *Provided, however,* That the requirements as to residence
33 shall not apply to the officers of a corporation which
34 shall apply for a Class B retailer's license, but the officer,
35 agent, or employee who shall manage and be in charge
36 of the licensed premises shall possess all the qualifica-
37 tions required of an individual applicant for a retailer's
38 license, including the requirements as to residence;

39 (c) The particular place for which the license is de-
40 sired and a detailed description thereof;

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

44 (e) That the place or building in which it is proposed
45 to do business conforms to all laws of health and fire
46 regulations applicable thereto, and is a safe and proper
47 place or building;

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

51 (g) That the applicant is the only person in any man-
52 ner pecuniarily interested in the business so asked to
53 be licensed, and that no other person shall be in any
54 manner pecuniarily interested therein during the con-
55 tinuance of the license;

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

60 The foregoing provisions and requirements are man-
61 datory prerequisites for the issuance of a license, and
62 in the event any applicant fails to qualify under the
63 same, license shall be refused. In addition to the in-
64 formation furnished in any application, the commissioner
65 may make such additional and independent investigation
66 of each applicant, and of the place to be occupied, as
67 deemed necessary or advisable; and for this reason each
68 and all applications, with license fee and bond, must
69 be filed thirty days prior to the beginning of any fiscal

70 year, and if application is for an unexpired portion of
71 any fiscal year, issuance of license may be withheld for
72 such reasonable time as necessary for investigation.

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

76 (a) That the applicant is not a suitable person to be
77 licensed; or

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

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

Sec. 13. *Unlawful Acts of Licensees; Penalties.*—It shall
2 be unlawful:

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

10 (b) For any licensee, his, its or their servants, agents
11 or employees, to sell, furnish or give any nonintoxicating
12 beer to any person visibly or noticeably intoxicated, or to
13 any insane persons, or to any habitual drunkard, or to
14 any person under the age of eighteen years;

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

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

28 (e) For any brewer or distributor to give, furnish, rent

29 or sell any equipment, fixtures, signs or supplies directly
30 or indirectly or through a subsidiary or affiliate to any
31 licensee engaged in selling products of the brewing in-
32 dustry at retail, or to offer any prize, premium, gift, or
33 other similar inducement, except advertising matter of
34 nominal value, to either trade or consumer buyers;

35 (f) For any licensee to transport, sell, deliver or pur-
36 chase any nonintoxicating beer or product of the brewing
37 industry upon which there shall appear a label or other in-
38 formative data which in any manner refers to the alcoholic
39 content of such beer or product of the brewing industry,
40 or upon the label of which there appears the word or
41 words "strong," "full strength," "extra strength," "pre-
42 war strength," "high test" or other similar expressions
43 bearing upon the alcoholic content of such product of
44 the brewing industry, or which refers in any manner to
45 the original alcoholic strength, extract or balling proof
46 from which such beverage was produced, except that
47 such label shall contain a statement that the alcoholic
48 content thereof does not exceed three and two-tenths per
49 cent by weight;

50 (g) For any licensee to permit in his premises any lewd,
51 immoral or improper entertainment, conduct or practice;

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

55 (i) For any licensee to obstruct the view of the interior
56 of his premises by enclosure, lattice, drapes or any means
57 which would prevent plain view of the patrons occupying
58 such premises. The interior of all licensed premises shall
59 be adequately lighted at all times: *Provided, however,*
60 That the provisions of this paragraph shall not apply to the
61 premises of a Class B retailer;

62 (j) For any licensee to manufacture, import, sell, trade,
63 barter, possess, or acquiesce in the sale, possession or
64 consumption of any alcoholic liquors on the premises cov-
65 ered by such license or on premises directly or indirectly
66 used in connection therewith;

67 (k) For any licensee to print, paint or place upon the
68 door, window, or in any other public place in or about
69 the premises, the word "saloon" or word of similar char-

70 acter or nature, or for the word "saloon" or similar words
71 to be used in any advertisement by the licensee;

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

76 (m) For any licensee to permit loud, boisterous or dis-
77 orderly conduct of any kind upon his premises or to permit
78 the use of loud musical instruments if either or any of the
79 same may disturb the peace and quietude of the com-
80 munity wherein such business is located: *Provided*, That
81 no juke box or other musical instrument of like character
82 shall be played or operated after eleven o'clock P. M., on
83 any week day and at no time on Sunday;

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

89 (o) For any distributor to sell, possess for sale, trans-
90 port or distribute nonintoxicating beer except in the
91 original container;

92 (p) For any licensee to permit any act to be done upon
93 the licensed premises, the commission of which consti-
94 tutes a crime under the laws of this state;

95 (q) For any Class B retailer to permit the consumption
96 of nonintoxicating beer upon his licensed premises.

97 Any person who violates any provision of this act or
98 who makes any false statement concerning any material
99 fact in submitting application for license or for a renewal
100 of a license or in any hearing concerning the revocation
101 thereof, or who commits any of the acts herein declared
102 to be unlawful, shall be guilty of a misdemeanor, and
103 shall be punished for each offense by a fine of not less
104 than twenty-five dollars, nor more than five hundred
105 dollars, or imprisoned in the county jail for not less than
106 thirty days nor more than six months, or by both fine and
107 imprisonment in the discretion of the court. Justices of
108 the peace shall have concurrent jurisdiction with the
109 circuit court, and any other courts having criminal juris-

110 diction in their county, for the trial of all misdemeanors
111 arising under this act.

Sec. 14. *Powers of Commissioner.*—To effectively carry
2 out the provisions of this act, the commissioner shall have
3 the power and authority to adopt, promulgate, repeal,
4 rescind and amend, in any manner required, rules, regu-
5 lations, standards, requirements and orders, including the
6 following:

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

10 (b) Requiring the reporting of such information by
11 licensees as may be necessary for the effective adminis-
12 tration of this act;

13 (c) Regulating the branding and labeling of packages,
14 bottles or other containers in which nonintoxicating
15 beer may be sold; and, in his discretion, require the col-
16 lection of all taxes provided for under section six of this
17 act, by the use of tax-paid crowns, lids, and/or stamps;

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

21 (e) Referring to licenses and the issuance and revoca-
22 tion of the same;

23 (f) Requiring licensees to keep their places of business
24 where nonintoxicating beer is sold at retail, and the equip-
25 ment used in connection therewith, clean and in a sani-
26 tary condition.

Sec. 15. *Revocation or Suspension of License; Courts
2 Given Concurrent Jurisdiction with Commissioner.*—The
3 commissioner may revoke, or suspend, the license of any
4 licensee:

5 (a) For any of the reasons and upon any grounds de-
6 clared to be unlawful by section thirteen of this act; or

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

11 (c) For the violation of any rule, regulation or order

12 promulgated by the commissioner under authority of
13 this article.

14 In addition to the grounds for revocation or suspension
15 of a license above set forth, conviction of the licensee
16 of any offense constituting a violation of the laws of this
17 state or of the United States relating to nonintoxicating
18 beer or alcoholic liquor shall be mandatory grounds for
19 the revocation or suspension of a license.

20 Any court of record, except juvenile, domestic relations
21 courts and courts with jurisdiction limited to the trial of
22 criminal offenses, of the county in which the licensed
23 premises are located, shall have concurrent jurisdiction
24 with the commissioner of any proceedings for the revocation or suspension of the license of any retailer, either
25 Class A or Class B, for a violation by such retailer of the
26 provisions of paragraphs (a), (b), (g), (j), (m),
27 (p) or (q), of section thirteen of this act, or for making
28 any false statement concerning any material fact in submitting an application for a retailer's license or for a
29 renewal of such a license.
31

Sec. 15-a. *Hearing on Revocation or Suspension of License; Notice to Licensee; Review of Action of Commissioner; Clerk of Court to Furnish Commissioner Copy of Order or Judgment of Conviction of Licensee.*—No such
2 revocation or suspension shall be made by the commissioner unless and until a hearing shall be held after ten
3 days' notice to the licensee of the time and place of such
4 hearing, which notice shall contain a statement or specification of the charges, grounds or reasons for such proposed or contemplated action, and which shall be served
5 upon the licensee as other notices, or by registered mail
6 to the address for which license was issued; at which time
7 and place, so designated in the notice, the licensee shall
8 have the right to appear and produce evidence in his behalf, and to be represented by counsel.
9

10 The commissioner shall have authority to summon witnesses in the hearings before him, and fees of witnesses
11 summoned on behalf of the state in proceedings to revoke
12 or suspend licenses shall be treated as a part of the expenses of administration and enforcement. Such fees
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21 shall be the same as those in similar hearings in the
22 courts.

23 If, at the request of the licensee or on his motion, the
24 hearing shall be continued and shall not take place on
25 the day fixed by the commissioner in the notice above pro-
26 vided for, then such licensee's license shall be suspended
27 until the hearing and decision of the commissioner, and
28 in the event of revocation or suspension of such license,
29 upon hearing before the commissioner, the licensee shall
30 not be permitted to sell beer pending an appeal as pro-
31 vided by this act. Any person continuing to sell beer
32 after his license has been suspended or revoked, as herein-
33 before provided, shall be guilty of a misdemeanor and
34 shall be punished as provided in section thirteen of this
35 act.

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

54 All such hearings, upon notice to show cause why license
55 should not be revoked or suspended, before the commis-
56 sioner, shall be held in the offices of the commissioner in
57 the capitol building, Charleston, Kanawha county, West
58 Virginia, unless otherwise provided in such notice, or
59 agreed upon between the licensee and the commissioner;
60 and when such hearing is held elsewhere than in the

61 commissioner's office, the licensee may be required to
62 make deposit of the estimated costs of such hearing.

63 Whenever any licensee has been convicted of any
64 offense constituting a violation of the laws of this state
65 or of the United States relating to nonintoxicating beer or
66 alcoholic liquor, the clerk of the court in which such
67 licensee has been convicted shall forward to the com-
68 missioner a certified copy of the order or judgment of
69 conviction, if such clerk has knowledge that the person
70 so convicted is a licensee.

Sec. 15-b. *Court Action for Revocation or Suspension
2 of Retailer's License; Complaint; Hearing; Notice to Li-
3 censee; Duty of Prosecuting Attorney and Peace Officers;
4 Judgment of Court; Appeal.*—Proceedings in any court
5 for the revocation or suspension of any retailer's license,
6 as provided in section fifteen, shall be entitled in the name
7 of the state and against the licensee and shall be instituted
8 by the filing with the clerk of said court a complaint signed
9 and sworn to either by some peace officer of the village,
10 town, or city in which the licensed premises are situated,
11 or by any citizen who is, and for at least six months prior
12 thereto has been, a resident thereof, or if the licensed
13 premises are situated outside of a village, town or city,
14 then by a peace officer of said county, or by any citizen
15 who is, and for at least six months prior thereto has been,
16 a resident of said county. Such complaint shall set
17 forth in detail the facts alleged to constitute the
18 violation or violations which are the grounds upon
19 which the revocation or suspension of the license is
20 asked and the facts stated in said complaint must be
21 shown to be within the personal knowledge of the
22 affiant or affiants or upon the information and belief of
23 such affiant or affiants. It shall be the duty of the
24 prosecuting attorney of the county when requested so
25 to do by any person or persons herein authorized to file
26 a complaint, to prepare and draw the complaint for such
27 person or persons.

28 When such complaint is filed with the clerk of said
29 court, he shall immediately call the attention of the court
30 thereto, and it shall be the duty of the court to enter an

31 order fixing a time for the hearing thereon. Thereupon,
32 the clerk shall notify the prosecuting attorney of the
33 county of the filing of said complaint and of the date fixed
34 for said hearing. The prosecuting attorney shall forth-
35 with prepare a notice of hearing directed to the licensee,
36 which shall state that a complaint has been filed in the
37 office of the clerk of said court, copy of which is attached,
38 and that pursuant to the order entered by the court the
39 same will come on for hearing before said court, stat-
40 ing the time and place where the hearing will be held,
41 and shall be signed by said prosecuting attorney. Said
42 notice shall be served upon the licensee at least ten days
43 prior to the time fixed for hearing, if personal service is
44 made. If service be made by mail, such notice shall be
45 deposited in the United States mail not less than twelve
46 days prior to the date set for hearing. It shall be the
47 duty of the prosecuting attorney to diligently and with-
48 out delay prosecute all complaints which have been
49 filed.

50 At the time fixed by said order, or as soon thereafter
51 as the business of the court will permit, the said com-
52 plaint shall come on for trial and hearing. The trial of
53 said complaint for revocation or suspension of the license
54 shall be by the court and without jury. The complaint
55 may be amended at any time before hearing and by leave
56 of court during the hearing. Any amendment shall, how-
57 ever, be verified in like manner as is provided in the
58 original complaint. Such proceeding shall be heard
59 promptly by the court. The pendency of any pro-
60 ceeding before the commissioner for the revocation
61 or suspension of the license shall not stay or be
62 grounds for the continuance of the hearing herein pro-
63 vided to be had before the court. If the court shall find
64 upon the hearing that the offense or offenses charged in
65 the complaint have been established by the evidence,
66 the court shall order the revocation or suspension of the
67 license. If the court finds that the licensee has not
68 previously violated the law in the operation of his licensed
69 business, and that no license held by him has previously
70 been suspended or revoked, and if it appears to the
71 satisfaction of the court that there are reasonable grounds

72 to expect that the licensee will not again commit the
73 offense or offenses charged in the complaint and that
74 to revoke the license would be unduly severe, then the
75 court may suspend the license for such period of time as
76 the court deems proper: *Provided, however,* That if the
77 licensee has previously had his license suspended or re-
78 voked it shall be mandatory upon the court, upon a
79 finding of guilty, to revoke the said license. After the
80 filing of a complaint with the clerk of the court for
81 revocation or suspension of a license, as hereinbefore pro-
82 vided, the court shall retain jurisdiction to hear and de-
83 termine such complaint and to enter judgment revoking
84 such license. For the purpose of such hearing and as to
85 the effect of the judgment of the court entered pursuant
86 thereto, the license shall be in full force and effect even
87 though the licensee, after the filing of such complaint,
88 may have surrendered his license, or such license may
89 have expired, or the rights of the licensee thereunder
90 may have otherwise terminated. It is the purpose of this
91 paragraph to preclude the licensee and the surety upon
92 his bond from avoiding the effect of judgment of revoca-
93 tion by the court by reason of conditions arising subse-
94 quent to the filing of a complaint.

95 Any court having jurisdiction to entertain a proceed-
96 ing under the provisions of this chapter for the revoca-
97 tion or suspension of a license may, after the date for
98 hearing has been fixed, enter an order referring the same
99 to a commissioner in chancery, or a special commissioner
100 designated by the court, for the purpose of ascertaining
101 the facts and reporting the same to the court.

102 It is hereby made the duty of all peace officers
103 to enforce within their jurisdiction the provisions of
104 paragraphs (a), (b), (g), (j), (m), (p) and (q), of section
105 thirteen of this act, and they shall promptly investigate
106 all complaints made to them by any citizen relative to
107 any alleged violations by a retailer within their juris-
108 diction of the foregoing paragraphs of section thirteen.
109 When any peace officer has knowledge of the fact that
110 any retailer within his jurisdiction has violated any of
111 the foregoing paragraphs of section thirteen, or has made
112 any false statement concerning any material fact in sub-

113 mitting an application for a retailer's license or for a
114 renewal of such a license, it shall be his duty to file im-
115 mediately a complaint as hereinabove provided. Agents
116 of the commissioner may file complaints with the court
117 or with the commissioner at their option. The failure
118 of any peace officer to perform the duties herein imposed
119 upon him shall be grounds for his removal from office in
120 the manner hereinbefore provided for the removal of the
121 prosecuting attorney.

122 Any person aggrieved by any final order entered by the
123 court under the provisions of this section shall have the
124 right, within sixty days from and after the entry of such
125 final order, to make application to the supreme court of
126 appeals of West Virginia for a writ of error, but the
127 judgment of the court revoking or suspending such li-
128 cense shall not be superseded or stayed during the pend-
129 ency of an appeal therefrom.

130 The word "court" as used in this section shall mean
131 the court in term or the judge thereof in vacation.

Sec. 16. *Reissuance of License After Revocation.*—No
2 license shall be issued to any person who has formerly
3 held a license, under the provisions of this act, which has
4 been revoked by the commissioner or a court of compe-
5 tent jurisdiction, within a period of two years from the
6 date of such revocation; nor shall any license be issued
7 hereunder to any person who was an officer or stock-
8 holder of a corporation whose license was revoked as
9 aforesaid, nor to any person who was a member of a
10 partnership or association whose license was revoked as
11 aforesaid, nor to the wife or husband of any person whose
12 license was revoked as aforesaid, within said period of
13 two years from the date of revocation; nor shall any li-
14 cense be issued to any corporation having a stockholder or
15 director who has had a license revoked as aforesaid, within
16 said period of two years from the date of the revocation
17 of such person's license.

Sec. 18. *Office of West Virginia Nonintoxicating Beer*
2 *Commissioner Created; Appointment; Term; Salary;*
3 *Qualifications; Deputy Commissioner; Bonds; Appoint-*
4 *ment of Agents; Payment of Administration and Enforce-*

5 *ment Expense.*—(a) The office of an independent admin-
6 istrator to be known as “West Virginia Nonintoxicating
7 Beer Commissioner” is hereby created and the adminis-
8 tration of this act is vested in and shall be exercised by
9 said commissioner, to whom is hereby given all neces-
10 sary power and authority in the premises.

11 Whenever, in this article, the word “commissioner” or
12 “tax commissioner” is used, it shall mean the “West Vir-
13 ginia nonintoxicating beer commissioner.” All acts here-
14 tofore performed by the tax commissioner under the pro-
15 visions of this act are ratified and confirmed, and the
16 commissioner shall succeed to the same position main-
17 tained by the tax commissioner in all proceedings and of-
18 ficial acts instituted and perfected under the provisions
19 of this act prior to the appointment of the commissioner.
20 The commissioner shall be appointed by the governor
21 with the advice and consent of the senate. The term of
22 office for such commissioner shall be six years from the
23 date of his appointment and until his successor shall have
24 been appointed and qualified. The commissioner shall
25 receive an annual salary of six thousand dollars.

26 (b) The commissioner at the time of his appointment
27 and qualification shall be a citizen of the United States
28 and a resident of the state of West Virginia; shall have
29 been a qualified voter in the state for a period of at least
30 one year next preceding his appointment, and shall be
31 not less than thirty years of age; no commissioner during
32 his period of service as such shall hold any other office
33 under the laws of this state or of the United States.

34 (c) The commissioner, with the consent of the gov-
35 ernor, shall appoint a deputy commissioner who shall
36 have the same qualifications as are required of a com-
37 missioner. The deputy commissioner in the absence of
38 the commissioner shall exercise all the powers of the
39 commissioner and generally shall exercise such powers
40 as are delegated to him by the commissioner.

41 (d) Before entering upon the duties of their respective
42 offices, the commissioner and his deputy shall execute and
43 file with the state treasurer a penal bond in such sum
44 as shall be fixed by the governor, but the amount of such
45 bond shall not be less than five thousand dollars. Penal

46 bonds in such penal sums as shall be fixed by the
47 governor likewise shall be executed and filed with the
48 state treasurer by such employees of the commissioner
49 as the commissioner with the consent of the governor
50 shall prescribe: *Provided, however,* That no bond of any
51 employee handling moneys collected by the commissioner
52 under the provisions of this act shall be less than five
53 thousand dollars. All such bonds shall be payable to the
54 state of West Virginia and shall be conditioned for the
55 faithful performance of the duties imposed by law or
56 lawful authority upon the commissioner, deputy com-
57 missioner or employees, and further conditioned that
58 the person bonded will not knowingly violate the
59 provisions of any act relating to the manufacture, sale,
60 distribution or transportation of alcohol, alcoholic
61 liquors or nonintoxicating beer. All bonds required to be
62 given under this section, before being accepted by the
63 state treasurer, shall be approved by the attorney general,
64 and all such bonds shall be given with surety approved by
65 the attorney general. The cost of such bond shall be borne
66 by the commissioner as part of his operating expense.

67 (e) In addition to the service of the deputy com-
68 missioner hereinabove provided for, the commissioner
69 shall appoint an adequate number of competent persons
70 to serve as agents of the commissioner for the purpose
71 of keeping all necessary accounts and records required
72 under the provisions of this article; investigating the
73 books, accounts, records and other papers of retailers, dis-
74 tributors and brewers; investigating applicants for license
75 and the places of business of retailers, distributors and
76 brewers; procuring evidence with respect to violations of
77 the provisions of this act, and particularly for use at
78 hearings held by the commissioner and on proceedings
79 instituted in court for the purpose of revoking or sus-
80 pending licenses hereunder; and such agents shall per-
81 form such other duties as the commissioner may direct.
82 Such agents shall have the right to enter any licensed
83 premises in the state in the performance of their duties
84 at any hour of the day or night when beer is being sold
85 or consumed on such licensed premises. Refusal by any
86 licensee or by any employee of a licensee to permit such

87 agents to enter the licensed premises shall be an addi-
88 tional cause for revocation or suspension of the license
89 of such licensee by the commissioner. The compensation
90 of such deputy commissioner, employees and agents shall
91 be fixed by the commissioner.

92 Services rendered the state by clerks, sheriffs, commis-
93 sioners in chancery and special commissioners, designated
94 by the court, and court reporters and stenographers per-
95 forming services for said commissioners, and fees of wit-
96 nesses summoned on behalf of the state in proceedings
97 to revoke or suspend retailers' licenses, shall be treated as
98 a part of the expenses of administration and enforcement,
99 and such officers and said other persons shall be paid the
100 same fees and charges as would be chargeable for like
101 services performed for an individual; and the compensa-
102 tion of such clerks, sheriffs and other persons, shall be
103 paid out of the amount allocated for the expense of ad-
104 ministration and enforcement, after the amount of such
105 fees and other charges shall be certified by the court to
106 the auditor.

2 *Sec. 19. Revenue Collected Paid to State Treasurer; Ad-*
3 *ministration Expense.*—Taxes imposed and collected un-
4 der the provisions of this article shall be paid to the state
5 treasurer in the manner provided by law, and credited to
6 the state fund, general revenue. The expenses of adminis-
7 tration and enforcement shall be paid out of the taxes
8 collected under this article, but not less than fifteen per
9 cent of the amount so collected shall be allocated for the
expenses of administration and enforcement.

10 The provisions of this act shall be construed to be
11 severable, and if any of said provisions are held unconsti-
12 tutional or otherwise invalid, such invalidity shall not
13 affect the operation of the remaining portions thereof.

14 Chapter twelve, acts of the Legislature, regular session,
15 one thousand nine hundred thirty-seven, and this act and
16 other acts amendatory thereto are hereby designated
17 article sixteen, chapter eleven of the code of West Vir-
18 ginia, one thousand nine hundred thirty-one.

CHAPTER 16

(Com. Sub. for House Bill No. 119—Originating in the House Committee on Taxation and Finance)

AN ACT authorizing the issuance and sale of not exceeding fifteen million dollars of road bonds of the state of West Virginia to raise money for road construction and maintenance purposes, under and by virtue of the "good roads amendment" to the constitution adopted at the general election held in November, one thousand nine hundred twenty; to provide for the distribution and expenditure of the proceeds of sale thereof, and to provide for the levy and collection of an annual state tax and other revenue sufficient to pay semi-annually the interest on such bonds and the principal thereof within twenty-five years.

[Passed March 3, 1945; 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 Bonds of the state of West Virginia of the par value of
- 3 fifteen million dollars are hereby authorized to be issued
- 4 and sold for the purpose of raising funds for assisting in
- 5 building, constructing and maintaining the system of
- 6 state roads and highways provided for by the constitution.
- 7 Such bonds may be issued by the governor in such
- 8 amounts, in coupon or registered form, in such denomina-
- 9 tions, at such times and bearing such date or dates as the

10 governor may determine, and shall become due and pay-
11 able serially in equal amounts beginning one year and
12 ending twenty-five years from the date thereof: *Provided,*
13 *however,* That no bonds may be issued under the pro-
14 visions of this act until bonds authorized and issued un-
15 der the provisions of the "good roads amendment" to
16 the constitution of the state, ratified at the general elec-
17 tion held in November, one thousand nine hundred twenty,
18 have been retired and cancelled out of the state road
19 sinking fund created by section six, chapter one hundred
20 thirteen, acts of the Legislature of West Virginia, one
21 thousand nine hundred twenty-one, in an amount equal
22 to or greater than the amount to be issued hereunder at
23 any one time.

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

26 Virginia shall issue his check for the interest then due on
27 the first day of _____ and _____ of each
28 year, and mail it to the registered owner at his address
29 as shown by the record of registration. Both the princi-
30 pal and interest of the bonds shall be payable in lawful
31 money of the United States of America and the bonds shall
32 be exempt from taxation by the state of West Virginia, or
33 by any county, district, or municipality thereof, which
34 facts shall appear on the face of the bonds as part of the
35 contract with the holder thereof.

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

7 COUPON ROAD BOND

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

9 OF THE

10 STATE OF WEST VIRGINIA

11 \$ _____ No. _____

12 The state of West Virginia, under and by virtue of
13 authority of an act of the Legislature passed at the regu-
14 lar session of one thousand nine hundred forty-five, on
15 the _____ day of _____, one thousand
16 nine hundred forty-five, and approved by the governor
17 on the _____ day of _____, one thou-
18 sand nine hundred forty-five, which is hereby made a
19 part hereof as fully as if set forth at length herein, ac-
20 knowledges itself to be indebted to, and hereby promises
21 to pay to the bearer hereof (in the case of a coupon bond)
22 or to _____ or assigns (the owner of record,
23 in case of registered bonds) _____ years after the
24 date of this bond, to-wit: On the _____ day of
25 _____, 19____, in lawful money of the United
26 States of America at the office of the treasurer of the
27 state of West Virginia, at the capitol of said state, or at
28 the option of the holder at _____ bank
29 in the city of New York, the sum of _____ dollars,
30 with interest thereon at _____ per centum per annum

31 from date, payable semi-annually in like lawful money
32 of the United States of America at the treasurer's office
33 or bank aforesaid, on the first day of _____ and the
34 first day of _____ of each year, (and in the case of
35 coupon bonds) according to the tenor of the annexed
36 coupons, bearing the engraved facsimile signature of the
37 treasurer of the state of West Virginia, upon surrender of
38 such coupons. This bond (in the case of a coupon bond)
39 may be exchanged for a registered bond of like tenor
40 upon application to the treasurer of the state of West
41 Virginia.

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

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

55 In testimony whereof, witness the signature of the
56 treasurer of the state of West Virginia, and the counter-
57 signature of the auditor of the state, hereto affixed ac-
58 cording to law, dated the _____ day of _____,
59 one thousand nine hundred _____, and the seal
60 of the state of West Virginia.

61 (Seal)

62

63 _____
Treasurer of the State of West Virginia

64 Countersigned:

65

66 _____
Auditor of the State of West Virginia

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

3 STATE OF WEST VIRGINIA

4 Bond No. _____ Coupon No. _____

5 On the first day of _____, 19____, the state of
6 West Virginia will pay to the bearer, in lawful money
7 of the United States of America, at the office of the treas-
8 urer of the state, or at the option of the holder at _____
9 _____ bank in the city of New York, the sum of
10 _____ dollars, the same being semi-
11 annual interest on Road Bond No. _____, series of
12 one thousand nine hundred _____.

13 _____
14 Treasurer of the State of West Virginia
15 The signature of the treasurer to such coupon shall be by
16 his engraved facsimile signature and the coupons shall be
17 numbered in the order of their maturity, from number one
18 consecutively. The bonds and coupons may be signed by
19 the present treasurer and auditor, or by any of their re-
20 spective successors in office, and bonds signed by the per-
21 sons now in office may be sold by the governor or his
22 successors in office without being signed by the successor
23 in office of the present treasurer or auditor.

Sec. 5. *Listing by Auditor.*—All coupon and registered
2 bonds issued under this act shall be separately listed by
3 the auditor of the state in books provided for the purpose,
4 in each case giving the date, number, character and
5 amount of obligations issued, and in case of registered
6 bonds, the name and post office address of the person,
7 firm or corporation registered as the owner thereof.

Sec. 6. *State Road Sinking Fund, Sources; Used to Pay*
2 *Bonds and Interest; Investment of Remainder.*—Into the
3 state road sinking fund there shall be paid all moneys re-
4 ceived from the annual state tax levy on the taxable prop-
5 erty in the state levied under the provisions of this act,
6 from any and all appropriations made by the state from
7 other sources for the purposes of paying the interest on
8 such bonds or paying off and retiring the bonds, from fines,
9 forfeitures and penalties, if any, made applicable by law
10 for the payment of such bonds or the interest thereon,
11 from transfer fees as herein provided, and from any
12 source whatsoever, which is made liable by law for the
13 payment of the principal of such bonds or the interest
14 thereon.

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

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

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

2 In order to provide the revenue necessary for the pay-
3 ment of the principal and interest of such bonds, as here-
4 inbefore 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 real
7 and personal property subject to taxation within this
8 state, sufficient to pay interest on the bonds accruing
9 during the current year and one twenty-fifth of the total
10 issue (at par value) of such bonds, for such number of
11 years, not exceeding twenty-five, as may be necessary to
12 pay the interest thereon and to pay off the principal sum of
13 the bonds; and such taxes, when so collected, shall not
14 be liable for or applicable to any other purpose: *Provided,*
15 *however,* That if there be other funds in the state treasury,
16 or in the state road funds, in any fiscal year, not other-
17 wise appropriated, or if other sources of revenue be
18 hereafter provided by law for the purpose, the board of

19 public works is authorized, empowered and directed to
20 set apart, in any year there be such funds, or other
21 sources of revenue provided for such purpose, a sum suffi-
22 cient to pay the interest on bonds accruing during the cur-
23 rent year, and to pay off, and retire the principal of such
24 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 the bonds herein mentioned at such time or
3 times as he may determine necessary to provide funds for
4 road construction and maintenance purposes, as herein
5 provided, upon recommendation of the state road commis-
6 sion. All sales shall be at not less than par and accrued
7 interest. All interest coupons becoming payable prior to
8 the sale date shall be cancelled by the treasurer and ren-
9 dered ineffective before the delivery of the bonds so
10 sold.

Sec. 9. *Proceeds Paid into State Road Fund.*—The pro-
2 ceeds of all sales of bonds herein authorized shall be paid
3 into the state road fund created by section one, article
4 three, chapter seventeen of the code, one thousand nine
5 hundred thirty-one, as last amended.

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

Sec. 11. *Auditor to Be Custodian of Unsold Bonds.*—
2 The state auditor shall be the custodian of all unsold 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 such bonds to be held by them in lieu of
4 engraved bonds. When interim certificates are so issued,
5 they shall become full and legal obligations of the state
6 of West Virginia under all of the provisions of this act
7 just as fully and completely as the engraved and perma-
8 nent 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 17

(House Bill No. 241—By Mr. Speaker, Mr. Amos, by request)

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 eight, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to public bonded indebtedness.

[Passed March 10, 1945; in effect ninety days 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 eight, acts of the Legislature, regular session, one thousand nine hundred forty-one, 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 appa-
- 7 ratus for any building, work, improvement or depart-
- 8 ment, or for establishing and maintaining a library or
- 9 museum for the public use, or a building or structure for

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

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

50 able. The proposal may also contain a provision that
51 when the bonds and the interest thereon shall have been
52 paid, then the title to the land and the building or build-
53 ings situated thereon may be transferred to the college
54 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 tax-
6 able property therein, as shown by the last assessment
7 thereof, for state and county purposes, next prior to the
8 issuing of such bonds: *Provided, however,* That any board
9 of 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 reimproving
17 its streets and alleys, or for establishing and main-
18 taining a library or museum for the public use, or a
19 building or structure for educational purposes, or acquir-
20 ing a recreation park for the public use, may become in-
21 debted and issue bonds in an additional sum not exceeding
22 two and one-half per cent of the value of the taxable
23 property therein, ascertained as aforesaid.

24 The term "sewerage" as used herein shall be treated
25 in a comprehensive sense, so as to include all mains,
26 laterals, connections, traps, incinerating and disposal
27 plants, and other necessary and convenient accessories to
28 a modern, sanitary and efficient sewerage system, and
29 shall include storm sewers.

30 The county court of any county is hereby authorized
31 and empowered to negotiate and sell to the government of
32 the United States or to any governmental agency, fed-
33 eral or state, at private sale, at not less than par any bonds
34 issued for the purpose of erecting and equipping a court-

35 house or other public buildings for such county, under
36 and by virtue of article one, chapter thirteen of the code
37 of West Virginia, without first offering them for sale at
38 public auction, or to any other person or agency.

CHAPTER 18

(House Bill No. 343—By Mr. Davis)

AN ACT to amend and reenact section seven, article six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter forty-three, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to the state office building commission; empowering that commission to issue state office revenue bonds; grants and gifts.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 6. State Office Building Commission.

Section

7. Commission empowered to issue state office revenue bonds; grants and gifts.

Be it enacted by the Legislature of West Virginia:

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

- Section 7. *Commission Empowered to Issue State Office Revenue Bonds; Grants and Gifts.*—The commission is hereby empowered to raise the cost of the project, as defined hereinabove, by the issuance of state office building revenue bonds of the state, the principal of and interest on which bonds shall be payable solely from the special fund herein provided for such payment. Such bonds shall be authorized by resolution of the commis-

9 sion, which shall recite an estimate by the commission of
10 such cost, and shall provide for the issuance of bonds in
11 an amount sufficient, when sold as hereinafter provided,
12 to produce such cost, less the amount of any grant or
13 grants, gift or gifts received, or in the opinion of the
14 commission expected to be received from the United
15 States of America or from any other source. The accept-
16 ance by the commission of any and all such grants and
17 gifts, whether in money or in land, labor or materials, is
18 hereby expressly authorized. All such bonds shall have
19 and are hereby declared to have all the qualities of nego-
20 tiable instruments under the law merchant. Such bonds
21 shall bear interest at not more than four per cent per
22 annum, payable semi-annually, and shall mature in not
23 more than twenty-five years from their date or dates,
24 and may be made redeemable at the option of the state,
25 to be exercised by the commission, at such price and
26 under such terms and conditions as the commission may
27 fix prior to the issuance of such bonds. The commission
28 shall determine the form of such bonds, including cou-
29 pons to be attached thereto to evidence the right of in-
30 terest payments, which bonds shall be signed by the
31 chairman and secretary of the commission, under the
32 great seal of the state, attested by the secretary of state,
33 and the coupons attached thereto shall bear the facsimile
34 signature of said chairman of the commission. In case any
35 of the officers whose signatures appear on the bonds or
36 coupons shall cease to be such officers before the delivery
37 of such bonds, such signatures shall nevertheless be valid
38 and sufficient for all purposes the same as if they had
39 remained in office until such delivery. The commission
40 shall fix the denominations of said bonds, the principal
41 and interest of which shall be payable at the office of the
42 treasurer of the state of West Virginia, at the capitol of
43 said state, or, at the option of the holder, at some bank or
44 trust company in the city of New York to be named in
45 the bonds, in such medium as may be determined by the
46 commission. The said bonds shall be exempt from taxa-
47 tion by the state of West Virginia, or any county or mu-
48 nicipality therein. The commission may provide for the

49 registration of such bonds in the name of the owner as to
50 principal alone, and as to both principal and interest
51 under such terms and conditions as the commission may
52 determine, and shall sell such bonds in such manner as
53 it may determine to be for the best interest of the state,
54 taking into consideration the financial responsibility of
55 the purchaser, and the terms and conditions of the purchase,
56 and especially the availability of the proceeds of
57 the bonds when required for payment of the cost of the
58 project, such sale to be made at a price not lower than a
59 price which, computed upon standard tables of bond
60 values, will show a net return of four per cent per annum
61 to the purchaser upon the amount paid therefor.
62 The proceeds of such bonds shall be used solely for the
63 payment of the cost of the project, and shall be deposited
64 and checked out as provided by section four of this article,
65 and under such further restrictions, if any, as the commission
66 may provide. If the proceeds of such bonds, by
67 error in calculation or otherwise, shall be less than the
68 cost of the project, additional bonds may in like manner
69 be issued to provide the amount of the deficiency, and
70 unless otherwise provided for in the trust agreement hereinafter
71 mentioned, shall be deemed to be of the same
72 issue, and shall be entitled to payment from the same
73 fund, without preference or priority as the bonds before
74 issued, provided that the aggregate amount of all issues
75 of bonds outstanding at one time shall not exceed two
76 million dollars. If the proceeds of bonds issued for the
77 project shall exceed the cost thereof, the surplus shall be
78 paid into the fund hereinafter provided for payment of
79 the principal and interest of such bonds. Such fund may
80 be used for the purchase of any of the outstanding bonds
81 payable from such fund at the market price, but at not
82 exceeding the price, if any, at which such bonds shall in
83 the same year be redeemable, and all bonds redeemed
84 or purchased shall forthwith be canceled, and shall not
85 again be issued. Prior to the preparation of definitive
86 bonds, the commission may, under like restrictions, issue
87 temporary bonds with or without coupons, exchangeable
88 for definitive bonds upon the issuance of the latter. Such

89 revenue bonds may be issued without any other proceed-
90 ings or the happening of any other conditions or things
91 than those proceedings, conditions and things which are
92 specified and required by this article, or by the constitution
93 of the state. Revenue bonds issued under the authority
94 herein granted shall be eligible as investments for the
95 workmen's compensation fund and as security for the
96 deposit of all public funds.

CHAPTER 19

(Com. Sub. for House Bill No. 48—Originating in the House Committee on the Judiciary)

AN ACT to amend sections one and five, article one; sections four, seven, and eight, and to add section four-a, article two; and section one, article three, all of chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to child welfare.

[Passed March 9, 1945; in effect 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.

Be it enacted by the Legislature of West Virginia:

That sections one and five, article one; sections four, seven and eight, article two; section one, article three, all of chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted and that section four-a be added to said article two, all to read as follows:

Article 1. Purposes; Definitions.

Section

1. Purpose.
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 service of the state shall be admin-
5 istered by the state department of public assistance, the
6 several county departments, and the licensing board
7 herein provided in accordance with the provision of this
8 chapter.

9 The state department of public assistance is desig-
10 nated as the agency to cooperate with the children's
11 bureau of the United States department of labor in ex-
12 tending and improving child welfare services, to com-
13 ply with regulations of the children's bureau, and to
14 receive and expend federal funds for these services.

Sec. 5. *Definitions.*—For the purposes of this chapter:

2 (1) "State department" means the state department
3 of public assistance.

4 (2) "State board" means the state advisory board.

5 (3) "Director" means the director of the state de-
6 partment 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, cor-
13 poration, association or organization to receive children
14 for care and maintenance or for placement in a family
15 home, or any institution that provides care for unmarried
16 mothers and their children, but shall not include county
17 shelters established and maintained for the detention of
18 delinquent children or those charged with delinquency.

19 (6) "Licensing board" means a board consisting of the
20 director of the state department of public assistance, the
21 state commissioner of health and three persons appointed
22 by the governor.

Article 2. State and County Responsibilities for the Protection and Care of Children.

Section

4. License for maintaining child welfare agencies.

4-a. State licensing board.

7. Revocation of license.

8. Violation.

Section 4. *License for Maintaining Child Welfare Agencies.*—No person, firm, corporation, association, organization, municipality or county may establish or maintain a child welfare agency unless licensed to do so by the state licensing board. Applications for such licenses shall be made on forms provided by the state department of public assistance and approved by the state licensing board. Before issuing licenses the licensing board shall investigate the activities and standards of care of the applicant. If satisfied as to the need for the agency, as to financial stability, equipment, good character and intent of the applicant, and that the services are conducive to the welfare of children, a license shall be issued. All licensees, on or before the third Thursday of October, one thousand nine hundred forty-five, and such licensees and subsequent licensees every two years thereafter, desiring to continue as licensed child welfare agencies shall apply to said board for renewal of their licenses. Any licensed child welfare agency failing to apply for and receive a renewal of its license shall thereafter discontinue receiving children for care, maintenance or placement.

A provisional license may be issued to any agency whose services are needed, but which is temporarily unable to conform to all the provisions of the established standards of care.

Each license shall specify in general terms the kind of child welfare work the licensee is authorized to undertake, the number of children that can be received and their ages and sex, and if authorized to place and supervise children in family homes, the area that the agency is equipped to serve.

Sec. 4-a. *State Licensing Board.*—There is hereby created a state licensing board which shall consist of five persons, one of whom shall be the director of the state department of public assistance, who shall be president of the board, one of whom shall be the state health commissioner, and three other persons to be appointed by the governor. Of the three persons first to be appointed to membership on said board by the governor, one shall serve for a period of two years, one for a period of four

10 years and one for a period of six years, and thereafter the
11 members to be so appointed shall serve for a term of six
12 years. The said licensing board shall meet on the third
13 Thursday of October in each year, beginning with the
14 year one thousand nine hundred forty-five, for the pur-
15 pose of passing on applications for licenses and revoking
16 the licenses of child welfare agencies not conforming to
17 the laws of this state relating to child welfare. The mem-
18 bers of said board shall be paid their actual and necessary
19 traveling expenses, by the state department of public
20 assistance from its appropriation, in traveling to and
21 from said annual meeting. The three persons appointed
22 to membership on said board shall receive a per diem
23 not to exceed ten dollars per day for time actually spent
24 attending said meeting and transacting the business of the
25 board. The said licensing board is hereby authorized, in
26 its discretion, to employ a field investigator for the pur-
27 pose of reporting to said board the results of investigations
28 made by him of child welfare agencies applying to said
29 board for licenses, said field investigator to receive a
30 per diem not to exceed ten dollars and his actual and
31 necessary traveling expenses while engaged in making
32 such investigations. Should the board employ such field
33 investigator, his actual and necessary traveling expenses
34 and his per diem shall be paid by the state department of
35 public assistance from its appropriation. No more than
36 three members of said licensing board shall be members
37 of the same political party.

Sec. 7. *Revocation of License.*—The state licensing board
2 may revoke the license of any child welfare agency in case
3 the licensee shall have wilfully violated any provision of
4 this article or has failed to maintain the established
5 standards of care and service. No license of a child wel-
6 fare agency shall be revoked or its renewal refused unless
7 the holder of the license shall have at least thirty days'
8 notice in writing of the grounds of the proposed revoca-
9 tion or refusal. If such revocation or refusal is protested
10 by a writing filed with the licensing board within such
11 thirty-day period, a hearing shall be held, upon at least
12 thirty days' written notice to the protestant, at such
13 place as the licensing board may determine, and oppor-

14 tunity shall be given for presentation of testimony and
15 cross-examination of witnesses.

Sec. 8. *Violation.*—Whenever the state licensing board
2 shall be advised, or shall have reason to believe, that
3 any person is conducting or maintaining a child welfare
4 agency without a license as required by this act, it
5 shall have an investigation made, and if the person is
6 conducting a child welfare agency, it shall either issue
7 a license or take action to prevent continued operation
8 of the agency.

Article 3. Private Institutions and Organizations.

Section

1. Private child welfare agencies.

Section 1. *Private Child Welfare Agencies.*—Whenever
2 a child welfare agency licensed to place children for adop-
3 tion shall have been given the permanent care, custody
4 and guardianship of any child and the rights of the
5 parents of such child shall have been terminated by or-
6 der of a court of competent jurisdiction or by a legally
7 executed relinquishment of parental rights, the child
8 welfare agency may consent to the adoption of such
9 child pursuant to the statutes regulating adoption pro-
10 ceedings.

11 The parents or the surviving parent of a child or the
12 mother of an illegitimate child may relinquish the child
13 to a child welfare agency licensed to place children for
14 adoption by a written statement acknowledged as deeds
15 are required to be acknowledged by law: *Provided, how-*
16 *ever,* That if either of the parents of such child is under
17 twenty-one years of age, such relinquishment shall not
18 be valid unless and until the same shall have been ap-
19 proved in writing by a judge of a juvenile court of the
20 county in which such parent may reside or in which
21 such relinquishment is made: *Provided,* That an unwed
22 mother may repudiate said relinquishment within one
23 hundred twenty days from the date of said relinquish-
24 ment, by a written and acknowledged notice and state-
25 ment to said child welfare agency to such effect.

CHAPTER 20

(Senate Bill No. 97—By Mr. Bowling)

AN ACT to amend and reenact section one, article fourteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to commercial feeding stuffs.

[Passed March 5, 1945; in effect from passage. Approved by the Governor.]

Article 14. Commercial Feeding Stuffs.

Section

1. Definition.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Definition.*—The term “commercial feeding stuffs”, as used in this article, or in any rule or regulation authorized thereunder, unless the context otherwise requires or a different meaning is specifically prescribed, shall mean all feeding stuffs used for feeding animals and birds, except whole seeds or grains, the unmixed meals made directly from the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir and milo; whole hays, straws and corn stover, when unmixed with other materials, together with all other unmixed materials containing sixty per cent or more of water.

3

CHAPTER 21

(House Bill No. 195—By Mr. Trumbo)

AN ACT to amend and reenact sections one, two and four, article fifteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to commercial fertilizers.

[Passed March 7, 1945; in effect from passage. Approved by the Governor.]

Article 15. Commercial Fertilizers.**Section**

1. Definition of fertilizer.
2. Statement to be attached to fertilizer package.
4. Misleading or deceptive affidavit for registration; refusal or cancellation; change of ingredients; percentage of available plant food.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Definition of "Fertilizer".*—The word "fertilizer" as used in this article, or in any rule or regulation authorized thereunder, unless the context otherwise requires or a different meaning is specifically prescribed, shall mean any article, substance or mixture applied to the soil, water, plants or seed for the purpose of increasing the productiveness thereof, excepting only the dung of domestic animals when sold as such without brand, name or trademark, and all forms of agricultural lime.

Sec. 2. *Statement to Be Attached to Fertilizer Package.*—Every bag, barrel or other package of fertilizer sold, offered or exposed for sale in this state shall have branded thereon or conspicuously attached thereto a statement showing:

- (a) The name, brand or trademark of the fertilizer;
- (b) The net weight of the package;
- (c) The name and address of the manufacturer;
- (d) The guaranteed analysis of the fertilizer and a quantitative statement of the materials from which each of the constituents is derived as set out in the affidavit required in section three of this article. The analysis shall set forth the minimum percentage of total nitrogen, available phosphoric acid and water soluble potash, except that in case of bone meal, animal manures and tankage, untreated phosphate rock and basic slag phosphates the minimum per cent of total phosphoric acid may be given. Bacterial preparations and plant and soil inocu-

19 lants are exempt from the provisions of the above sub-
20 section (d), but when sold or offered or exposed for sale
21 within this state, shall be clearly and plainly labeled to
22 show whether the inoculant or bacterial preparation is
23 represented as effective for inoculating legumes or for
24 some other purpose, and if represented as effective for the
25 inoculation of legumes, for which legume or legumes it
26 is so represented; and the date to which the inoculant is
27 represented to produce effective inoculation.

Sec. 4. *Misleading or Deceptive Affidavit for Registra-
2 tion; Refusal or Cancellation; Change of Ingredients;
3 Percentage of Available Plant Food.*—The commissioner
4 of agriculture shall have the power to refuse to accept
5 any affidavit for any fertilizer or material to be used as
6 a fertilizer under a brand or trade name, or with any in-
7 formation or statement accompanying same which is mis-
8 leading or deceptive or tends to mislead or deceive as to
9 its quality or the constituents or materials of which it is
10 composed. Any registration of any fertilizer may be can-
11 celled by the commissioner whenever it is shown that
12 any statement upon which said registration was made
13 or upon which the fertilizer is sold is false or misleading.
14 He shall have the power to refuse to register more than
15 one commercial fertilizer under the same name or brand
16 when offered by the same manufacturer, jobber, importer,
17 firm, association, corporation or person.

18 Should any commercial fertilizer be registered in this
19 state and it is afterward discovered that such registration
20 is in violation of any of the provisions of this article, the
21 commissioner shall have the power to cancel such regis-
22 tration. The commissioner shall have the power to re-
23 fuse to allow any manufacturer, importer, jobber, firm,
24 association, corporation or person to lower the guaranteed
25 analysis or change the ingredients of any brand of his or
26 their commercial fertilizer during the term for which
27 registered unless satisfactory reasons are presented for
28 making such change: *Provided, however,* That the com-
29 missioner shall refuse to register any fertilizer unless the
30 same contains sixteen per cent or more of total available

31 plant food, except that untreated phosphate rock, basic
32 slag phosphates, bone meal, animal tankage, animal ma-
33 nures when sold with brand name or trademark, liquid
34 fertilizers, bacterial preparations, inoculants and ferti-
35 lizers which do not contain nitrogen, phosphorus and
36 potassium may be registered and sold without containing
37 the minimum of sixteen per cent total available plant
38 food.

CHAPTER 22

(House Bill No. 361—By Mr. Goff)

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, amending article six thereof, by adding thereto a new section to be numbered fifty-three, and to be known as the "Forestry Amendment".

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Submitting an amendment to article six of the state constitution, adding section fifty-three thereto.
2. Amendment to be known as the "Forestry Amendment".
3. Form of ballot; election.
4. Certificate 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 State Constitution, Adding Section Fifty-three There-*
to.—The question of the ratification or rejection of an
amendment to the constitution of the state of West Vir-
ginia, proposed in accordance with the provisions of sec-
tion two, article fourteen, of said constitution, amending
article six thereof by adding to said article a new section,
numbered fifty-three, shall be submitted to the voters of

9 the state at the next general election to be held in the
10 year one thousand nine hundred forty-six, which proposed
11 amendment is as follows:

Proposed Amendment

Article 6. Legislature.

Section 53. *Forestry Amendment.*—The Legislature may
2 by general law define and classify forest lands and pro-
3 vide for cooperation by contract between the state and
4 the owner in the planting, cultivation, protection, and
5 harvesting thereof. Forest lands embraced in any such
6 contract may be exempted from all taxation or be taxed
7 in such manner, including the imposition of a severance
8 tax or charge as trees are harvested, as the Legislature
9 may from time to time provide. But any tax measured by
10 valuation shall not exceed the aggregate rates authorized
11 by section one of article ten of this constitution.

Sec. 2. *Amendment to Be Known as the "Forestry
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 "Forestry Amendment".

Sec. 3. *Form of Ballot; Election.*—For the purpose of en-
2 abling the voters of the state to vote on the question of
3 said proposed amendment to the constitution at the gen-
4 eral election to be held in the year one thousand nine
5 hundred forty-six, 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 "Forestry Amendment" amend-
10 ing article six of the state constitution by adding a new
11 section thereto.

12 ☐ For ratification of "Forestry Amendment".

13 ☐ Against ratification of "Forestry 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 offi-
18 cers to be voted for at said election, and all of the pro-
19 visions of law relating to general elections, including all
20 duties to be performed by any officer or board, as far as
21 applicable and not inconsistent with anything herein con-
22 tained, shall apply to the election held under the pro-
23 visions of this act, except when it is herein otherwise pro-
24 vided. The ballots cast on the question of said proposed
25 amendment shall be counted as other ballots cast at said
26 election.

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

8 “We, the undersigned who acted as commissioners (or
9 canvassers, as the case may be), of the election held at pre-
10 cinct number _____, in the district of _____,

11 in the county of _____, on the _____ day of
12 November, one thousand nine hundred forty-six, upon
13 the question of the ratification or rejection of the pro-
14 posed constitutional amendment to article six, do hereby
15 certify that the result of said election is as follows:

16 Amending article six by adding thereto a new section,
17 numbered fifty-three:

18 For ratification of ‘Forestry Amendment’ _____ votes.

19 Against ratification of ‘Forestry Amendment’ _____
20 votes.

21 Given under our hands this _____ day of November, one
22 thousand nine hundred forty-six.”

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

31 with the ballots, and the other to the clerk of the circuit
32 court of the county. .

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

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

52 For ratification of 'Forestry Amendment' _____ votes.
53 Against ratification of 'Forestry Amendment' _____
54 votes.

55 Given under our hands this ____ day of _____,
56 one thousand nine hundred forty-six."

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

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

2 —On the twenty-fifth day after the election is held, or as
3 soon thereafter as practicable, the said certificates shall
4 be laid before the governor, whose duty it shall be to
5 ascertain therefrom the result of said election in the
6 state, and declare the same by proclamation published in
7 one or more newspapers printed at the seat of govern-
8 ment. If a majority of the votes cast at said election upon

9 said question be for the ratification of the said amendment,
10 the proposed amendment so ratified shall be of force
11 and effect from and after the time of such ratification as
12 part of the constitution of the state.

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

CHAPTER 23

(House Bill No. 161—By Mr. Hansbarger, by request)

AN ACT to amend and reenact sections eight, thirteen, eighteen, nineteen, twenty-one, twenty-two, twenty-three and twenty-five, article six, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, all relating to building and loan associations.

[Passed March 7, 1945; in effect from passage. Approved by the Governor.]

Article 6. Building and Loan Associations.

Section

8. Members; shareholders; dues; minors as shareholders.
13. Cancellation of shares; payment to withdrawing shareholder; dividends.
18. Board of directors, number, qualification and residence; meetings of members and voting rights thereat; election of officers and employees by directors; duties, terms, etc., of officers determined by by-laws; compensation and retirement of officers and employees.
19. How funds of association may be invested.
21. Conditions on which associations may take mortgage or deed of trust.
22. Repayment of loans by members.
23. Default by borrower; maturing indebtedness; collection of loan.
25. Contingent reserve, amount, purpose; undivided profit account.

Be it enacted by the Legislature of West Virginia:

That sections eight, thirteen, eighteen, nineteen, twenty-one, twenty-two, twenty-three and twenty-five, article six, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 8. *Members; Shareholders; Dues; Minors as*

2 *Shareholders.*—(a) The members of a building and loan
3 association shall be those to whom its shares have been
4 issued or transferred in accordance with the provisions
5 of its constitution and by-laws, and those borrowers from
6 the association to whom membership certificates have
7 been issued. Holders of shares shall continue as mem-
8 bers until their shares have been matured and paid,
9 withdrawn, retired, transferred or forfeited. Borrowers
10 holding membership certificates shall continue as mem-
11 bers until their loans have been completely repaid to
12 the association, or until the obligation to pay such loans
13 is transferred to a third party and a new membership
14 certificate is issued to such third party in accordance
15 with the provisions of the association's constitution and
16 by-laws. The payments made to any such association
17 upon shares issued by it shall be called dues. They shall
18 be paid in such sums and at such times as are provided
19 by the by-laws until the shares reach their matured
20 value, are withdrawn, retired, or forfeited.

21 (b) Any building and loan or federal savings and loan
22 association may issue shares, share accounts or accounts
23 to minors above the age of fourteen, each in their own
24 right, and such parties shall be subject to the same duties
25 and liabilities as other shareholders. Any receipt, re-
26 lease, acquittance, or discharge given such association by
27 a minor above the age of fourteen, who holds shares,
28 share accounts or accounts, shall be a valid and sufficient
29 receipt, release, acquittance, or discharge of any such
30 association and shall be binding upon such minor to the
31 same extent as if it were given by any other shareholder.
32 Minors under fourteen years of age may hold shares in
33 any such association by a trustee or guardian.

34 (c) Any building and loan or federal savings and loan
35 association may issue shares, share accounts or accounts
36 in the names of two or more persons payable to either,
37 or payable to the survivor, in which event either of said
38 named persons shall have power to act in all matters re-
39 lated to such shares, share accounts or accounts, includ-
40 ing the right to collect dividends and to withdraw from
41 such association, whether the other person or persons
42 named in such shares, share accounts or accounts be
43 living or not. The receipt or acquittance signed by any
44 such person, to whom any payment or delivery of rights
45 is made, shall be a valid and sufficient release and dis-
46 charge of any such association for the payment or de-
47 livery so made.

48 (d) Any building and loan or federal savings and loan
49 association may issue shares, share accounts or accounts
50 in the name of any administrator, executor, guardian,
51 trustee, or other fiduciary, in trust for a named beneficiary
52 or beneficiaries. Any such fiduciary shall have all the
53 rights and privileges of membership, except the right to
54 hold office. The payment or delivery of rights by any
55 such association to any such fiduciary, or a receipt, release,
56 acquittance, or discharge signed by any such fiduciary, to
57 whom any such payment, or any such delivery of rights
58 is made, shall be a valid and sufficient release and dis-
59 charge of any such association for the payment or delivery
60 so made. Whenever a person holding shares, share ac-
61 counts or accounts in a fiduciary capacity dies and no
62 written notice of the revocation or termination of the
63 trust relationship shall have been given to any such asso-
64 ciation, the withdrawal value of such shares, share ac-
65 counts, or accounts, and dividends thereon, or other rights
66 relating thereto, may, at the option of the association, be
67 paid or delivered, in whole or in part, to the beneficiary
68 or beneficiaries of such trust. The payment or delivery of
69 rights to any such beneficiary or beneficiaries, or a re-
70 ceipt, release, acquittance, or discharge signed by any
71 such beneficiary or beneficiaries, to whom any such pay-
72 ment, or any such delivery of rights is made, shall be a

73 valid and sufficient release and discharge of any such
74 association for the payment or delivery so made.

Sec. 13. *Cancellation of Shares; Payment to Withdrawing Shareholder; Dividends.*—The dues and dividends
2 upon free shares of any such association may be with-
3 drawn and the shares cancelled after sixty days' written
4 notice of such intention filed with its secretary at the
5 place of business of the association, but the board of
6 directors may waive such notice: *Provided*, That the
7 constitution and by-laws of the association may provide
8 for the issuance of classes of full paid shares of stock
9 which may not be withdrawn. The withdrawing share-
10 holder shall be paid such part of the withdrawal value
11 of his shares as may be determined by the board of direc-
12 tors, less fines and other obligations, and remain a share-
13 holder until full payment to him be made: *Provided*, That
14 not more than one-half of the net funds received by the
15 association in any one month shall be applicable to the
16 payment of withdrawing shareholders and matured shares
17 as hereinbefore provided unless otherwise ordered by
18 the board of directors. A withdrawing member holding
19 shares having a withdrawal value, not paid within sixty
20 days, shall be entitled to dividends earned and declared,
21 beginning at the expiration of said sixty days.

Sec. 18. *Board of Directors, Number, Qualification and Residence; Meetings of Members and Voting Rights Thereat; Election of Officers and Employees by Directors; Duties, Terms, etc., of Officers Determined by By-laws; Compensation and Retirement of Officers and Employees.*
2 —(a) The corporate powers of any building and loan
3 association shall be exercised by a board of directors
4 of not fewer than five in number, all of whom shall be
5 bona fide shareholders in such association, and a majority
6 of whom shall be resident citizens. The officers shall con-
7 sist of a president, one or more vice-presidents, a secre-
8 tary, a treasurer, and such other officers as the by-laws
9 shall provide, to be elected at the first meeting of the
10 directors following the annual meeting of the members.
11 The president and vice-presidents must be directors, but

16 the other officers and employees may or may not be
17 directors. The duties of the officers, their terms of office,
18 the time and manner of their election, the manner of
19 filling vacancies, the time of holding periodical meetings
20 of the directors and members, the manner of calling
21 special meetings, the qualifications of electors, and the
22 manner of voting, shall be determined by the constitution
23 and by-laws. The members who shall be entitled to vote
24 at any meeting of the members shall be those holding
25 shares and borrowers to whom membership certificates
26 were issued. A borrowing member to whom a member-
27 ship certificate has been issued shall be permitted to
28 cast one vote by reason thereof. A shareholder shall
29 be entitled to cast one vote for each share held.

30 (b) Unless the compensation of the officers, directors,
31 employees and committees shall be provided for in the
32 by-laws, the directors shall fix and determine the same.
33 In the discretion of a majority of all its directors, an
34 association may also establish retirement, death and dis-
35 ability benefits for such officers and employees who
36 regularly serve it on a fixed compensation basis, and to
37 that end, an association may become a party to any
38 agreement, trust, fund, or plan approved by the com-
39 missioner of banking which will provide any or all of
40 these benefits, and may make such contributions, out of
41 the earnings of the association, as may be required there-
42 by.

Sec. 19. *How Funds of Association May Be Invested.*—

2 Subject to the provisions of this article and its by-laws,
3 any building and loan association may invest the funds
4 received by it as follows:

5 First: In loans to its shareholders secured by a bond
6 or other obligation and mortgage or deed of trust on real
7 estate. Such loans may be secured by a transfer and
8 pledge to the association of shares having a matured or
9 par value at least equal to the amount of such loans, or
10 may be written on a direct reduction basis. A direct re-
11 duction loan shall mean a loan repayable in consecutive
12 monthly installments, equal or unequal, beginning not

13 later than thirty days after the date of the advance of the
14 loan, sufficient to retire the debt, interest and principal
15 within twenty years. The direct reduction borrower
16 shall be given a membership certificate evidencing his
17 rights in the association, but shall not participate in
18 profits or losses: *Provided, however,* That no building
19 and loan association shall lend upon any one piece of real
20 estate more than ten per cent of its paid in capital stock,
21 contingent or reserve funds, and undivided profits. Per-
22 sonal property may be accepted as additional security
23 where the primary and principal security is a mortgage
24 or deed of trust on real estate.

25 Second: In loans to shareholders upon their obligation
26 secured by the transfer and pledge to the association of
27 shares not previously transferred or pledged to it, the
28 withdrawal or par value of which shall at least equal
29 the amount of such loan.

30 Any such bonds or obligations, mortgages, or deeds of
31 trust taken by any such association from its shareholders
32 shall be deemed conditioned upon the performance of the
33 provisions of this article and the by-laws of the associa-
34 tion relating to the payment of loans, premium, interest,
35 dues, fees, and fines, although the same may not be fully
36 expressed therein.

37 Third: In real property as follows: (a) A lot of land
38 whereon there is or may be erected a building or build-
39 ings suitable for the convenient transaction of its busi-
40 ness, from portions of which, not required for its own
41 use, a revenue may be derived: *Provided,* That no build-
42 ing and loan association shall so invest more than ten
43 per cent of its assets; (b) such as shall be conveyed to
44 it in satisfaction of debts previously contracted in the
45 course of its business; (c) such as it shall purchase at
46 sales under judgments, decrees, or mortgages or deeds of
47 trust held by it: *Provided,* That any real estate acquired
48 by any building and loan association under classes (b)
49 and (c) shall be disposed of by the association at the
50 earliest practicable date; but the officers thereof shall
51 have a reasonable discretion in the matter of the time to

52 dispose of such property in order to save the association
53 from unnecessary losses.

54 If at any time it has funds in excess of the amount
55 needed for loans to its members, and the payment of
56 matured shares and withdrawals, such funds may be in-
57 vested:

58 (a) In loans to other domestic building and loan asso-
59 ciations;

60 (b) In bonds or interest-bearing obligations of the
61 United States, or the District of Columbia, or of the state
62 of West Virginia, or of any county, district, school dis-
63 trict, or other political subdivision in the state of West
64 Virginia, or of any incorporated city or village in the
65 state of West Virginia; and in such other securities as
66 now are or hereafter may be accepted by the United
67 States to secure government deposits in national banks, or
68 approved by the state commissioner of banking.

Sec. 21. *Conditions on Which Associations May Take*
2 *Mortgage or Deed of Trust.*—No building and loan asso-
3 ciation shall:

4 First: Take a mortgage or deed of trust upon real
5 estate unless a written application is first made for the
6 loan described in such mortgage or deed of trust, show-
7 ing the date, name of applicant, amount of loan desired,
8 description of the real estate offered, and other informa-
9 tion necessary, and unless a written report thereon shall
10 have been made by at least two members of the appraisal
11 committee, signed by them, stating that they have ex-
12 amined the real estate described in such application and
13 that in their judgment it affords adequate security for
14 such loan. Such report shall show separately the value
15 of the land and the value of the improvements and of the
16 building or buildings erected thereon. The application
17 and the report shall be filed and preserved with all the
18 other papers relating to the loan.

19 Second: Take a mortgage or deed of trust upon im-
20 proved real estate if the amount secured by such mort-
21 gage or deed of trust, plus any prior liens, exceeds seventy-
22 five per cent of the appraised value thereof as shown

23 by such report, unless said excess be secured by a pledge
24 of free stock or notes of the association, or unless said
25 excess is insured or guaranteed by the United States or
26 any instrumentality thereof, or there is a commitment
27 to so insure or guarantee. No loan shall be made on the
28 security of vacant real estate if the amount so secured,
29 plus any prior liens, exceeds fifty per cent of the appraised
30 value thereof as shown by such report.

31 Third: Take a mortgage or deed of trust upon real
32 estate unless the title to such real estate is approved by
33 the attorney of the association or some other competent
34 authority on titles.

Sec. 22. *Repayment of Loans by Members.*—Any loan
2 made by a building and loan association to a member may
3 be repaid at any time: *Provided*, That the member shall
4 pay the principal due thereon, the premium earned, and
5 the interest, fines, and other charges accrued at the date of
6 such repayment, and all sums advanced by the associa-
7 tion for taxes, assessments, insurance premiums, repairs,
8 or other purposes, with interest thereon, less the with-
9 drawal value of any shares transferred as security there-
10 for. Any association may provide in its by-laws that any
11 borrowing member may pay upon any loan secured by
12 shares a sum equal to the matured value of one or more
13 of the shares transferred and pledged as security there-
14 for upon the same proportionate terms as are provided
15 in this section for payment in full and have such share
16 or shares cancelled. A direct reduction loan may be re-
17 paid in full or in part at any time.

Sec. 23. *Default by Borrower; Maturing Indebtedness;*
2 *Collection of Loan.*—Whenever any borrower on a direct
3 reduction basis shall fail or neglect to pay his contracted
4 monthly installments, or whenever any borrower on a
5 loan secured by shares shall fail or neglect to pay dues,
6 interest, premium, or fines, as provided by the by-laws or
7 the terms of his obligation, bond, mortgage, or deed of
8 trust or other evidence of indebtedness, for a period of
9 three months, or shall be in default in the performance
10 of any of the obligations imposed upon him thereby, then

11 the whole of said indebtedness shall become and be im-
12 mediately due and payable at the option of the association.
13 Any shares pledged as security for such loan may be de-
14 clared cancelled and their withdrawal value at the time
15 of said declaration applied as a payment on the loan, and
16 such shares shall revert to the association. The balance
17 or the amount due, with interest and premium, fines, and
18 other charges thereon, may be enforced by proceedings
19 on the defaulting borrower's security according to law.

Sec. 25. *Contingent Reserve, Amount, Purpose; Undi-*
2 *vided Profit Account.*—Every building and loan associa-
3 tion shall set aside out of its earnings a contingent re-
4 serve. Until such time as the contingent reserve equals
5 ten per cent of the assets of the association, the associa-
6 tion shall, at each dividend date, transfer to such contin-
7 gent reserve a credit equivalent to at least five per cent
8 of the net earnings of the association for the period since
9 the previous dividend date. Such contingent reserve
10 shall be used only for the purpose of making good to the
11 association losses suffered on loans and expenses in-
12 curred in the collection of loans which may not be charged
13 against or collected from the borrower. Every building
14 and loan association may also carry an undivided profit
15 account as provided in the constitution and by-laws of
16 the association. The contingent reserve and the undivided
17 profit account shall be invested as other funds of the
18 association.

CHAPTER 24

(Senate Bill No. 194—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact section seventy-one, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the designation of a state official, in some cases the auditor and in other cases the secretary of state, as attorney in fact for

all corporations with authority to accept service of notice and process on behalf of such corporations in suits or proceedings instituted against such corporations.

[Passed March 7, 1945; in effect from passage. Approved by the Governor.]

Article 1. Provisions Relating to Corporations Generally.

Section

71. Auditor attorney in fact for all corporations; purposes for which secretary of state constituted such attorney in fact.

Be it enacted by the Legislature of West Virginia:

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

Section 71. *Auditor Attorney in Fact for All Corporations; Purposes for Which Secretary of State Constituted Such Attorney in Fact.*—The auditor of this state is hereby constituted the attorney in fact for and on behalf of every stock corporation created by virtue of the laws of this state and of every foreign corporation doing business herein, with authority to accept service of notice and process on behalf of and upon whom service of notice and process may be made in this state for and upon every such corporation. No act of such corporation appointing the auditor such attorney in fact shall be necessary. Immediately after being served with or accepting any such process or notice, the auditor shall make and file in his office a copy of such process or notice, with a note thereon indorsed of the time of service, or acceptance, as the case may be, and transmit such process, or notice, by registered mail to such corporation at the address last furnished by it, as required by law. But no process or notice shall be served on the auditor or accepted by him less than ten days before the return day thereof. Such corporation shall pay the annual fee prescribed in article twelve, chapter eleven of this code for the services of the auditor as its attorney in fact.

For the purpose of all suits or proceedings instituted for the collection of license taxes due the state, pursuant to the provisions of section eighty-six, article twelve,

27 chapter eleven of this code, as amended, and for the pur-
 28 pose of all other cases where it is the duty of the auditor
 29 to collect a debt or claim due the state from corporations,
 30 the secretary of state, in lieu of the auditor, is hereby con-
 31 stituted the attorney in fact for such corporations. No
 32 act of any such corporation appointing the secretary of
 33 state such attorney in fact shall be necessary. All pro-
 34 visions in this section relating to the service of process
 35 on, or acceptance of process by, the auditor, and the duties
 36 imposed upon the auditor, shall apply to the secretary of
 37 state in such cases.

CHAPTER 25

(House Bill No. 191—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section sixty-eight, article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, relative to dispensing with notices of the time, place or purpose of any meeting of stockholders or directors of a corporation, and to permit corporate action by stockholders or directors without a meeting through written agreement.

[Passed February 21, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 1. Provisions Relating to Corporations Generally.

Section

68. Notice; waiver; action without meeting through written agreement.

Be it enacted by the Legislature of West Virginia:

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

Section 68. *Notice; Waiver; Action without Meeting Through Written Agreement.*—Notice of the time, place or purpose of any meeting of stockholders or directors whether required by the provisions of this article or by

5 the by-laws of the corporation may be dispensed with if
6 every stockholder shall attend either in person or by
7 proxy, or if every director shall attend in person, or if
8 every absent stockholder or director shall, in writing,
9 filed with the records of the meeting either before or after
10 the holding thereof, waive such notice. Whenever the
11 vote of stockholders at a meeting thereof is required or
12 permitted to be taken in connection with any corporate
13 action, the meeting and vote of such stockholders may be
14 dispensed with if all of the stockholders who would have
15 been entitled to vote upon the action, if such meeting were
16 held, shall agree in writing to such corporate action being
17 taken, and such agreement shall have like effect and va-
18 lidity as though the action were duly taken by the unani-
19 mous action of all stockholders entitled to vote at a meet-
20 ing of such stockholders duly called and legally held.
21 Whenever the vote of directors at a meeting thereof is
22 required or permitted to be taken in connection with any
23 corporate action, the meeting and vote of such directors
24 may be dispensed with if all the directors shall agree in
25 writing to such corporate action being taken, and such
26 agreement shall have like effect and validity as though the
27 action were duly taken by the unanimous action of all
28 directors at a meeting of such directors duly called and
29 legally held. In the event that the action, which is agreed
30 to as aforesaid, is such as would have required the filing
31 of a certificate under any provisions of law, if such action
32 had been voted upon by the stockholders or by the di-
33 rectors, at a meeting, the certificate filed under such sec-
34 tion shall state that written agreement has been exe-
35 cuted in lieu of stating that the stockholders voted upon
36 the corporate action in question, if such last-mentioned
37 statement is required thereby, and such certificate shall
38 have the same force and effect under all provisions of law
39 as if the action had been taken by the unanimous vote of
40 all the directors, or stockholders entitled to vote, at a
41 meeting duly called and legally held.

CHAPTER 26

(Senate Bill No. 107—By Mr. Hall, of Raleigh)

AN ACT to amend and reenact article thirteen, chapter eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-three, being article thirteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, providing for the organization, incorporation, and operation of non-profit hospital service corporations, and the exemption of such corporations from the provisions of the insurance laws of this state.

[Passed February 22, 1945; in effect February 28, 1945. Approved by the Governor.]

Article 13. Non-profit Hospital Service Corporations.

Section

1. Organization of corporation; purposes.
2. Corporation not to be converted into profit corporation.
3. Bond of officers and employees.
4. Insurance laws not applicable to such corporation.
5. Tax exemption.
6. Contractual obligations with approved hospitals.
7. Expiration of article.

Be it enacted by the Legislature of West Virginia:

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

- Section 1. *Organization of Corporation; Purposes.*—A
- 2 non-profit, non-stock hospital service corporation may be
 - 3 organized in accordance with the provisions for the in-
 - 4 corporation and organization of such corporations con-
 - 5 tained in chapter thirty-one, for the purpose of furnishing
 - 6 medical service and hospital service to persons who be-
 - 7 come subscribers with such corporation. Medical service
 - 8 shall consist of medical and surgical care as specified in a
 - 9 subscriber contract issued by the corporation to a sub-
 - 10 scribe and to be provided by physicians duly licensed

11 under the laws of West Virginia. Hospital service shall
12 consist of hospital care as specified in a subscriber contract
13 issued by the corporation to a subscriber and to be pro-
14 vided by a hospital which is maintained by a corporation
15 organized for hospital services under the law of this
16 state, or other approved hospitals.

17 The term "hospital service corporation", as used in this
18 article, includes any such corporation or any non-profit
19 service corporation heretofore organized and operating
20 within this state.

Sec. 2. *Corporation Not to Be Converted into Profit Corporation.*—No hospital service corporation shall be
2 converted into a corporation organized for pecuniary
3 profit. Every such corporation shall be maintained and
4 operated for the benefit of its members and subscribers
5 as a non-profit corporation.
6

Sec. 3. *Bond of Officers and Employees.*—Every such
2 corporation organized and operating under the provisions
3 of this article shall provide in its by-laws that each of-
4 ficer agent and employee of the corporation who is en-
5 trusted with the handling of funds shall furnish a cor-
6 porate surety bond in a licensed corporate surety com-
7 pany in amount specified by the board of directors of
8 such corporation and conditioned upon the faithful ac-
9 counting for all funds coming into his hands.

Sec. 4. *Insurance Laws Not Applicable to Such Cor-
2 poration.*—Except where such corporations are expressly
3 designated in other provisions of this chapter, such cor-
4 porations shall be exempt from all provisions of the in-
5 surance laws of this state, not only in governmental re-
6 lations with the state, but for every other purpose.

Sec. 5. *Tax Exemption.*—Every such corporation shall
2 be declared to be a scientific non-profit institution, and its
3 funds and property shall be exempt from all taxes.

Sec. 6. *Contractual Obligations with Approved Hos-
2 pitals.*—Each hospital service corporation incorporated
3 under the provisions of this article shall enter into con-
4 tractual obligations with one or more approved hospitals

5 in the area within which such subscriber contracts are
6 sold for the rendering to such subscribers the services
7 provided in such subscriber contracts.

Sec. 7. *Expiration of Article.*—This article shall expire
2 February twenty-eighth, one thousand nine hundred
3 forty-seven, unless sooner repealed.

CHAPTER 27

(Senate Bill No. 44—By Mr. Ellison, by request)

AN ACT to amend section eighteen, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to limitations of loans by a banking institution, the authorization of loans to officers and employees of a bank and banking department, and the valuation of securities, and making provisions as to loans secured by certain bonds, notes, certificates of indebtedness, treasury bills of the United States or obligations guaranteed by the United States.

[Passed February 20, 1945; in effect from passage. Approved by the Governor.]

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

Section

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

Be it enacted by the Legislature of West Virginia:

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

Section 18. *Limitation on Loans; Authorization of Loans to Officers and Employees of Banks and Banking Department; Valuation of Securities.*—The total liabilities
2 to any banking institution of any persons, firm or cor-

5 poration, for money borrowed by note, bond, certificate of
6 indebtedness, or other device, including in the liabilities
7 of the firm, the liabilities of the several members thereof,
8 including in the liabilities of any corporation an invest-
9 ment by such banking institution in the stock of such cor-
10 poration, shall at no time exceed ten per cent of the un-
11 impaired capital stock, including debentures and surplus
12 fund of such banking institution: *Provided, however,* That
13 the foregoing limitation of ten per cent shall be subject to
14 the following exception, that is to say—obligations of any
15 person, co-partnership, association, or corporation in the
16 form of notes secured by not less than a like amount of
17 bonds or notes of the United States issued since April
18 twenty-fourth, one thousand nine hundred seventeen, or
19 certificates of indebtedness of the United States, treasury
20 bills of the United States, or obligations fully guaranteed
21 both as to principal and interest by the United States,
22 shall be subject under this section to a limitation of fifteen
23 per cent of such unimpaired capital stock, including de-
24 bentures and surplus fund, in addition to such ten per
25 cent of such capital stock and surplus. But the dis-
26 count of commercial or business paper actually owned by
27 the person, firm or corporation negotiating the same shall
28 not be considered as money borrowed within the limita-
29 tion of this section; and the obligations of any person, firm
30 or corporation, in the form of notes or drafts secured by
31 shipping documents, warehouse receipts or other such
32 documents transferring or securing titles covering readily
33 marketable, nonperishable staples when such property is
34 fully covered by insurance, if it is customary to insure
35 such staples, shall be considered money borrowed within
36 the meaning of this section, but shall be subject to the ex-
37 ception that with respect thereto the limitation of ten per
38 cent of the unimpaired capital stock, including debentures
39 and surplus fund, to which reference has hereinbefore
40 been made, may be increased to twenty-five per cent when
41 the market value of such staples securing such obligations
42 is not at any time less than one hundred fifteen per cent of
43 the face amount of such obligations, and may be increased
44 up to fifty per cent of such unimpaired capital stock, in-

cluding debentures and surplus fund, with a corresponding increase in market value of such staples securing such obligation up to not less than one hundred forty per cent of the face amount of such additional obligation, but this exception shall not apply to obligations of any one person, firm or corporation arising from the same transaction or secured upon the identical staples for more than ten months. This section shall not apply to the obligations of the United States or general obligations of any state or political subdivision thereof (when there has been no default in the payment of interest or principal in respect of the general obligations of any state or political subdivision thereof within ten years prior to the purchase of such obligations), bonds or obligations issued under the authority of the West Virginia bridge commission or the state road commission, commonly known as bridge revenue bonds, or obligations issued under authority of the federal farm loan act, as amended, or issued by the federal home loan bank, or the home owners' loan corporation, or any loans or obligations to the extent that they are secured or covered by guaranties, or by commitments or agreements to take over or to purchase the same, made by any federal reserve bank or by the United States or any department, board, bureau, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States. Neither shall this section apply to the obligations of a corporation owning the building in which the banking institution is located, when such banking institution has an unimpaired capital and surplus of not less than one million dollars, or when approved in writing by the commissioner of banking. Nothing herein shall be construed to forbid the sale upon credit of a bank building owned by a banking institution at the time this act takes effect.

No officer, director, clerk or other employee of any banking institution or the commissioner of banking or any employee of the department of banking shall borrow, directly or indirectly, from the banking institution with which he is connected, or is subject to his examination, any sum of money without the written approval of

86 a majority of the board of directors or discount committee
87 thereof filed in its office, or embodied in a resolution
88 adopted by a majority vote of such board, exclusive of
89 the director to whom the loan is made. If an officer,
90 clerk or other employee of any bank shall own or con-
91 trol a majority of the stock of any other corporation, a
92 loan to such corporation shall, for the purpose of this
93 section, constitute a loan to such officer, clerk or other
94 employee.

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

CHAPTER 28

(Senate Bill No. 139—By Mr. Ellison, by request)

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article numbered four-c, providing for nominee registration of certain fiduciary securities.

[Passed March 7, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 4-c. Nominee Registration of Fiduciary Securities.

Section

1. What fiduciary securities may be registered in name of nominee; consent of individual fiduciary; effect of nominee registration.
2. Duties of bank or trust company making use of nominee registration.
3. Civil liability for loss or damage of property; penalties for violation of article.
4. No liability for loss to attach for transferring or changing registration of property in compliance with directions of bank or trust company.
5. Registering property to evade taxes prohibited.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *What Fiduciary Securities May Be Registered in Name of Nominee; Consent of Individual Fiduciary; Effect of Nominee Registration.*—Any bank or trust company authorized to exercise trust powers under the laws of this state, which holds in a fiduciary capacity any stock, bond, debenture, note, warrant, certificate or other security evidencing ownership or interest, either whole or fractional, in fully paid and non-assessable intangible personal property, may cause such security or evidence of ownership to be registered and held in the name of a nominee or nominees of such bank or trust company, or in its own name, without disclosing the fiduciary relationship: *Provided, however,* That where such bank or trust company is acting jointly with some other individual or individuals, it shall first secure the written consent of such individual fiduciary or fiduciaries, which consent such individual fiduciary or fiduciaries are hereby authorized to give.

The placing of property in the name of a nominee, nominees, or in the name of the bank or trust company, without disclosure of the fiduciary capacity, shall be deemed to be nominee registration under this article and every such registration shall *ipso facto* constitute a declaration of trust upon the part of the registered owner so far as the fiduciary and the beneficiaries of the fiduciary status are concerned.

Sec. 2. *Duties of Bank or Trust Company Making Use of Nominee Registration.*—Every such bank or trust company making use of nominee registration as provided in this article shall:

(a) At all times maintain such records as may be necessary to show the actual beneficial ownership of the property so held;

(b) At all times retain possession and control of such

9 securities or other evidences of ownership which shall be
10 kept separate and apart from the assets of such bank or
11 trust company and assets held in other fiduciary capacities;
12

13 (c) Secure from such nominee or nominees such en-
14 dorsements, assignments or other writings as may be
15 necessary to effect retransfer of the securities or other
16 evidences of ownership without notice, and such en-
17 dorsements, assignments or other writings shall be valid
18 and effective as of the date of delivery thereof whether
19 the nominee die before transfer is perfected, or not;

20 (d) Enter into such contracts or agreements with its
21 nominee or nominees as may be necessary to afford full
22 protection to the ownership of its fiduciary account and
23 the beneficiaries thereof;

24 (e) Clearly show in all of its reports and accounts the
25 form of registration under which such securities or evi-
26 dences of ownership are held.

Sec. 3. *Civil Liability for Loss or Damage of Property;*

2 *Penalties for Violation of Article.*—Any such bank or
3 trust company which places property in nominee regis-
4 tration under this article shall be absolutely liable in
5 civil actions or suits for any or all loss or damage to its
6 fiduciary account or the beneficiaries thereof occasioned
7 by the acts of any of its nominees, or any of its agents,
8 employees, or other persons acting for it with respect to
9 such property, including reasonable attorney fees.

10 Any bank or trust company or its officers, employees,
11 nominees or agents placing property in nominee registra-
12 tion in violation of any of the provisions of this article
13 shall be guilty of a misdemeanor, and in addition to civil
14 liability for restitution, shall be punished by a fine of not
15 less than fifty dollars nor more than one thousand dollars.

Sec. 4. *No Liability to Attach for Transferring or Chang-*

2 *ing Registration of Property in Compliance with Direc-*
3 *tions of Bank or Trust Company.*—No liability for any
4 loss caused by the acts of the nominee of a bank or trust
5 company shall attach to any transfer agent, registrar, cor-
6 poration, officer or agent of a corporation, or other per-
7 son, who, in compliance with the directions of any such

8 bank or trust company acting under the provisions of
9 this article, transfers or changes the registration of any
10 such property. The certification of the bank or trust
11 company that it has complied with the provisions of this
12 article shall be *prima facie* evidence of its compliance so
13 far as any such transfer agent, registrar, corporation, of-
14 ficer or agent of a corporation, or other person, is con-
15 cerned.

Sec. 5. *Registering Property to Evade Taxes Prohibited.*—No bank or trust company shall cause or permit
2 the use of its name or the name of its nominee or nominees
3 for the purpose of registering property to evade, avoid,
4 minimize or relieve itself or any other person, firm or
5 corporation, or the property, from taxation.
6

CHAPTER 29

(Senate Bill No. 54—By Mr. Harmer)

AN ACT to amend and reenact section twenty-one, article one,
chapter thirty-one of the code of West Virginia, one thou-
sand nine hundred thirty-one, relating to the time, place,
notice and quorum for corporate meetings and meetings
of cooperative associations.

[Passed February 20, 1945; in effect from passage. Approved by the
Governor.]

Article 1. Provisions Relating to Corporations Generally.

Section

21. Corporate meetings; time; place; notice; quorum.

Be it enacted by the Legislature of West Virginia:

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

Section 21. *Corporate Meetings; Time; Place; Notice;*
2 *Quorum.*—The stockholders and/or directors of any cor-
3 poration created under the laws of this state may hold all

4 regular, annual and special meetings for the transaction
5 of the lawful business of the corporation, including the
6 first general meeting for purposes of organization, and
7 keep the principal office of such corporation, either in or
8 out of this state. Regular meetings of the stockholders
9 shall be held at such time and place as the by-laws may
10 prescribe, or if there be no such by-laws, then annually
11 on the fourth Tuesday of January, at eleven o'clock in the
12 forenoon, at the principal office of the company. Notice
13 of regular and special meetings shall be given as required
14 by the by-laws, and if none is prescribed therein, then by
15 mailing to each stockholder, at least ten days prior to
16 the date of meeting, a written notice thereof; or by publi-
17 cation once a week for two weeks in some newspaper
18 published and of general circulation, in the county of the
19 principal office or place of business of the corporation.
20 Special meetings may be held at such places and after
21 such notice as the by-laws prescribe, or, if none, then
22 at the same place and after the same notice as a regular
23 meeting. Special meetings of the stockholders may be
24 called by the board of directors, the president and secre-
25 tary, or any number of stockholders owning in the aggre-
26 gate at least one-tenth of the number of shares outstand-
27 ing. The notice of special meetings shall state the business
28 to be transacted, and no business other than that included
29 in the notice or incidental thereto shall be transacted at
30 such meeting.

31 Regular meetings of the board of directors may be held
32 at such time and place as the by-laws may prescribe, or
33 the board may from time to time designate by resolution.

34 Special meetings of the board of directors may be called
35 by the president, vice president, any two directors of a
36 stock or nonstock corporation, or by any two members of a
37 nonstock corporation. Notice of such meetings shall be
38 given as required by the by-laws, and if none is prescribed
39 therein, then by mailing a written notice to each director
40 at his last known post office address at least five days
41 before the time of the meeting.

42 A quorum of the stockholders shall consist of at least
43 a majority of all of the shares of stock entitled to vote.
44 Unless otherwise prescribed in the by-laws, or provided

45 in the charter, a quorum of the directors shall consist of a
46 majority of the board of directors. Any number less than
47 a quorum present may adjourn any stockholders' or
48 directors' meeting until a quorum is present: *Provided,*
49 *however,* That a quorum of the stockholders or members
50 of a cooperative association organized under the pro-
51 visions of this chapter shall consist of at least fifteen
52 per cent of such stockholders or members.

CHAPTER 30

(Com. Sub. for House Bill No. 96—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section twelve, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the allowance for expenses of the sheriff in the keeping, feeding and transporting of prisoners, and in the serving of summonses, notices and other official papers.

[Passed March 9, 1945; in effect ninety days from passage. Became a law without the approval of the Governor.]

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

Section

12. Allowance for expenses of sheriff.

Be it enacted by the Legislature of West Virginia:

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

Section 12. *Allowance for Expenses of Sheriff.*—The
2 county court, or tribunal in lieu thereof, of every county
3 shall, in addition to the salary herein provided, allow to
4 the sheriff for keeping and feeding each prisoner, other
5 than federal prisoners or prisoners held under civil
6 process as provided by law, an amount to be computed in
7 accordance with the following schedule, based on the

8 population figures appearing in the latest official cen-
9 sus:

10 (1) In counties having a population of more than
11 seventy-five thousand, forty-seven cents per day while
12 such prisoner is actually in jail, and fifty-seven cents
13 per day while such prisoner is working outside the jail
14 under the authority of the county court.

15 (2) In counties having a population of more than thirty-
16 five thousand but not more than seventy-five thousand,
17 fifty-two cents per day while such prisoner is actually in
18 jail, and sixty-two cents per day while such prisoner is
19 working outside the jail under the authority of the
20 county court.

21 (3) In counties having a population of more than
22 twenty thousand but not more than thirty-five thousand,
23 fifty-seven cents per day while such prisoner is actually
24 in jail, and sixty-seven cents per day while such prisoner
25 is working outside the jail under the authority of the
26 county court.

27 (4) In counties having a population of twenty thou-
28 sand or less, sixty-two cents per day while such prisoner
29 is actually in jail, and seventy-two cents per day while
30 such prisoner is working outside the jail under the author-
31 ity of the county court.

32 The limitation per day shall not include cost of per-
33 sonal service, bed or bedding, soaps and disinfectants and
34 items of like kind, the cost of all of which shall be paid
35 out of the allowance fixed by the county court under the
36 provisions of present law. All supplies of whatever kind
37 for keeping and feeding prisoners shall be purchased upon
38 the requisition of the sheriff under such rules and regu-
39 lations as may be prescribed by the county court. At
40 the end of each month the sheriff shall file with the
41 county court a detailed statement showing the name of
42 each prisoner, date of commitment and date of discharge,
43 and number of days in jail, and shall also file an itemized
44 statement showing each purchase and the cost thereof
45 for keeping and feeding prisoners.

46 The county court shall allow the actual and necessary
47 expenses incurred or expended in arresting, pursuing or

48 transporting persons accused or convicted of crimes and
49 offenses, and in conveying or transferring to or from any
50 state institution to which any person may be committed
51 from his county, where by law the sheriff is authorized
52 to convey or transfer such person, and may allow the
53 actual and necessary expenses incurred or expended in
54 serving summonses, notices and other official papers in
55 connection with the sheriff's office. The amount of such
56 expenses so allowed, however, shall not in the aggregate
57 exceed the total fees earned by the sheriff for any year
58 for serving such papers. Every sheriff shall file monthly,
59 under oath, a full and accurate account of all his actual
60 and necessary expenses mentioned in this section before
61 payment thereof shall be allowed by the county court:
62 *Provided*, That the allowances to sheriffs for expenses in
63 the keeping of prisoners shall be effective only for two
64 years from the effective date of this act, and that there-
65 after said expenses shall be at the rate in effect on the
66 day prior to the effective date of this act.

CHAPTER 31

(Senate Bill No. 121—By Mr. McKown and Mr. Winters)

AN ACT to amend and reenact section fourteen, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to annual reports by county officers of expenditures for deputies, assistants and employees.

Passed March 10, 1945; in effect May 1, 1945. Approved by the Governor.]

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

Section

14. Annual report of county officers of expenditures for deputies, assistants and employees.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article seven, chapter seven of the

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

Section 14. *Annual Reports by County Officers of Expenditures for Deputies, Assistants and Employees.*—
Every county officer named in this article, except the prosecuting attorney, shall, on the first day of June of each year, file with the county court, or tribunal in lieu thereof, and with the state tax commissioner, an itemized sworn statement of the amount expended by him, including compensation, emoluments and other outlay of money or thing of value for the twelve months next preceding the time of filing such report, for the services of his several deputies, assistants and all other employees. If any person or officer shall fail to file the statements hereby required, and at the time required, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than one hundred dollars, or imprisoned not less than thirty days nor more than six months, or both, at the discretion of the court.

CHAPTER 32

(Senate Bill No. 120—By Mr. McKown and Mr. Winters)

AN ACT to amend and reenact section seven, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, requiring county officers to file fiscal, instead of calendar, budgets.

[Passed March 10, 1945; in effect May 1, 1945. Approved by the Governor.]

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

Section

1. Deputies and assistants of sheriffs and clerks of the courts; salaries; fiscal budget.

Be it enacted by the Legislature of West Virginia:

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

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

Section 7. *Deputies and Assistants of Sheriffs and Clerks of the Courts; Salaries; Fiscal Budget.*—The sheriff, clerk of the county court, clerk of the circuit court, clerk of the criminal, common pleas or intermediate courts, on or before June first of each year, shall file with the county court, or tribunal in lieu thereof, a detailed statement of the probable amount necessary to be expended for deputies, assistants, and other employees of their respective offices in the following fiscal year. If any such officer shall fail to file the statement hereby required, he shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty nor more than one hundred dollars, or imprisoned in the county jail not less than thirty days nor more than six months, or both, in the discretion of the court. The county court, or tribunal in lieu thereof, shall, not later than fifteen days after the filing of such statement, take up and consider the same and shall determine and fix an aggregate sum to be expended for the period covered by such statement for the compensation of all such deputies, assistants, and other employees of the respective officers, which shall be reasonable and proper, regard being had to the amount of labor necessary to be performed by those to receive the compensation, and shall enter upon its court record a finding of its action: *Provided*, That any clerk of a circuit court, feeling that the sum so fixed and determined is inadequate to enable him to properly conduct his office, may appeal to the circuit court of such county, which shall determine and fix a reasonable and just amount for the compensation of his deputies and assistants: *Provided further*, That any taxpayer feeling aggrieved at the allowance made by the county court to the sheriff, and any sheriff feeling that the business of his office cannot be conducted properly by the maximum allowance by the county court for office expenditures, or the number of deputies and their salaries, shall be allowed the right of appeal to the circuit court of such county for the purpose of determining the equity of such maximum allowance.

39 The officers herein named shall appoint and employ
40 such deputies, assistants and other employees in the man-
41 ner provided by law, as may be necessary for their re-
42 spective offices and fix their compensation, and shall file
43 with the clerk of the county court, or other tribunal in
44 lieu thereof, a statement in writing showing such action
45 and setting forth the name of each deputy, assistant and
46 employee, the time for which employed and the monthly
47 compensation; but the compensation for all deputies, as-
48 sistants and other employees shall not exceed in the ag-
49 gregate, for each office, the amount so fixed for that office
50 as hereinbefore provided. The officers herein named shall
51 have authority to discharge any deputy, assistant, or other
52 employee, by filing with the clerk of the county court, or
53 tribunal in lieu thereof, a statement in writing showing
54 such action. All statements required to be filed by this
55 section shall be verified by the affidavit of the person
56 making them, and among other things contained in the
57 affidavit shall be the statement that the amounts shown
58 therein were the amounts actually paid or intended to
59 be paid to the deputies, assistants, or other employees,
60 without rebates, or any agreement, understanding and
61 expectation that any part thereof shall be repaid to him,
62 and that nothing has heretofore been paid or promised
63 him on that account, and that if he shall thereafter re-
64 ceive any money, or thing of value, on account thereof,
65 he will account for and pay the same to the county.
66 Until the statements required by this section have been
67 filed, no allowances or payments shall be made to any
68 officer for deputies, assistants or other employees.

CHAPTER 33

(Com. Sub. for Senate Bill No. 29—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section five, and sections five-(one) to section five-(fifty-four), inclusive, article one, chapter seven of the code of West Virginia, one thousand

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

[Passed March 10, 1945; in effect 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 and sections five-(one) to section five-(fifty-four), inclusive, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter fourteen, acts of the Legislature, regular session, one thousand nine hundred forty-one, and as further amended by chapter twenty-two, acts of the Legislature, regular session, one thousand nine hundred forty-three, be amended and reenacted 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 provide for and have general supervision over the repair and maintenance of the county courthouse, jails, houses for the poor, and other county property, so as to prevent the undue deterioration thereof; to supervise and control the purchase of furniture, fixtures and equipment, and janitors' and other supplies,

16 for their county; to attend the annual meeting of county
17 assessors, and such district meetings as may be called by
18 the state tax commissioner, on matters pertaining to the
19 work of the county assessors and county courts as boards
20 of review and equalization; to review and equalize the
21 assessments made by the assessor; to inspect and review
22 the lists of property, both real and personal, made up by
23 the assessor and his deputies for taxable purposes, and
24 to point out to the assessor any property, real or per-
25 sonal, which the said assessors of their respective counties
26 may have overlooked or omitted to place on said tax lists;
27 to call to the attention of the assessor all real estate or
28 personal property belonging to churches, lodges, schools
29 or other charitable institutions which may have been
30 overlooked or omitted by the assessor or his deputies in
31 making up his lists of property for entry on the land and
32 personal property books; to cooperate with the county
33 public assistance council and supervise the general man-
34 agement of the fiscal affairs and business of each county.

35 Compensation shall be allowed and paid out of the
36 county treasury, in the same manner as salaries are paid,
37 to each county commissioner of each county (except as
38 otherwise provided by law for the county of Ohio), for
39 services performed for such county concerning the visit-
40 ing of the poor, inspection of jails, bridges and bridge ap-
41 proaches, and for visiting detention homes for children;
42 and for providing for and supervising the repair and
43 maintenance of the county courthouse, jails, houses for
44 the poor, and other county property, and for supervising
45 and controlling the purchase of furniture, fixtures and
46 equipment and janitors' and other supplies of their
47 county; and for attending the annual meeting of assessors
48 and such district meetings as may be called by the state
49 tax commissioner, on matters pertaining to the work of
50 assessors and county courts as boards of review and equal-
51 ization; for reviewing and equalizing the assessments
52 made by the assessor; for inspecting and reviewing the
53 lists of property, both real and personal, made up by the
54 assessor and his deputies for taxable purposes, and for
55 pointing out to the assessor any property, real or personal,

56 which the said assessors of their respective counties may
57 have overlooked or omitted to place on said tax lists; for
58 calling to the attention of the assessor all real estate or
59 personal property belonging to churches, lodges, schools
60 or other charitable institutions which may have been over-
61 looked or omitted by the assessor or his deputies in mak-
62 ing up his lists of property for entry on the land and per-
63 sonal property books; and for duties of the county com-
64 missioners in cooperating with the county public as-
65 sistance council, and for supervising and general manage-
66 ment of the fiscal affairs and business of each county,
67 within their counties, and other business by such com-
68 missioners, in addition to compensation for services in
69 court, the sums of money hereinafter provided in the fol-
70 lowing sections five-(one) to five-(fifty-four), inclusive.

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

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

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

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

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

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

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

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

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

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

2 Sec. 5-(26). *Mason County*.—For the county of Mason, forty 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,
3 the president of the court two hundred dollars and the
4 other members of the court one hundred seventy-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 fifty dollars per month.

2 Sec. 5-(31). *Morgan County*.—For the county of Morgan, thirty-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 fifty-five dollars, and
3 other members of the court forty 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, the president of the county court one hundred
3 seventy-five dollars per month and other members of the
4 court one hundred sixty dollars per month.

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 34

(Com. Sub. for House Bill No. 272—Originating in the House Committee on the Judiciary)

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

adding thereto a new section to be designated section nine, relating to the authority and powers of sheriffs and deputy sheriffs to make arrests.

[Passed March 8, 1945; in effect from passage. Approved by the Governor.]

Article 10. Prevention of Crime.

Section

9. Power and authority of sheriffs and deputy sheriffs to make arrests.

Be it enacted by the Legislature of West Virginia:

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

Section 9. *Power and Authority of Sheriffs and Deputy Sheriffs to Make Arrests.*—Sheriffs and each of their deputies are hereby authorized and empowered, within their respective counties, to make arrests for any crime for which a warrant has been issued in violation of any laws of the United States or of this state, and to make arrests without warrant for all violations of any of the criminal laws of the United States, or of this state, when committed in their presence.

CHAPTER 35

(House Bill No. 332—By Mr. Staley, of Wayne)

AN ACT to amend and reenact section two, article four, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to rewards and detection of crimes.

[Passed March 8, 1945; in effect from passage. Approved by the Governor.]

Article 4. Prosecuting Attorney, Rewards and Legal Advice.

Section

2. Rewards and detection of crime; bounties.

Be it enacted by the Legislature of West Virginia:

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

Section 2. Rewards and Detection of Crime; Bounties.—

2 The prosecuting attorney of any county, with the approval
3 of the county court, or of the governor, or of the court of
4 the county vested with authority to try criminal offenses,
5 or of the judge thereof in vacation, may, within his dis-
6 cretion, offer rewards for the apprehension of persons
7 charged with crime, or may expend money for the de-
8 tection of crime. Any money expended under this section
9 shall, when approved by the prosecuting attorney, be
10 paid out of the county fund, in the same manner as other
11 county expenses are paid. The county court may also of-
12 fer reasonable bounties and rewards for the destruction
13 of noxious animals, birds of prey, or weeds in the county,
14 payable out of the county treasury: *Provided, however,*
15 That nothing herein shall permit or give to the prosecuting
16 attorney of any county, having a population according to
17 the last official census of sixty thousand or less, the right
18 to appoint a full-time investigator or detector of crime,
19 or to expend any money for the investigation of any crime
20 committed in his county beyond the actual expense of the
21 investigation of said crime; except, in the counties of
22 Wayne and Wyoming, the prosecuting attorney with the
23 consent of the circuit judge and the county court therein,
24 may appoint an investigator of crime to be paid an annual
25 salary of not less than one thousand two hundred dollars
26 nor more than two thousand four hundred dollars, and
27 actual expenses, the salary to be fixed within these limits
28 by the county court.

CHAPTER 36

(Com. Sub. for House Bill No. 45—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 forty-three, relating to assistants and stenographers or clerks for prosecuting attorneys; salaries; and when the court may appoint attorney to prosecute.

[Passed March 9, 1945; in effect from passage. Approved by the Governor.]

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

Section

6. Assistants, stenographers and clerks for prosecuting attorneys; 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 forty-three, be amended and reenacted to read as follows:

Section 6. *Assistants, Stenographers and Clerks for Prosecuting Attorney; Salaries; When Court May Appoint Attorney to Prosecute.*—Any prosecuting attorney may, with the assent of the county court of his county, entered of record, except as hereinafter provided, appoint one (and Ohio, 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

14 the county in which he is appointed, for any cause for
15 which his principal might be so removed. The com-
16 pensation of such assistant shall be paid by the principal,
17 except in the counties of Barbour, Berkeley, Boone,
18 Brooke, Cabell, Calhoun, Clay, Fayette, Harrison, Han-
19 cock, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall,
20 McDowell, Mercer, Mineral, Mingo, Monongalia, Nicholas,
21 Ohio, Putnam, Raleigh, Randolph, Summers, Taylor, Up-
22 shur, Wayne, Wetzel, Wood and Wyoming, and in said
23 counties the county court thereof shall allow annually to
24 such assistants such compensation to be paid out of the
25 county treasury as is deemed reasonable by the court;
26 in Ohio county for the first assistant, three thousand dol-
27 lars, and for the second assistant not to exceed two
28 thousand four hundred dollars; in Kanawha county for
29 the first assistant, not less than four thousand and not
30 more than five thousand dollars, and for the second assist-
31 ant not less than four thousand nor more than five thou-
32 sand dollars; in Cabell county, not more than twenty-
33 four hundred dollars for each assistant; in McDowell
34 county, not less than three thousand dollars nor more
35 than three thousand six hundred dollars for each assist-
36 ant; in Marion county, not less than two thousand nor
37 more than three thousand dollars; in Raleigh county,
38 not more than three thousand dollars; in Mingo county,
39 not to exceed three thousand dollars; in Harrison and
40 Mercer counties, not less than one thousand five hun-
41 dred nor more than three thousand four hundred
42 dollars; in Summers and Wood counties, not less
43 than one thousand nor more than two thousand dollars;
44 in Logan county, not less than three thousand dollars
45 nor more than three thousand six hundred dollars;
46 in Fayette county for the first assistant, not less than
47 two thousand four hundred nor more than three thou-
48 sand six hundred dollars, and for the second assistant
49 not to exceed one thousand eight hundred dollars; in
50 Boone and Wyoming counties, not less than one thousand
51 two hundred nor more than one thousand eight hundred
52 dollars; in Barbour county, one thousand dollars; in
53 Monongalia county, two thousand four hundred dollars;

54 in Wayne county, two thousand dollars; in Berkeley
55 county, not to exceed one thousand two hundred dollars;
56 in Lewis, Lincoln, Marshall, Mineral, Nicholas, Randolph
57 and Upshur counties, not to exceed twelve hundred dol-
58 lars; in Wetzel county, not less than six hundred nor
59 more than nine hundred dollars; in Taylor county, not to
60 exceed six hundred dollars; in Putnam and Calhoun coun-
61 ties, three hundred dollars. In each case such compensa-
62 tion shall include the compensation provided by law for
63 such assistant's services as attorney for boards of educa-
64 tion and other administrative boards and officers of the
65 county.

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

82 In each of the counties herein named, except Harrison,
83 and including Greenbrier, Lewis, Hampshire, Pocahontas,
84 Putnam, Ritchie, Roane and Upshur, the prosecuting at-
85 torney may employ a stenographer for his office at a sal-
86 ary, payable out of the county treasury, of not less than
87 nine hundred nor more than two thousand dollars per
88 annum; except, the annual salary of such stenographer in
89 Barbour, Lewis, Pocahontas and Taylor counties shall not
90 exceed one thousand two hundred dollars; in Calhoun,
91 Putnam, Ritchie and Upshur counties, shall not exceed
92 nine hundred dollars; in Hampshire and Roane counties,
93 shall not exceed six hundred dollars; in Berkeley county,

94 shall not be less than six hundred dollars nor exceed
95 one thousand two hundred dollars; in Boone county,
96 shall be one thousand eight hundred dollars; and in
97 Braxton county, shall be seven hundred twenty dol-
98 lars; in Webster county, shall be six hundred dollars;
99 in Jefferson and Gilmer counties, shall not exceed
100 nine hundred dollars: *Provided*, That in each of the
101 last three named counties the prosecuting attorney may
102 not employ a stenographer except with the consent of
103 the county court entered of record.

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

109 In the counties of Clay and Wetzel, the prosecuting at-
110 torney may employ a clerk or stenographer for his office
111 at a salary of one thousand two hundred dollars per an-
112 num, payable out of the county treasury; except, that in
113 the county of Clay, in lieu of the appointment of such
114 clerk or stenographer, the prosecuting attorney may em-
115 ploy a practicing attorney of said county as his assistant
116 at a salary of not less than one thousand nor more than
117 one thousand five hundred dollars per annum, payable
118 out of the county treasury.

119 In the counties of Mingo and Preston, the prosecuting
120 attorney may employ one stenographer for his office at
121 a salary not to exceed two thousand one hundred dollars
122 per annum for the county of Mingo and one thousand five
123 hundred dollars per annum for the county of Preston,
124 payable out of the county treasury.

125 In the county of Jackson, the prosecuting attorney may
126 employ one stenographer or clerk for his office at a sal-
127 ary of six hundred dollars per annum, payable out of the
128 county treasury.

129 In the counties of Hardy and Grant, the prosecuting
130 attorney may employ one stenographer or clerk for his
131 office with the consent of the county court, at a salary
132 not to exceed five hundred dollars per annum, payable
133 out of the county treasury as salaries of county officials

134 are paid. The amount of said salary for one thousand nine
135 hundred forty-five for Hardy and Grant counties, shall
136 be fixed by the county court of each of said counties at
137 its first regular meeting after the effective date of this
138 act and annually thereafter at its first regular meeting in
139 each year.

140 In the county of Mason, the prosecuting attorney may
141 employ one stenographer at a salary to be fixed by the
142 county court and payable out of the treasury of said
143 county.

CHAPTER 37

(Senate Bill No. 198—By Mr. Hall, of Boone)

AN ACT to repeal sections one, two and three, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, and to enact in lieu thereof section one, sections one-(one) to one-(fifty-five), inclusive; section two, sections two-(one) to two-(fifty-two), inclusive; section three, sections three-(one) to three-(fifty-two), inclusive, relating to salaries of sheriffs and clerks of county and circuit courts; and to amend and reenact sections four, five, five-(three), five-(fourteen), five-(twenty-three), five-(twenty-seven); five-(twenty-eight) and five-(forty) of said article, relating to the salaries of joint clerks of county and circuit courts, and salaries of prosecuting attorneys in certain counties.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

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

Section

1. Salaries of sheriffs.

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

2. Salaries of county clerks.

2-(1) to 2-(52). Salaries of county clerks in the various counties of the state.

3. Salaries of circuit clerks.

- 3-(1) to 3-(52). Salaries of circuit clerks in the various counties of the state.
4. Salaries of joint clerks of county and circuit courts.
5. Salaries of prosecuting attorneys.
- 5-(3). Boone county.
- 5-(14). Hampshire county.
- 5-(23). Logan county.
- 5-(27). McDowell county.
- 5-(28). Mercer county.
- 5-(40). Putnam county.

Be it enacted by the Legislature of West Virginia:

That sections one, two and three, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, be repealed, and that section one, sections one-(one) to one-(fifty-five), inclusive; section two, sections two-(one) to two-(fifty-two), inclusive; section three, sections three-(one) to three-(fifty-two), inclusive, be enacted in lieu thereof, and that sections four, five, five-(three), five-(fourteen), five-(twenty-three), five-(twenty-seven), five-(twenty-eight) and five-(forty) of said article, be amended and reenacted, all to read as follows:

Section 1. *Salaries of Sheriffs.*—The annual compensation of the sheriff of each county shall, on and after January first, one thousand nine hundred forty-nine, be in the amount set forth in sections one-(one) to one-(fifty-five) inclusive, of this article.

Sec. 1-(1). *Barbour County.*—For the county of Barbour, two thousand five hundred dollars.

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

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

Sec. 1-(4). *Braxton County.*—For the county of Braxton, two thousand eight hundred dollars.

Sec. 1-(5). *Brooke County.*—For the county of Brooke, two thousand five hundred dollars.

Sec. 1-(6). *Cabell County.*—For the county of Cabell, four thousand eight hundred dollars.

2 Sec. 1-(7). *Calhoun County*.—For the county of Calhoun, one thousand eight hundred dollars.

2 Sec. 1-(8). *Clay County*.—For the county of Clay, one thousand nine hundred dollars.

2 Sec. 1-(9). *Doddridge County*.—For the county of Doddridge, two thousand four hundred dollars.

2 Sec. 1-(10). *Fayette County*.—For the county of Fayette, four thousand dollars.

2 Sec. 1-(11). *Gilmer County*.—For the county of Gilmer, two thousand two hundred dollars.

2 Sec. 1-(12). *Grant County*.—For the county of Grant, one thousand eight hundred dollars.

2 Sec. 1-(13). *Greenbrier County*.—For the county of Greenbrier, two thousand seven hundred dollars.

2 Sec. 1-(14). *Hampshire County*.—For the county of Hampshire, two thousand two hundred dollars.

2 Sec. 1-(15). *Hancock County*.—For the county of Hancock, two thousand dollars.

2 Sec. 1-(16). *Hardy County*.—For the county of Hardy, one thousand six hundred dollars.

2 Sec. 1-(17). *Harrison County*.—For the county of Harrison, four thousand five hundred dollars.

2 Sec. 1-(18). *Jackson County*.—For the county of Jackson, two thousand dollars.

2 Sec. 1-(19). *Jefferson County*.—For the county of Jefferson, two thousand five hundred dollars.

2 Sec. 1-(20). *Kanawha County*.—For the county of Kanawha, five thousand dollars.

2 Sec. 1-(21). *Lewis County*.—For the county of Lewis, three thousand dollars.

2 Sec. 1-(22). *Logan County*.—For the county of Logan, four thousand two hundred dollars.

2 Sec. 1-(23). *Lincoln County*.—For the county of Lincoln, two thousand five hundred dollars.

2 Sec. 1-(24). *Marion County*.—For the county of Marion, four thousand eight hundred dollars.

2 Sec. 1-(25). *Marshall County*.—For the county of Marshall, three thousand eight hundred dollars.

2 Sec. 1-(26). *Mason County*.—For the county of Mason, two thousand five hundred dollars.

2 Sec. 1-(27). *Mercer County*.—For the county of Mercer, four thousand three hundred dollars.

2 Sec. 1-(28). *Mineral County*.—For the county of Mineral, three thousand dollars.

2 Sec. 1-(29). *Mingo County*.—For the county of Mingo, three thousand five hundred dollars.

2 Sec. 1-(30). *Monongalia County*.—For the county of Monongalia, three thousand six hundred dollars.

2 Sec. 1-(31). *Monroe County*.—For the county of Monroe, one thousand eight hundred dollars.

2 Sec. 1-(32). *McDowell County*.—For the county of McDowell, four thousand eight hundred dollars.

2 Sec. 1-(33). *Morgan County*.—For the county of Morgan, one thousand five hundred dollars.

2 Sec. 1-(34). *Nicholas County*.—For the county of Nicholas, two thousand five hundred dollars.

2 Sec. 1-(35). *Ohio County*.—For the county of Ohio, four thousand five hundred dollars.

2 Sec. 1-(36). *Pendleton County*.—For the county of Pendleton, one thousand six hundred dollars.

2 Sec. 1-(37). *Pleasants County*.—For the county of Pleasants, one thousand eight hundred dollars.

2 Sec. 1-(38). *Pocahontas County*.—For the county of Pocahontas, two thousand one hundred dollars.

2 Sec. 1-(39). *Preston County*.—For the county of Preston, three thousand dollars.

2 Sec. 1-(40). *Putnam County*.—For the county of Putnam, two thousand four hundred dollars.

2 Sec. 1-(41). *Raleigh County*.—For the county of Raleigh, three thousand six hundred dollars.

2 Sec. 1-(42). *Randolph County*.—For the county of Randolph, three thousand dollars.

2 Sec. 1-(43). *Ritchie County*.—For the county of Ritchie, two thousand seven hundred fifty dollars.

2 Sec. 1-(44). *Roane County*.—For the county of Roane, two thousand four hundred dollars.

2 Sec. 1-(45). *Summers County*.—For the county of Summers, two thousand dollars.

2 Sec. 1-(46). *Taylor County*.—For the county of Taylor, two thousand dollars.

2 Sec. 1-(47). *Tucker County*.—For the county of Tucker, two thousand two hundred dollars.

2 Sec. 1-(48). *Tyler County*.—For the county of Tyler, two thousand four hundred dollars.

2 Sec. 1-(49). *Upshur County*.—For the county of Upshur, two thousand seven hundred dollars.

2 Sec. 1-(50). *Wayne County*.—For the county of Wayne, two thousand four hundred dollars.

2 Sec. 1-(51). *Webster County*.—For the county of Webster, two thousand two hundred dollars.

2 Sec. 1-(52). *Wetzel County*.—For the county of Wetzel, three thousand dollars.

2 Sec. 1-(53). *Wirt County*.—For the county of Wirt, one thousand six hundred fifty dollars.

2 Sec. 1-(54). *Wood County*.—For the county of Wood, four thousand dollars.

2 Sec. 1-(55). *Wyoming County*.—For the county of Wyoming, two thousand eight hundred dollars.

2 Sec. 2. *Salaries of County Clerks*.—The annual compensation of the clerk of the county court of each county, including the compensation for new duties, imposed by acts of this Legislature, shall, on and after July one, one thousand nine hundred forty-five, be in the amounts set forth in sections two-(one) to two-(fifty-two), inclusive, of this article.

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

2 Sec. 2-(2). *Berkeley County*.—For the county of Berkeley, two thousand eight hundred dollars.

2 Sec. 2-(3). *Boone County*.—For the county of Boone, two thousand six hundred dollars.

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

2 Sec. 2-(5). *Brooke County*.—For the county of Brooke, one thousand nine hundred dollars.

2 Sec. 2-(6). *Cabell County*.—For the county of Cabell, five thousand dollars.

2 Sec. 2-(7). *Calhoun County*.—For the county of Calhoun, one thousand seven hundred dollars.

2 Sec. 2-(8). *Clay County*.—For the county of Clay, one thousand eight hundred dollars.

2 Sec. 2-(9). *Doddridge County*.—For the county of Doddridge, two thousand dollars.

2 Sec. 2-(10). *Fayette County*.—For the county of Fayette, three thousand two hundred dollars.

2 Sec. 2-(11). *Gilmer County*.—For the county of Gilmer, one thousand eight hundred dollars.

2 Sec. 2-(12). *Greenbrier County*.—For the county of Greenbrier, two thousand seven hundred fifty dollars.

2 Sec. 2-(13). *Hampshire County*.—For the county of Hampshire, two thousand dollars.

2 Sec. 2-(14). *Hancock County*.—For the county of Hancock, three thousand dollars.

2 Sec. 2-(15). *Harrison County*.—For the county of Harrison, four thousand dollars.

2 Sec. 2-(16). *Jackson County*.—For the county of Jackson, one thousand eight hundred dollars.

2 Sec. 2-(17). *Jefferson County*.—For the county of Jefferson, two thousand two hundred dollars.

2 Sec. 2-(18). *Kanawha County*.—For the county of Kanawha, five thousand five hundred dollars.

2 Sec. 2-(19). *Lewis County*.—For the county of Lewis, two thousand five hundred dollars.

2 Sec. 2-(20). *Lincoln County*.—For the county of Lincoln, two thousand seven hundred dollars.

2 Sec. 2-(21). *Logan County*.—For the county of Logan, three thousand nine hundred dollars.

2 Sec. 2-(22). *Marion County*.—For the county of Marion, four thousand eight hundred dollars.

2 Sec. 2-(23). *Marshall County*.—For the county of Marshall, three thousand six hundred dollars.

2 Sec. 2-(24). *Mason County*.—For the county of Mason, two thousand five hundred dollars.

2 Sec. 2-(25). *McDowell County*.—For the county of McDowell, four thousand five hundred dollars.

2 Sec. 2-(26). *Mercer County*.—For the county of Mercer, four thousand two hundred dollars.

2 Sec. 2-(27). *Mineral County*.—For the county of Mineral, three thousand dollars.

2 Sec. 2-(28). *Mingo County*.—For the county of Mingo, three thousand dollars.

2 Sec. 2-(29). *Monongalia County*.—For the county of Monongalia, three thousand six hundred dollars.

2 Sec. 2-(30). *Monroe County*.—For the county of Monroe, one thousand eight hundred dollars.

2 Sec. 2-(31). *Morgan County*.—For the county of Morgan, one thousand nine hundred dollars.

2 Sec. 2-(32). *Nicholas County*.—For the county of Nicholas, two thousand four hundred fifty dollars.

2 Sec. 2-(33). *Ohio County*.—For the county of Ohio, four thousand five hundred dollars.

2 Sec. 2-(34). *Pleasants County*.—For the county of Pleasants, one thousand eight hundred dollars.

2 Sec. 2-(35). *Pocahontas County*.—For the county of Pocahontas, one thousand eight hundred dollars.

2 Sec. 2-(36). *Preston County*.—For the county of Preston, two thousand eight hundred dollars.

2 Sec. 2-(37). *Putnam County*.—For the county of Putnam, two thousand four hundred dollars.

2 Sec. 2-(38). *Raleigh County*.—For the county of Raleigh, four thousand two hundred dollars.

2 Sec. 2-(39). *Randolph County*.—For the county of Randolph, three thousand two hundred dollars.

2 Sec. 2-(40). *Ritchie County*.—For the county of Ritchie, two thousand five hundred dollars.

2 Sec. 2-(41). *Roane County*.—For the county of Roane, two thousand two hundred dollars.

2 Sec. 2-(42). *Summers County*.—For the county of Summers, one thousand eight hundred dollars.

2 Sec. 2-(43). *Taylor County*.—For the county of Taylor, two thousand two hundred dollars.

2 Sec. 2-(44). *Tucker County*.—For the county of Tucker, two thousand one hundred dollars.

2 Sec. 2-(45). *Tyler County*.—For the county of Tyler,
2 two thousand two hundred dollars.

2 Sec. 2-(46). *Upshur County*.—For the county of Up-
2 shur, two thousand five hundred dollars.

2 Sec. 2-(47). *Wayne County*.—For the county of Wayne,
2 two thousand seven hundred dollars.

2 Sec. 2-(48). *Webster County*.—For the county of Web-
2 ster, two thousand dollars.

2 Sec. 2-(49). *Wetzel County*.—For the county of Wetzel,
2 two thousand six hundred dollars.

2 Sec. 2-(50). *Wirt County*.—For the county of Wirt, one
2 thousand two hundred dollars.

2 Sec. 2-(51). *Wood County*.—For the county of Wood,
2 three thousand six hundred dollars.

2 Sec. 2-(52). *Wyoming County*.—For the county of
2 Wyoming, three thousand six hundred dollars.

2 Sec. 3. *Salaries of Circuit Clerks*.—The annual com-
3 pensation of the clerk of the circuit court (or clerk of
4 the circuit and criminal or intermediate or other court
5 of limited jurisdiction) in each county, including the
6 compensation for new duties imposed by acts of this
7 Legislature, shall, on and after July one, one thousand
8 nine hundred forty-five, be in the amounts set forth in
9 sections three-(one) to three-(fifty-two), inclusive, of
9 this article.

2 Sec. 3-(1). *Barbour County*.—For the county of Bar-
2 bour, two thousand dollars.

2 Sec. 3-(2). *Berkeley County*.—For the county of Berke-
2 ley, two thousand two hundred dollars.

2 Sec. 3-(3). *Boone County*.—For the county of Boone,
2 two thousand six hundred dollars.

2 Sec. 3-(4). *Braxton County*.—For the county of Brax-
2 ton, two thousand four hundred dollars.

2 Sec. 3-(5). *Brooke County*.—For the county of Brooke,
2 two thousand one hundred dollars.

2 Sec. 3-(6). *Cabell County*.—For the county of Cabell,
2 five thousand dollars.

2 Sec. 3-(7). *Calhoun County*.—For the county of Cal-
2 houn, one thousand two hundred dollars.

2 Sec. 3-(8). *Clay County*.—For the county of Clay, one
2 thousand five hundred dollars.

2 Sec. 3-(9). *Doddridge County*.—For the county of Dod-
2 dridge, one thousand seven hundred dollars.

2 Sec. 3-(10). *Fayette County*.—For the county of Fay-
2 ette, three thousand two hundred dollars.

2 Sec. 3-(11). *Gilmer County*.—For the county of Gilmer,
2 one thousand six hundred dollars.

2 Sec. 3-(12). *Greenbrier County*.—For the county of
2 Greenbrier, two thousand dollars.

2 Sec. 3-(13). *Hampshire County*.—For the county of
2 Hampshire, one thousand four hundred forty dollars.

2 Sec. 3-(14). *Hancock County*.—For the county of Han-
2 cock, two thousand four hundred dollars.

2 Sec. 3-(15). *Harrison County*.—For the county of Har-
2 rison, four thousand dollars.

2 Sec. 3-(16). *Jackson County*.—For the county of Jack-
2 son, one thousand five hundred dollars.

2 Sec. 3-(17). *Jefferson County*.—For the county of Jef-
2 ferson, two thousand one hundred dollars.

2 Sec. 3-(18). *Kanawha County*.—For the county of Ka-
2 nawha, five thousand five hundred dollars.

2 Sec. 3-(19). *Lewis County*.—For the county of Lewis,
2 two thousand two hundred dollars.

2 Sec. 3-(20). *Lincoln County*.—For the county of Lin-
2 coln, two thousand three hundred dollars.

2 Sec. 3-(21). *Logan County*.—For the county of Logan,
2 three thousand six hundred dollars.

2 Sec. 3-(22). *Marion County*.—For the county of Marion,
2 four thousand eight hundred dollars.

2 Sec. 3-(23). *Marshall County*.—For the county of Mar-
2 shall, three thousand dollars.

2 Sec. 3-(24). *Mason County*.—For the county of Mason,
2 one thousand eight hundred dollars.

2 Sec. 3-(25). *McDowell County*.—For the county of Mc-
2 Dowell, four thousand five hundred dollars.

2 Sec. 3-(26). *Mercer County*.—For the county of Mercer,
2 four thousand two hundred dollars.

2 Sec. 3-(27). *Mineral County*.—For the county of Min-
2 eral, three thousand dollars.

2 Sec. 3-(28). *Mingo County*.—For the county of Mingo,
2 three thousand dollars.

2 Sec. 3-(29). *Monongalia County*.—For the county of
2 Monongalia, three thousand six hundred dollars.

2 Sec. 3-(30). *Monroe County*.—For the county of Mon-
2 roe, one thousand two hundred dollars.

2 Sec. 3-(31). *Morgan County*.—For the county of Mor-
2 gan, one thousand dollars.

2 Sec. 3-(32). *Nicholas County*.—For the county of Nich-
2 olas, two thousand dollars.

2 Sec. 3-(33). *Ohio County*.—For the county of Ohio, five
2 thousand five hundred dollars.

2 Sec. 3-(34). *Pleasants County*.—For the county of
2 Pleasants, one thousand three hundred fifty dollars.

2 Sec. 3-(35). *Pocahontas County*.—For the county of
2 Pocahontas, one thousand eight hundred dollars.

2 Sec. 3-(36). *Preston County*.—For the county of Pres-
2 ton, two thousand five hundred dollars.

2 Sec. 3-(37). *Putnam County*.—For the county of Put-
2 nam, two thousand dollars.

2 Sec. 3-(38). *Raleigh County*.—For the county of
2 Raleigh, three thousand nine hundred dollars.

2 Sec. 3-(39). *Randolph County*.—For the county of Ran-
2 dolph, two thousand eight hundred dollars.

2 Sec. 3-(40). *Ritchie County*.—For the county of Ritchie,
2 one thousand eight hundred dollars.

2 Sec. 3-(41). *Roane County*.—For the county of Roane,
2 one thousand eight hundred dollars.

2 Sec. 3-(42). *Summers County*.—For the county of Sum-
2 mers, one thousand eight hundred dollars.

2 Sec. 3-(43). *Taylor County*.—For the county of Tay-
2 lor, two thousand two hundred dollars.

2 Sec. 3-(44). *Tucker County*.—For the county of Tucker,
2 one thousand eight hundred dollars.

2 Sec. 3-(45). *Tyler County*.—For the county of Tyler,
2 two thousand two hundred dollars.

2 Sec. 3-(46). *Upshur County*.—For the county of Up-
2 shur, two thousand five hundred dollars.

2 Sec. 3-(47). *Wayne County*.—For the county of Wayne,
2 two thousand four hundred dollars.

2 Sec. 3-(48). *Webster County*.—For the county of Web-
2 ster, one thousand eight hundred dollars.

2 Sec. 3-(49). *Wetzel County*.—For the county of Wetzel,
2 two thousand dollars.

2 Sec. 3-(50). *Wirt County*.—For the county of Wirt, nine
2 hundred dollars.

2 Sec. 3-(51). *Wood County*.—For the county of Wood,
2 three thousand dollars.

2 Sec. 3-(52). *Wyoming County*.—For the county of Wyo-
2 ming, three thousand six hundred dollars.

2 Sec. 4. *Salaries of Joint Clerks of County and Circuit*
2 *Courts*.—The annual compensation of the clerks of the
3 courts in the counties where both the office of the clerk

4 of the county court and clerk of the circuit court are
5 held by the same person, including the compensation for
6 new duties imposed by acts of this Legislature, on and
7 after July one, one thousand nine hundred forty-five,
8 shall be as follows: Hardy county, one thousand eight
9 hundred dollars; Grant county, two thousand one hun-
10 dred dollars; Pendleton county, one thousand nine hun-
11 dred dollars.

Sec. 5. *Salaries of Prosecuting Attorneys.*—The annual
2 compensation of the prosecuting attorney in each county,
3 including the compensation provided by law for his
4 services as attorney for boards of education and other
5 administrative boards and officers in the county, includ-
6 ing the compensation for new duties imposed by acts of
7 this Legislature, shall, on and after July one, one thousand
8 nine hundred forty-five, be in the amounts set forth in
9 sections five-(one) to five-(fifty-five), inclusive, of this
10 article.

Sec. 5-(3). *Boone County.*—For the county of Boone,
2 two thousand six hundred dollars.

Sec. 5-(14). *Hampshire County.*—For the county of
2 Hampshire, one thousand four hundred and forty dollars.

Sec. 5-(23). *Logan County.*—For the county of Logan,
2 four thousand five hundred dollars.

Sec. 5-(27). *McDowell County.*—For the county of Mc-
2 Dowell, five thousand dollars.

Sec. 5-(28). *Mercer County.*—For the county of Mercer,
2 four thousand two hundred dollars.

Sec. 5-(40). *Putnam County.*—For the county of Put-
2 nam, two thousand one hundred dollars.

CHAPTER 38

(House Bill No. 147—By Mr. Moore)

AN ACT to amend and reenact section six, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, relating to allowances to circuit judges for stationery, postage and stenographic work.

[Passed March 6, 1945; in effect from passage. Approved by the Governor.]

Article 7. Compensation and Allowances.

Section

6. Allowances to circuit judges for stationery, postage and stenographic work.

Be it enacted by the Legislature of West Virginia:

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

Section 6. *Allowances to Circuit Judges for Stationery, Postage and Stenographic Work.*—Each judge of the circuit court shall be reimbursed out of the state treasury for the actual amounts expended by him for the procurement of necessary stationery, the payment of postage, and the payment for stenographic work, necessary in the discharge of the duties of his office, not to exceed one hundred dollars per month: *Provided*, That in the first judicial circuit each judge shall be allowed not to exceed one hundred fifty dollars per month for such expenses. Such sums shall be paid monthly out of the state treasury, but not until the judge submits an itemized statement covering the same.

All acts or parts of acts in conflict with and inconsistent herewith are hereby repealed.

CHAPTER 39

(Com. Sub. for House Bill No. 64—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact sections two, five, seven, eight, thirteen, fourteen and nineteen, article two, chapter fourteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter twenty, acts of the Legislature, regular session, one thousand nine hundred forty-one, all relating to claims and proceedings against the state, its officers and agencies.

[Passed March 8, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 2. Claims Against the State.

Section

2. Definitions.
5. Court clerk.
7. Meeting place of court.
8. Compensation of members.
13. The jurisdiction of the court.
14. Claims excluded.
19. Claims under existing appropriations.

Be it enacted by the Legislature of West Virginia:

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

- Section 2. *Definitions.*—For the purpose of this article
- 2 "Court" means the state court of claims established by
 - 3 section four of this article.
 - 4 "Claim" means a claim authorized to be heard by the
 - 5 court in accordance with this article.
 - 6 "Approved claim" means a claim found by the court to
 - 7 be one that should be paid under the provisions of this
 - 8 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 the
14 state government: *Provided, however,* That a "state
15 agency" shall not be considered to include county courts,
16 county boards of education, municipalities, or any other
17 political or local subdivision of the state regardless of
18 any state aid that might be provided.

Sec. 5. *Court Clerk.*—The court shall have authority to
2 appoint a clerk, and shall fix his salary at not to exceed
3 the sum of three thousand six hundred dollars per annum
4 to be paid out of the regular appropriation for the court.
5 The clerk shall have custody of all records and proceed-
6 ings of the court, shall attend meetings and hearings of
7 the court, shall administer oaths and affirmations and
8 shall issue all official summonses, orders, statements and
9 awards.

Sec. 7. *Meeting Place of the Court.*—The regular meet-
2 ing place of the court shall be at the state capitol, and the
3 board of public works shall provide adequate quarters
4 therefor. When deemed advisable, in order to facilitate
5 the full hearing of claims arising elsewhere in the state,
6 the court may convene at any county seat.

Sec. 8. *Compensation of Members.*—Each judge of the
2 court shall receive twenty dollars for each day actually
3 served, and actual expenses incurred in the perform-
4 ance of his duties. Requisition for traveling expenses
5 shall be accompanied by a sworn and itemized statement,
6 which shall be filed with the auditor and preserved as a
7 public record. For the purpose of this section, days
8 served shall include time spent in the hearing of claims, in
9 the consideration of the record, and in the preparation of
10 opinions. In no case, however, shall a judge receive com-
11 pensation for more than one hundred fifty days' service
12 in any fiscal year.

Sec. 13. *The Jurisdiction of the Court.*—The jurisdiction
2 of the court, except for the claims excluded by section
3 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 the
10 nature of set-off or counter claim on the part of the state
11 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 an
14 advisory determination.

Sec. 14. *Claims Excluded.*—The jurisdiction of the court
2 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 or treatment of a person in a
9 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 of
15 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 the
18 state.

Sec. 19. *Claims Under Existing Appropriations.*—A
2 claim arising under an appropriation made by the Legis-
3 lature during the fiscal year to which the appropriation
4 applies, and falling within the jurisdiction of the court,
5 may be 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 to
9 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 gov-
13 ern the consideration of the claim by the court. If the
14 court finds that the claimant should be paid, it shall cer-
15 tify the approved claim and award to the head of the
16 state agency, the state auditor and the governor. The
17 governor may thereupon instruct the auditor to issue his
18 warrant in payment of the award and to charge the
19 amount thereof to the proper appropriation. The audi-
20 tor shall forthwith notify the state agency that the claim
21 has been paid. Such an expenditure shall not be subject
22 to further review by the auditor upon any matter deter-
23 mined and verified by the court.

CHAPTER 40

(Senate Bill No. 48—By Mr. Harmer)

AN ACT to amend and reenact section six, article six, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to bonds of general court receivers.

[Passed February 20, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 6. General Receivers.

Section

6. Receiver's bond.

Be it enacted by the Legislature of West Virginia:

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

Section 6. *Receiver's Bond.*—Said general receiver
2 shall receive or accept no money or securities until he
3 shall have given bond with good security approved by the
4 court or the judge thereof in vacation, conditioned as
5 provided for official bonds, and in such penalty as the
6 said court or judge may prescribe, but sufficient at least

7 to cover the probable amount of money and securities
8 that may come into his possession. If at any time it
9 appears to the said court or judge that the penalty of
10 the bond or bonds is not sufficient to cover the probable
11 amount of money and securities that may come into the
12 possession of the general receiver, or that for any reason,
13 new or additional bonds should be given by him, the
14 said court or the judge thereof in vacation shall require
15 the said general receiver to immediately give new or
16 additional bonds in such penalty as the said court or
17 judge may prescribe. The said general receiver shall
18 not receive or accept any money or securities in excess of
19 the penalty of the bonds given by him as aforesaid and
20 remaining in full force and virtue.

21 If the said general receiver shall give bond as aforesaid
22 with an indemnity or surety company having an un-
23 revoked license or permit from the insurance commis-
24 sioner authorizing it to engage or continue in business
25 in this state, as surety thereon, the premiums for effect-
26 ing or continuing such bond shall be treated as a cost or
27 expense of administering the said receivership estate,
28 and paid by the said general receiver out of the funds in
29 his hands as ordered by the said court or judge.

30 In the event the said general receiver shall give any
31 bond as aforesaid with a surety who is not an indemnity
32 or surety company as aforesaid, he shall give a new
33 bond at least once in every two years after his appoint-
34 ment, and at the time of giving such new bond the surety
35 or sureties thereon shall appear before the said court
36 or judge and be examined under oath in order that the
37 said court or judge may determine the sufficiency of the
38 surety on the said bond.

CHAPTER 41

(House Bill No. 308—Originating in the House Committee on the Judiciary)

AN ACT to amend article one, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as last

amended, by adding thereto four new sections to be designated sections fifteen, sixteen, seventeen and eighteen, creating the office of "Administrative Office of the Supreme Court of Appeals", and describing its powers and duties.

[Passed March 10, 1945; in effect from passage. Approved by the Governor.]

Article 1. Supreme Court of Appeals.

Section

15. Administrative office of the supreme court; director; salary; seal.
16. Employees; appointment; compensation; prohibiting practice in state courts.
17. Duties of director.
18. Annual report of activities and estimates of expenditures.

Be it enacted by the Legislature of West Virginia:

That article one, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended by adding thereto four new sections numbered fifteen, sixteen, seventeen and eighteen, to read as follows:

Section 15. *Administrative Office of the Supreme Court; Director; Salary; Seal.*—There shall be and is hereby established what shall be known as the "Administrative Office of the Supreme Court of Appeals", with a director at the head thereof, who shall be appointed by the supreme court of appeals and hold office at the pleasure of and be subject to removal by the aforesaid court. The director shall receive an annual salary of five thousand dollars a year. The director shall cause a seal of office to be made for said office of such design as the supreme court of appeals shall approve, and judicial notice shall be taken of such seal.

Sec. 16. *Employees; Appointment; Compensation; Prohibiting Practice in State Courts.*—The director, with the approval of the supreme court of appeals, shall have authority to appoint such employees as are deemed necessary to perform the functions and duties vested in said office by this act, and the director shall fix their compensation. During his term of office or employment no officer or employee of said office shall engage, directly

9 or indirectly, in the practice of law in any of the courts
10 of the state.

Sec. 17. *Duties of Director.*—The director shall be the
2 administrative officer of the supreme court of appeals
3 and shall have charge, under the supervision and direc-
4 tion of the supreme court of appeals, of:

5 1. All administrative matters relating to the offices of
6 the clerks of the circuit and intermediary courts and of
7 the offices of justice of the peace, and all other clerical
8 and administrative personnel of said courts; but nothing
9 contained in this act shall be construed as affecting the
10 authority of the courts to appoint their administrative or
11 clerical personnel;

12 2. Examining the state of the dockets of the various
13 courts and securing information as to their needs for
14 assistance, if any, and the preparation of statistical data
15 and reports of the business transacted by the courts, and
16 promptly transmitting the information so obtained, quar-
17 terly, to the chairman of the judicial council;

18 3. The preparation of a proper budget to secure the
19 appropriation of moneys for the maintenance, support
20 and operation of the courts;

21 4. The purchase, exchange, transfer and distribution
22 of equipment and supplies, as may be needful or desir-
23 able;

24 5. To act as the executive secretary of the judicial
25 council and to report to the council upon such matters
26 as the council or the chairman may from time to time
27 request; and

28 6. Such other matters as may be assigned to him by the
29 supreme court of appeals and the judicial council. The
30 clerks of the circuit courts, intermediate courts and courts
31 of the justices of the peace shall comply with any and
32 all requests made by the director or his assistants for
33 information and statistical data bearing on the state of the
34 dockets of such courts, or such other information as may
35 reflect the business transacted by them.

Sec. 18. *Annual Report of Activities and Estimates of*
2 *Expenditures.*—The director shall submit annually to the

3 supreme court of appeals a report of the activities of the
4 administrative office and of the state of business of the
5 courts, together with the statistical data compiled by him,
6 with his recommendations.

7 All acts or parts of acts in conflict herewith are hereby
8 repealed.

CHAPTER 42

(House Bill No. 318—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section five, article three, chapter twenty-five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to publication of reports of the supreme court of appeals, and authorizing publication of advance sheets of the opinions of the court.

[Passed March 8, 1945; in effect from passage. Approved by the Governor.]

Article 3. Public Printing and Stationery; State Publications.

Section

5. Publication of reports of supreme court of appeals.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Publication of Reports of Supreme Court of Appeals.*—The director shall have charge and supervision of the printing and binding of the reports of the decisions of the supreme court of appeals of the state, and shall contract for their publication in the manner provided for contracts under article two. The contract shall provide for the publication of fifteen hundred copies of each volume of the reports ordered by the court to be printed on paper selected by the reporter of the court and bound in the best quality of calf or standard buckram. The

11 size of type and page shall be prescribed by the reporter.
12 A volume shall be published according to the terms of
13 the contract whenever ordered by the court. The re-
14 porter shall secure the copyright of each volume for the
15 benefit of the state. The reports shall be styled "West
16 Virginia Reports".

17 The printing and binding of the reports shall be done
18 under the direction of and in the manner prescribed by
19 the reporter, subject to the control of the court. The re-
20 porter shall prefix to the printed report of each case the
21 dates when the same was submitted and decided. Each
22 volume shall, if practicable, contain the reports of at
23 least eighty cases decided by the court, and shall contain
24 not more than nine hundred pages, exclusive of the index
25 and table of cases reported and cited. Proof sheets shall
26 be furnished by the printer to the reporter and to each
27 judge of the court, and such corrections and modifications
28 shall be made by the printer as the reporter or any of
29 the judges shall direct. If the work is not done in the
30 manner required by law, the reporter shall not approve
31 the volume and the director shall not accept it.

32 The reports of the decisions of the supreme court of
33 appeals may be published in pamphlet form in advance
34 of the publication of the bound volumes of the "West Vir-
35 ginia Reports", periodically, or at such times as may be
36 directed by the reporter and the supreme court of appeals.
37 The reporter shall secure the copyright of each pamphlet
38 of opinions so published in advance. Each pamphlet
39 shall contain the report of such number of cases as the
40 supreme court of appeals and the reporter shall deem
41 advisable.

42 The contract for the publication of such advance sheets
43 shall be made in the manner provided for the publication
44 of bound volumes of the "West Virginia Reports".

45 A charge of not less than the actual cost of printing
46 and distribution shall be made for such advance sheets.

CHAPTER 43

(Senate Bill No. 65—By Mr. Morrison)

AN ACT to amend and reenact section two, article eight, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to West Virginia law library.

[Passed March 10, 1945; in effect July 1, 1945. Approved by the Governor.]

Article 8. State Law Libraries.

Section

2. Librarian; bond; assistants; compensation.

Be it enacted by the Legislature of West Virginia:

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

Section 2. Librarian; Bond; Assistants; Compensation.

2 —The supreme court of appeals, or the judges thereof in
3 vacation, shall appoint a competent librarian to have
4 immediate custody and charge of the West Virginia law
5 library under the direction of the court. Such librarian
6 shall give bond in a penalty fixed by the court of not
7 less than two nor more than five thousand dollars, with
8 surety thereon, to be approved by the court, and con-
9 ditioned as provided for official bonds. Such bond shall
10 be deposited for safekeeping with the clerk of the court.
11 The librarian shall be an officer of the court and shall hold
12 his office and be removable at its pleasure. Vacancies in
13 the office of librarian occurring during a vacation of the
14 court may be filled by appointment in writing made by
15 the judges of the court, or any three of them. When, in
16 the opinion of the court, other employees are needed
17 for the proper protection and use of the library, it may
18 employ such assistants as may be necessary for that
19 purpose. The salary of the librarian shall be three thou-
20 sand six hundred dollars per annum, payable in monthly

21 installments, and the expense of such assistants shall
22 be fixed by the court and shall be paid upon order of
23 the court.

CHAPTER 44

(House Bill No. 82—By Mr. Davis and Mr. Hugus)

AN ACT to amend article one, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be numbered four-a, providing for the adoption, promulgation and enforcement by the supreme court of appeals of West Virginia of rules defining the practice of law, prescribing a code of ethics governing the professional conduct of attorneys-at-law, and prescribing a code of judicial ethics, and establishing practice and procedure for disciplining, suspending, and disbarring attorneys-at-law, and providing for the creation, government, and conduct of the West Virginia state bar, and prescribing its powers and duties, and fees to be paid for the administration of this section and the collection and disbursement thereof.

[Passed February 26, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 1. Supreme Court of Appeals.

Section

4-a. Rules governing the practice of law; creation of West Virginia state bar; providing its powers, and fees for administration.

Be it enacted by the Legislature of West Virginia:

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

Section 4-a. *Rules Governing the Practice of Law; Creation of West Virginia State Bar; Providing Its Powers, and Fees for Administration.*—The supreme court of ap-

4 peals of West Virginia shall, from time to time, pre-
5 scribe, adopt, promulgate, and amend rules:

6 (a) Defining the practice of law.

7 (b) Prescribing a code of ethics governing the profes-
8 sional conduct of attorneys-at-law and the practice of
9 law, and prescribing a code of judicial ethics.

10 (c) Prescribing procedure for disciplining, suspending,
11 and disbaring attorneys-at-law.

12 (d) Organizing and governing, by and through all of
13 the attorneys-at-law practicing in this state, an admin-
14 istrative agency of the supreme court of appeals of West
15 Virginia, which shall be known as "The West Virginia
16 State Bar". The West Virginia state bar shall be a
17 part of the judicial department of the state govern-
18 ment and is hereby created for the purpose of en-
19 forcing such rules as may be prescribed, adopted and
20 promulgated by the court from time to time under
21 this section. It is hereby authorized and empowered
22 to perform the functions and purposes expressed in
23 a constitution, by-laws and amendments thereto as shall
24 be approved by the supreme court of appeals from time
25 to time. All persons practicing law in this state shall
26 be members of the West Virginia state bar in good
27 standing: *Provided, however,* That the West Virginia
28 state bar shall not become operative until its consti-
29 tution and by-laws shall first have been submitted
30 to all attorneys-at-law practicing in this state, includ-
31 ing those presently serving in the armed forces of the
32 United States, for the purpose of securing the sug-
33 gestions and recommendations of all such attorneys-
34 at-law, for a period of at least sixty days prior to
35 the entry of an order by such court approving said
36 constitution and by-laws.

37 (e) Fixing a schedule of fees to be paid by attorneys-
38 at-law practicing in the state of West Virginia for the
39 purpose of administering this section, and providing for
40 the collection and disbursement of such fees: *Provided,*
41 *however,* That the annual fees to be paid by any attor-
42 ney-at-law shall not exceed the sum of five dollars,
43 unless a majority of the attorneys-at-law practicing in

44 this state consent to the payment of a higher annual
45 fee.

46 The inherent rule-making power of the supreme court
47 of appeals is hereby declared.

48 When and as the rules of the court herein authorized
49 shall be prescribed, adopted, and promulgated, all laws
50 and parts of laws that conflict therewith shall be and
51 become of no further force or effect to the extent of such
52 conflict.

CHAPTER 45

(Senate Bill No. 149—By Mr. Hardesty and Mr. Harmer)

AN ACT to amend article ten, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section, to be numbered section twenty-two, relating to bribery of participants in games, sports and horse racing, and providing penalties.

[Passed March 10, 1945: in effect ninety days from passage. Approved by the Governor.]

Article 10. Crimes Against Public Policy.

Section

22. Bribery of participants in professional or amateur games and horse racing.

Be it enacted by the Legislature of West Virginia:

That article ten, 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 numbered section twenty-two, to read as follows:

Section 22. *Bribery of Participants in Professional or Amateur Games and Horse Racing.*—Whoever gives, promises or offers to any professional or amateur baseball, football, basketball, hockey player or boxer or any player who participates in any professional or amateur game or

6 sport or any jockey, driver, groom or any person partici-
7 pating in any horse race, including owners of race tracks
8 and their employees, stewards, trainers, judges, starters,
9 special policemen, any valuable thing with intent to in-
10 fluence him to lose or try to lose or cause to be lost a base-
11 ball, football, basketball, or hockey game, boxing match
12 or a horse race or any professional or amateur sport, or
13 game, in which such player or participant or jockey
14 or driver is taking part or expects to take part, or has
15 any duty or connection therewith, or who, being either
16 a professional or amateur baseball, football, basketball,
17 hockey player, boxer, or jockey, driver, or groom or
18 participant in any sport or game solicits or accepts any
19 valuable thing to influence him to lose or cause to be
20 lost a baseball, football, basketball, hockey or boxing
21 match, or horse race or any professional or amateur
22 game of any professional or amateur sport in which he
23 is taking part, or expects to take part, or has any duty
24 or connection therewith, shall be guilty of a felony, and
25 punishable by imprisonment for not less than one year,
26 nor more than three years, or by a fine of not more than
27 one thousand dollars, or by both fine and imprisonment.

CHAPTER 46

(Senate Bill No. 189—By Mr. Morrison, by request)

AN ACT to amend and reenact section thirty-eight, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the publication of false advertisements and providing penalties for violations thereof.

[Passed March 9, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 3. Crimes Against Property.

Section

38. Publication of false advertisements; penalty.

Be it enacted by the Legislature of West Virginia:

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

Section 38. *Publication of False Advertisements; Pen-
alty.*—Any person, firm, corporation or association, or
their agents or employees, who, with intent to sell, or in
any wise dispose of, merchandise, securities, service, or
anything offered by such person, firm, corporation or as-
sociation, directly or indirectly, to the public for sale or
distribution, or with intent to increase the consumption
thereof, or to induce the public in any manner to enter
into any obligation relating thereto, or to acquire title
thereto, or an interest therein, causes, directly or in-
directly, to be made, published, disseminated, circulated
or placed before the public, in this state, in a newspaper
or other publication, or in the form of a book, notice, hand-
bill, poster, bill, circular, pamphlet or letter, or over any
radio station, or in any other way, an advertisement of
any sort regarding merchandise, securities, service or
anything so offered to the public, which advertisement
contains any assertion, representation or statement of
fact which is untrue and deceptive, shall be guilty of a
misdemeanor, and, upon conviction thereof shall be pun-
ished by a fine of not less than ten nor more than one
hundred dollars, and such violation, by an agent or em-
ployee, shall be deemed an offense as well by the principal
or employer, and they may be indicted for the same, either
jointly or severally.

CHAPTER 47

(Senate Bill No. 166—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact section twenty-six, article two, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the procedure to be followed upon the reference to a com-

missioner in chancery of divorce suits and suits to annul or affirm marriages.

[Passed March 5, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 2. Divorce.

Section

26. Reference to commissioner in chancery; taking of depositions; oral testimony before court.

Be it enacted by the Legislature of West Virginia:

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

Section 26. *Reference to Commissioner in Chancery; Taking of Depositions; Oral Testimony Before Court.*—
3 Instead of proceeding with the cause under the provisions
4 of the twenty-third section of this article, the court may,
5 in its discretion, refer it to one of the commissioners in
6 chancery of such court, or to a special commissioner in
7 chancery, who shall take and return the testimony in
8 such cause, with a report of all such facts as the com-
9 missioner may be able to obtain as to property rights of
10 the parties, their income, their character, conduct, health,
11 habits, their children, their respective places of residence
12 from the time of their marriage up to the time of such
13 report, and any other matter deemed necessary by the
14 court, together with his recommendation concerning
15 whether a divorce, annulment or affirmation, as the case
16 may be, should be granted, and concerning any other
17 matter on which the court may request his recommenda-
18 tion. All such facts so reported and the recommendation
19 of the commissioner shall be considered by the court in
20 passing on the merits of the cause, whether the same be
21 referred to in the pleadings or evidence, or not. Except
22 as otherwise expressly provided herein, the procedure in
23 respect to the reference of such a cause to a commissioner
24 shall be governed in all respects by the rules applicable
25 to references to commissioners in other chancery cases.
26 If testimony is to be taken in a county other than that

27 in which the cause is pending, the same shall be taken
28 before one of the commissioners in chancery of the cir-
29 cuit court of the county in which the same is taken. If
30 testimony is taken of witnesses residing out of the state
31 of West Virginia, the same shall be taken before some
32 person duly authorized to take depositions in divorce
33 cases in the state where taken. If such depositions are
34 taken out of the county in which the cause is pending,
35 or without the state, the same shall be, by the person
36 taking the same, filed with or forwarded to the clerk of
37 the court wherein such cause is pending, and on receipt
38 of such depositions such clerk shall lay the same before
39 the commissioner to whom such cause has been referred,
40 who shall consider the same in connection with his report
41 hereinbefore mentioned. The person before whom depo-
42 sitions are taken hereunder shall be personally present
43 at the time and place of taking depositions, and no depo-
44 sition shall be taken or read in the cause unless it appears
45 therefrom that such person was personally present during
46 the taking of the same. It is hereby made the duty of the
47 person before whom such depositions are taken, to see that
48 all witnesses are so examined as to elicit all facts within
49 their knowledge pertaining to the cause. If any person
50 before whom any such depositions are taken certifies false-
51 ly as to his presence at the taking of such depositions, he
52 shall be guilty of a misdemeanor, and on conviction
53 thereof, shall be fined not less than fifty nor more than
54 five hundred dollars.

55 The court in which such cause is pending may so refer
56 the same as often as, in its judgment, justice requires, and
57 may, if it so elect, summon any one to appear before
58 such court, and give evidence with reference thereto, and
59 base its findings on such oral evidence solely. The com-
60 missioner shall be allowed for his services the same com-
61 pensation as is allowed in other chancery causes, and all
62 costs, including stenographer's fees, shall be taxed as in
63 other chancery causes.

CHAPTER 48

(House Bill No. 159—By Mr. Schupbach and Mr. Blankenship)

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 last amended, relating to the allocation of state aid and salaries for teachers.

[Passed March 9, 1945; in effect July 1, 1945. Approved by the Governor.]

Article 9-a. State Aid for Schools.

Section

11. Allocation of state aid; salaries for teachers.

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 last amended, be amended and reenacted to read as follows:

Section 11. *Allocation of State Aid; Salaries for Teach-*

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

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

12a In computing the amount to be distributed under this
12b subsection, the board shall continue to use as a basis for
12c its calculation the schedule of basic and advanced salaries
12d in effect during the fiscal year ending June thirtieth, one
12e thousand nine hundred forty-five.

13 (2) The board of finance shall next allocate to each
14 county an amount to be computed by multiplying by
15 two hundred seventy the number of teachers actually
16 employed by the county board for the current school

17 year, which number for purposes of this and the next
 18 subsection shall in no instance exceed the number of
 19 teachers approved for employment in such county by
 20 the board of finance.

21 (3) The board of finance shall next allocate to each
 22 county an amount to be computed as follows: The board
 23 shall first prepare for each county a list of all the teach-
 24 ers employed therein for the current year, showing as
 25 to each teacher the type of certificate held and the num-
 26 ber of years of prior teaching experience. From this
 27 list the board shall compile a table for the county show-
 28 ing by columns as to each type of certificate the total
 29 number of teachers with one year's experience, two
 30 years' experience, and so on down to sixteen years' ex-
 31 perience. For the purpose of compiling this table, prior
 32 experience of seventeen years or more shall be counted as
 33 only sixteen years' experience. The board shall then
 34 determine, by reference to the following table of salary
 35 increases not otherwise provided for, the additional
 36 amounts of state aid necessary to provide such increases
 37 for each teacher in the county, such additional amounts
 38 to be computed by multiplying the figure appearing in
 39 each line and column of the following table by the cor-
 40 responding figure, if any, appearing on the table com-
 41 piled by the board as provided above. The total of the
 42 additional amounts so computed shall be the amount to
 43 be allocated to each county under this subsection.

44 TABLE OF SALARY INCREASES

45 (Not Otherwise Provided For)

46 Year of		47 Type of Certificate						
48	49	Second	First	Short	Third	Second		
	ence	Grade	Grade	Course	Class	Class	A.B.	M.A.
50	1	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
51	2	9.00	9.00	9.00	9.00	9.00	9.00	9.00
52	3	13.50	13.50	13.50	13.50	13.50	13.50	13.50
53	4	18.00	18.00	18.00	18.00	18.00	18.00	18.00
54	5	0	0	0	0	0	0	0
55	6	27.00	27.00	27.00	27.00	27.00	27.00	27.00
56	7	27.00	27.00	27.00	54.00	54.00	54.00	54.00

57	8	27.00	27.00	27.00	81.00	81.00	81.00	81.00
58	9	27.00	27.00	27.00	81.00	108.00	108.00	108.00
59	10	-18.00	-18.00	-18.00	36.00	90.00	90.00	90.00
60	11	-18.00	-18.00	-18.00	36.00	90.00	117.00	117.00
61	12	-18.00	-18.00	-18.00	36.00	90.00	144.00	144.00
62	13	-18.00	-18.00	-18.00	36.00	90.00	171.00	171.00
63	14	-18.00	-18.00	-18.00	36.00	90.00	171.00	198.00
64	15	-18.00	-18.00	-18.00	36.00	90.00	171.00	225.00
65	16	-18.00	-18.00	-18.00	36.00	90.00	171.00	252.00

66 No part of the funds distributed under this and the
 67 preceding subsection shall be available for any purpose
 68 other than teachers' salaries and no part thereof shall be
 69 made available to any county board which reduces sal-
 70 aries below those paid to teachers during the previous
 71 school year, such salaries to be computed by adding to
 72 the legal minimum salaries any excess salary paid by
 73 the county board during that year, except that such ex-
 74 cess salary may be reduced with the approval of the
 75 board of finance when such reduction is based on any or
 76 all of the following factors affecting local revenues out
 77 of which such excess was paid: (a) Rejection by the
 78 voters of the county of a previously approved special
 79 levy effective during the previous school year; (b) a sub-
 80 stantial decline in the amount of revenue; or (c) other
 81 reasons approved by the board of finance.

82 (4) The board of finance shall then allocate the
 83 amount remaining for distribution as state aid, after
 84 the requirements of (1), (2) and (3) above have been
 85 met, among the several counties of the state in a uniform
 86 proportion to the number of teachers allotted each county.
 87 The amount to be received by a county under this sub-
 88 section shall be computed by multiplying the amount
 89 available for distribution to all the counties by the
 90 number of teachers allotted to that county divided by
 91 the total number of teachers allotted to all the counties
 92 of the state.

93 The amount of state aid to be received by each county
 94 shall be the sum of the amounts determined as the result
 95 of (1), (2), (3) and (4) above, and shall be used by the
 96 several counties in the support of the schools. No county

97 shall employ more than the allotted number of teachers
98 without the prior consent of the board of finance. By
99 allotted number of teachers is meant the sum of three per
100 cent of the corrected average daily attendance in elemen-
101 tary schools and four per cent of the corrected average
102 daily attendance in high schools. In determining the
103 corrected average daily attendance, under this para-
104 graph, a non-isolated elementary school shall be counted
105 as one full school and not as one-fourth of a school.

CHAPTER 49

(Senate Bill No. 52—By Mr. Mitchell)

AN ACT to amend and reenact section thirteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter eight, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, by chapter sixty, acts of the Legislature, regular session, one thousand nine hundred thirty-five, and as last amended by chapter forty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to the authority of county boards of education, and authorizing the furnishing, at public expense, of transportation of school children participating in athletic, literary and band activities.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 5. District Board of Education.

Section

13. General control of schools; consolidation; transportation of pupils.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter eight, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three,

as amended by chapter sixty, acts of the Legislature, regular session, one thousand nine hundred thirty-five, and as last amended by chapter forty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

Section 13. *General Control of Schools; Consolidation;*

2 *Transportation of Pupils.*—The boards, subject to the
3 provisions of this chapter and the rules and regulations
4 of the state board, shall have authority:

5 (1) To control and manage all of the schools and
6 school interests of the county;

7 (2) To establish needed high schools;

8 (3) To close any school which is unnecessary and to
9 assign the pupils thereof to other schools;

10 (4) To consolidate schools;

11 (5) To close any elementary school whose average
12 daily attendance falls below twenty pupils for two months
13 in succession, and send the pupils to other schools in the
14 district or to schools in adjoining districts. The com-
15 pensation of teachers in schools so closed shall cease;

16 (6) To provide at public expense adequate means of
17 transportation for all children of school age who live
18 more than two miles distant from school by the nearest
19 available road or path; and to provide at public expense
20 and according to such regulations as the board may es-
21 tablish, adequate means of transportation for school chil-
22 dren participating in athletic, literary and band activities:
23 *Provided*, That in all cases the buses or other transporta-
24 tion facilities owned by the board of education shall be
25 driven or operated only by drivers regularly employed by
26 the board of education: *Provided further*, That buses shall
27 be used for extra curricular activities as herein provided
28 only when the insurance provided for by this section
29 shall have been effected.

30 (7) To provide at public expense for insurance against
31 the negligence of the drivers of school buses, trucks, or
32 other vehicles operated by the board; and if the transpor-
33 tation of pupils be let out to contract, then the contract
34 therefor shall provide that the contractor shall carry in-

35 surance against negligence in such an amount as the
36 board shall specify.

37 The board of any district shall expend under such regu-
38 lations as it establishes for each child an amount not to
39 exceed the proportion of all school funds of the district
40 that each child would be entitled to receive if all the
41 funds were distributed equally among all the children
42 of school age in the district upon a per capita basis. No
43 changes in textbooks except those provided by general
44 law shall be made as a result of the passage of this act:
45 *Provided, however,* That at least one year of instruction
46 in the history of the state of West Virginia shall be given
47 prior to the eighth grade.

CHAPTER 50

(Senate Bill No. 221—By Mr. Vickers, Mr. President)

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 last amended and reenacted by chapter thirty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to basic salaries for public school teachers and advanced salaries for experience.

[Passed March 2, 1945; in effect July 1, 1945. 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 last amended by chapter thirty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-one, 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 fixed for teachers in accordance with the certification classification of the teachers. Such salaries shall be those set forth in the following schedule:

(1) For teachers holding five-year certificates secured by examination or other first-grade certificates, not less than one hundred fifteen dollars a month.

(2) For teachers holding short course certificates, not less than one hundred twenty 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 thirty-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 forty 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 fifty 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 sixty-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 seventy dollars a month.

Basic salaries shall be uniform throughout the state for teachers holding equivalent credentials.

A teacher teaching his first regular term of school shall be paid the basic salary in accordance with his certification classification.

41 Upon the change of the certification classification of a
42 teacher, the basic salary of that teacher shall be that of
43 the new certification classification.

44 (B) Advanced salaries shall mean any salaries greater
45 than basic salaries. Advanced salary increments shall be
46 the increments added to the basic salaries of teachers for
47 experience and for such other services as recognized
48 herein. Salary increments for teaching experience shall
49 be those set forth in the following schedule:

50 (1) For teachers who hold the short course or cer-
51 tificate of lower grade, the rate of salary shall be the basic
52 salary plus at least three dollars a month for the second
53 term; and the basic salary plus an additional annual in-
54 crease of at least three dollars a month for each year
55 taught thereafter to and including the seventh year.

56 (2) For teachers who hold the third-class elementary
57 (standard normal) certificate, the rate of salary shall be
58 the basic salary plus at least three dollars a month for the
59 second term; and the basic salary plus an additional an-
60 nual increase of at least three dollars a month for each
61 year taught thereafter to and including the ninth year.

62 (3) For teachers who hold the second-class collegiate
63 certificate, the rate of salary shall be the basic salary plus
64 at least three dollars a month for the second term; and
65 the basic salary plus an additional annual increase of at
66 least three dollars a month for each year taught there-
67 after to and including the eleventh year.

68 (4) For teachers who hold the collegiate elementary,
69 first-class high school, or other certificates of equal rank,
70 based on a bachelor's degree earned in an approved in-
71 stitution, the rate of salary shall be the basic salary plus
72 at least three dollars a month for the second term; and
73 the basic salary plus an additional annual increase of at
74 least three dollars a month for each year taught thereafter
75 to and including the fourteenth year.

76 (5) For teachers who have received a master's degree
77 in an institution qualified and approved to do graduate
78 work, holding a collegiate elementary certificate, first-
79 class high school, or other certificate of equal rank, the rate
80 of salary shall be the basic salary plus at least three dol-
81 lars a month for the second term; and the basic salary

82 plus an additional annual increase of at least three dol-
83 lars a month for each year taught thereafter to and in-
84 cluding the seventeenth year.

85 Boards of education may fix higher salaries for high
86 school and elementary school principals, teachers of one-
87 teacher schools, and any teacher assigned to or employed
88 for duties other than or in addition to his regular instruc-
89 tional duties, by the addition of further increments con-
90 sistent with the duties performed. Such additional sal-
91 ary increments shall conform to the regulations of the
92 state board of education.

93 Advanced salaries shall be uniform throughout the
94 district for teachers holding similar credentials and in
95 the same classification as to experience and duties.

96 Upon the change of the certification classification of
97 the teacher, his advanced salary increment as provided
98 in this section shall be added to his new basic salary cre-
99 ated by the change in the certification classification.

100 In determining the number of regular terms of school
101 a teacher has taught, boards of education shall credit as
102 regular teaching, service in the armed forces of the United
103 States in the World War, and active work in educational
104 positions other than teaching, but no teacher shall be
105 given credit for teaching more than one regular term in
106 any school year.

107 Salaries of colored teachers shall be the same as the
108 salaries of other teachers in the same district with the
109 same training and experience and holding similar cre-
110 dentials. Any board of education failing to comply with
111 the provisions of this paragraph may be compelled to do
112 so by mandamus.

113 All acts and parts of acts inconsistent with this act are
114 hereby repealed.

CHAPTER 51

(Senate Bill No. 142—By Mr. Hardesty and Mr. McKown)

AN ACT to amend and reenact sections three, thirteen, fifteen, sixteen, seventeen, eighteen, twenty-five and twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to add to such article a new section to be designated section thirty-four, all relating to the benefits and coverage provided for members of the state teachers' retirement system.

[Passed March 9, 1945; in effect from passage. Approved by the Governor.]

Article 7-a. State Teachers' Retirement System.

Section

3. Definitions.
13. Membership in system.
15. Collection of member contributions.
16. Payment of employer contributions; transfer of appropriations.
17. Statement and computation of teachers' service.
18. Funds created; uses and purposes.
25. Eligibility for retirement allowance.
26. Allowance upon retirement.
34. Loans to members.

Be it enacted by the Legislature of West Virginia:

That sections three, thirteen, fifteen, sixteen, seventeen, eighteen, twenty-five and twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that a new section, to be designated thirty-four, be added to such article, all to read as follows:

- Section 3. *Definitions.*—"Teacher" shall include the following persons, if regularly employed for at least half-time service: (a) Any person employed for instructional service in the public schools of West Virginia; (b) principals; (c) public school librarians; (d) county superintendents of schools and assistant county superintendents of schools; (e) any county-school attendance director holding a West Virginia teachers' certificate; (f) the executive secretary of the retirement board; (g) members of the research, extension, administrative or library staffs

11 of the public schools; (h) the state superintendent of
12 schools, heads and assistant heads of the divisions under
13 his supervision, or any other employee thereunder per-
14 forming services of an educational nature; (i) employees
15 of the state board of education who are performing serv-
16 ices of an educational nature; (j) any person employed
17 in a non-teaching capacity by the state board of education,
18 the board of governors of West Virginia university, any
19 county board of education, the state department of edu-
20 cation or the teachers' retirement board, if such person
21 was formerly employed as a teacher in the public schools;
22 (k) all classroom teachers, principals, and educational
23 administrators in schools under the supervision of the
24 state board of control.

25 "Members of the administrative staff of the public
26 schools" shall include deans of instruction, deans of men,
27 deans of women, and financial and administrative secre-
28 taries.

29 "Members of the extension staff" of the public schools
30 shall include every agricultural agent, boys' and girls'
31 club agent, and every member of the agricultural exten-
32 sion staff whose work is not primarily stenographic, cleri-
33 cal, or secretarial.

34 "Retirement system" shall mean the state teachers'
35 retirement system provided for in this article.

36 "Present teacher" shall mean any person who was a
37 teacher during either of the fiscal years ending in one thou-
38 sand nine hundred forty or one thousand nine hundred
39 forty-one, and whose membership in the retirement sys-
40 tem created by this article has been continuous.

41 "New entrant" shall mean a member of the retirement
42 system who is not eligible for a prior service pension under
43 the provisions of this article.

44 "Total service" shall mean all service as a teacher or a
45 member of the retirement system since last becoming a
46 member and, in addition thereto, all his prior service.

47 "Prior service" shall mean all service as a teacher com-
48 pleted prior to July first, one thousand nine hundred
49 forty-one.

50 "Average final salary" shall mean the average annual

51 salary earned as a teacher during the last fifteen years of
52 prior service, or if prior service is less than fifteen years,
53 the average annual salary for that period. If the records
54 for determining each annual salary needed cannot reason-
55 ably be established by the retirement board, then the term
56 shall mean the average annual salary of the teacher for
57 years for which records are available.

58 "Accumulated contributions" shall mean the sum of
59 all the amounts deducted from the compensation of a
60 contributor and credited to his individual account in the
61 teachers' accumulation fund.

62 "Regular interest" shall mean interest at three per cent
63 compounded annually, or a higher earnable rate if ap-
64 proved by the retirement board.

65 "Refund interest" shall mean the interest on refunds of
66 the accumulated contributions and deposits payable to
67 former members, or to the beneficiaries of deceased mem-
68 bers, as provided in this article. The rate for refund inter-
69 est shall be the average annual rate of interest, calculated
70 to one decimal place, earned on retirement board invest-
71 ments in effect at the end of the fiscal year for which the
72 interest is due, according to the sworn statement of the
73 fund custodian required by section nineteen of this article.
74 In no case shall interest be paid on contributions received
75 and withdrawn within the same year.

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

78 "Contributor" shall mean a member of the retirement
79 system who has an account in the teachers' accumulation
80 fund.

81 "Beneficiary" shall mean the recipient of annuity pay-
82 ments made under the retirement system.

83 "Earnable compensation" shall mean the full compen-
84 sation actually received by members for service as
85 teachers whether or not a part of such compensation is
86 received from other funds, federal or otherwise, than those
87 provided by the state or its subdivisions.

88 "Annuities" shall mean the annual retirement pay-
89 ments for life granted beneficiaries in accordance with
90 this article. All annuities shall be paid in twelve monthly
91 payments. In computing such monthly payments, fractions

92 of a cent shall be deemed a cent. Such monthly payments
93 shall cease with the payment for the month within which
94 the beneficiary dies.

95 "Member" shall mean a member of the retirement
96 system.

97 "Public schools" shall mean all publicly supported
98 schools, including normal schools, colleges and universi-
99 ties in this state.

100 The masculine gender shall be construed so as to include
101 the feminine.

102 Age in excess of seventy years shall be deemed to be
103 seventy years.

• Sec. 13. *Membership in System.*—The membership of
2 the retirement system shall consist of the following:

3 (a) All persons employed as teachers at the time they
4 become eligible for membership who, within a year after
5 becoming eligible, notify the retirement board in writing
6 of their decision to become members. Any such persons
7 who fail to notify the board shall automatically be consti-
8 tuted members one year after they become eligible, unless
9 the retirement board receives written notice from them
10 declining membership in the system.

11 (b) New entrants, whose membership in the system
12 shall be compulsory upon employment as teachers.

13 The membership of any person in the retirement system
14 shall cease:

15 (1) Upon the withdrawal of his accumulated contri-
16 butions after the cessation of teaching service, or (2)
17 upon retirement, or (3) at death, or (4) if service amounts
18 to less than five years in any period of ten consecutive
19 years. For the purpose of subsection four, however, a
20 deposit by the member to his individual account in the
21 teachers' accumulation fund of an amount equalling his
22 last annual contribution shall be deemed the equivalent
23 of one year of service.

24 Any person in subsection (a) of this section who elects
25 to become a member after having declined to accept
26 membership, shall be permitted to enter the retirement
27 system, but shall be accorded only the rights of a new
28 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. 15. *Collection of Member Contributions.*—Each
2 employer shall compile a list of all members in its employ
3 and shall specify the amount of the contributions to be
4 made by such members for the ensuing school year. Such
5 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 ab-
8 sence of this article, shall be decreased by the amount of
9 the contribution due under this article. The amount of
10 such deductions shall be retained in the funds containing
11 the state appropriations to such employer, until such time
12 as the retirement board shall make appropriate requi-
13 sition therefor.

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

17 At the beginning of each fiscal year, the retirement
18 board shall make requisition upon the state auditor to
19 issue warrants for ninety per cent of the estimated mem-
20 bers' contributions for the year. The balance of such
21 moneys due and payable to the retirement board for such
22 year shall be requisitioned upon completion of employers'
23 certified reports of actual deductions for the fiscal year.
24 Such sums shall be paid to the retirement board from the
25 funds containing the state appropriations made to such
26 employers.

27 The retirement board shall send the sheriff and county
28 superintendent of each county a copy of the amount of
29 each requisition upon the state aid of the county. The
30 sheriff and the county superintendent shall record in their
31 accounts the total of such requisition as a receipt to the
32 county's state aid fund, and as a disbursement to the
33 teachers' accumulation fund of the retirement board.

Sec. 16. *Payment of Employer Contributions; Transfer
2 of Appropriations.*—The aggregate of employer contri-
3 butions due and payable under this article shall be paid

4 from general fund appropriations for the retirement
5 system.

6 At the beginning of the fiscal year for which the appro-
7 priation is made, the governor shall transfer the appropri-
8 ation of the retirement board from the general treasury
9 to the funds of the retirement board. The amount trans-
10 ferred to each fund shall be determined by the actuarial
11 evaluation required by section twelve of this article.

Sec. 17. *Statement and Computation of Teachers'*
2 *Service.*—Under such rules and regulations as the re-
3 tirement board may adopt, each teacher shall file a de-
4 tailed statement of his length of service as a teacher for
5 which he claims credit. The retirement board shall
6 determine what part of a year is the equivalent of a year
7 of service. In computing such service, however, it shall
8 credit no period of more than a month's duration during
9 which a member was absent without pay, nor shall it
10 credit for more than one year service performed in any
11 calendar year.

12 For the purpose of this section the retirement board
13 shall grant prior service credit to new entrants and other
14 members of the retirement system for service in any of
15 the armed forces of the United States in any period of
16 national emergency within which a federal selective serv-
17 ice act was in effect. For purposes of this section, "armed
18 forces" shall include Women's Army Corps, Women's
19 Appointed Volunteers for Emergency Service, Army
20 Nurse Corps, Spars, Women's Reserve, and other similar
21 units officially parts of the military service of the United
22 States. Such military service shall be deemed equivalent
23 to public school teaching, and the salary equivalent for
24 each year of such service shall be the actual salary of the
25 member as a teacher for his first year of teaching after
26 discharge from military service.

27 For service as a teacher in the employment of the
28 federal government, or a state or territory of the United
29 States, or a governmental subdivision of such state or
30 territory, the retirement board shall grant credit to the
31 same extent and on the same conditions, if any, as a re-
32 tirement system established for teachers in such employ-

33 ment would grant credit for service as a teacher in the
34 public schools of West Virginia.

35 Subject to the above provisions, the board shall verify as
36 soon as practicable the statements of service submitted.
37 The retirement board shall issue prior service certificates
38 to all persons eligible therefor under the provisions of
39 this article. Such certificates shall state the length of
40 such prior service credit.

Sec. 18. *Funds Created; Uses and Purposes.*—The funds
2 created are the teachers' accumulation fund, the em-
3 ployers' accumulation fund, the benefit fund, the expense
4 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 contributions
8 of a member returned to him upon his withdrawal, or
9 paid to his estate or designated beneficiary in the event
10 of his death, shall be paid from the teachers' accumulation
11 fund. Any accumulated contributions forfeited by failure
12 to claim such contributions shall be transferred from the
13 teachers' 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 fifty
16 dollars as he may desire.

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

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

32 cept gifts and bequests. Any funds that may come into

31 (d) The retirement board is hereby authorized to ac-

possession of the retirement system in this manner or which may be transferred from the teachers' accumulation fund by reason of the lack of a claimant or because of a surplus in any of the funds; or any other moneys the disposition of which is not otherwise provided for shall be credited to the reserve fund. The retirement board shall allow interest on the contributions in the teachers' accumulation fund. Such interest shall be paid from the reserve fund and credited to the teachers' accumulation fund. Any deficit occurring in any fund which would not be automatically covered by the payments to that fund as otherwise provided by this article shall be met by payments from the reserve fund to such fund. In the reserve fund shall be accumulated moneys from retirement board appropriations to pay the accrued liabilities of the system, caused by the granting of prior service and disability pensions. Interest payments on board investments shall be credited to the reserve fund.

(c) The expense fund shall be the fund from which shall be paid the expense incurred in the administration of the retirement system.

Sec. 25. *Eligibility for Retirement Allowance.* — Any member who has attained the age of sixty years or who has had thirty-five years of total service as a teacher in West Virginia, regardless of age, shall be eligible for an annuity. No new entrant nor present member shall be eligible for an annuity, however, if either has less than five years of service to his credit.

Any member who attains the age of sixty-five years shall retire from service as a teacher: *Provided*, If the employer shall so request in writing, the retirement board may permit the employment of such member beyond the age of sixty-five.

The request for an annuity shall be made by the member in writing to the retirement board, but in case of retirement for disability, the written request may be made by either the member or the employer.

A member shall be eligible for annuity for disability, if he satisfies the conditions in both (a) and (b) as follows:

20 (a) His service as a teacher in West Virginia must total
21 at least ten years, and service as a teacher must have
22 been terminated because of disability.

23 (b) An examination by a physician or physicians se-
24 lected by the retirement board must show that the mem-
25 ber is at the time mentally or physically incapacitated
26 for service as a teacher, that for such service the disability
27 is total and likely to be permanent, and that he should
28 be retired in consequence thereof.

29 Continuance of the disability of the retired teacher shall
30 be established by medical examinations, as prescribed in
31 the preceding paragraph, annually for five years after
32 retirement, and thereafter at such time as the retirement
33 board may require. Payment of the disability annuity
34 provided in this article shall cease immediately, if the
35 retirement board finds that the disability of the retired
36 teacher no longer exists, or if the retired teacher refuses
37 to submit to medical examination as required by this
38 section.

Sec. 26. *Allowance upon Retirement.*—Upon retirement,
2 a member shall be granted a retirement allowance consist-
3 ing of an annuity which shall be the sum of the following:

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

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

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

15 (d) The actuarial equivalent of the amounts that would
16 have accumulated under subsections (a) and (b) of this
17 section, if the member had contributed to his individual
18 account until he was fifty years old, at the annual rate
19 of his past actual contributions, but this subsection shall
20 apply only as additional income to members who qualify
21 for disability retirement before they are fifty years old.

22 The disability annuities of all teachers retired for dis-
23 ability shall be based upon a disability table prepared by
24 a competent actuary, approved by the retirement board.

25 For purposes of subsection (c):

26 (1) An allowance for prior service shall in no case
27 exceed one-half of the member's average final salary.

28 (2) Average final salary shall in no instance be deemed
29 to exceed the sum of two thousand five hundred dollars,
30 or to be less than seven hundred and twenty dollars.

Sec. 34. *Loans to Members.*—A member of the retire-
2 ment system upon written application may borrow from
3 his individual account in the teachers' accumulation fund,
4 subject to these restrictions:

5 (1) Loans shall be made in multiples of fifty dollars.

6 (2) Loans to any one member shall not exceed twice
7 his monthly salary, and shall not exceed one-half of his
8 contributions to his individual account in the teachers'
9 accumulation fund.

10 (3) No member shall be eligible for a loan who served
11 as a teacher thirty years or more, or who has reached the
12 age of fifty-five years.

13 (4) Interest charged on the amount of the loan shall
14 be six per cent per annum.

15 (5) If a refund or benefit is payable to the borrower
16 before he repays the loan with interest, the balance due
17 shall be deducted from the benefit or refund.

18 (6) From his monthly salary as a teacher the member
19 shall pay the loan and interest by uniform deductions in
20 even dollars which will pay the loan and interest in not
21 more than sixteen nor less than six months. Upon notice
22 of loan granted and payment due, the employer shall be
23 responsible for making such salary deductions and re-
24 porting them to the retirement board. The deductions
25 shall be collected as prescribed for the collections of mem-
26 ber's contributions in this article. If the teacher decides
27 to make the uniform monthly payments while not paid
28 for service as a teacher, the retirement board must accept
29 such payments.

30 The interest earned on such loans shall be deposited in
31 the expense fund.

CHAPTER 52

(House Bill No. 155—By Mr. Blankenship and Mr. Underwood)

AN ACT to amend and reenact section four, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by section four, article four, chapter eight, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to compensation of county superintendent of schools.

[Passed March 10, 1945; in effect July 1, 1945. Approved by the Governor.]

Article 4. County Superintendent of Schools.

Section

4. Compensation.

Be it enacted by the Legislature of West Virginia:

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

Section 4. *Compensation.*—The board shall fix the annual salary of the superintendent, but in no case shall the salary be less than twelve hundred dollars per year nor more than the following amounts exclusive of state aid in counties as determined by population figures of the last federal census: Three thousand four hundred dollars in counties with population from one thousand to twenty-nine thousand nine hundred ninety-nine; three thousand six hundred dollars in counties with population from thirty thousand to fifty-nine thousand nine hundred ninety-nine; three thousand eight hundred dollars in counties with population from sixty thousand to eighty-nine thousand nine hundred ninety-nine; four thousand dollars in counties with population from ninety thousand to ninety-nine thousand nine hundred ninety-nine, and five thousand five hundred dollars in counties with population of

- 17 one hundred thousand and up. The board shall pay the
18 salary from the elementary teachers' fund or the high
19 school fund, or from both.

CHAPTER 53

(House Bill No. 267—By Mr. Ward)

AN ACT to amend article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by adding thereto three new sections to be designated sections nineteen-a, nineteen-b and nineteen-c, relating to the authority of county boards of education to establish special classes for war veterans and adults and receive tuitions and fees.

[Passed March 10, 1945; in effect from passage. Approved by the Governor.]

Article 5. District Board of Education.

Section

- 19-a. Special classes for war veterans; authority of county boards to contract.
19-b. Adult education classes; tuitions; authority of county boards.
19-c. Supervision of veterans and adult education.

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 last amended, be amended by adding thereto three new sections to be designated sections nineteen-a, nineteen-b and nineteen-c, to read as follows:

- Section 19-a. *Special Classes for War Veterans; Authority of County Boards to Contract.*—The board of education of any county shall have authority to enter into contracts of agreement with authorized officials of the "War Veterans' Administration" for the education of veterans in special classes of the elementary and high schools of the county. By reason of such contracts, the county board of education shall have authority to receive

9 tuitions, fees and other forms of assistance that may now or
10 later be made available by act of the congress for the edu-
11 cation of war veterans. Any funds so accruing to such
12 board from tuitions, fees or other forms of financial as-
13 sistance shall be credited to the current expense fund of
14 the county board of education and reported each year as
15 of June thirtieth in the manner required for other finan-
16 cial reports of the board.

Sec. 19-b. *Adult Education Classes; Tuitions; Author-
2 ity of County Boards.*—The board of education of any
3 county shall have authority to provide special classes for
4 adult education and to charge tuition for members of such
5 classes who are twenty-one years of age or over, such
6 tuitions not to exceed in any case the actual cost of opera-
7 tion of such classes. The county board of education shall
8 also have authority to enter into contracts of agreement
9 with authorized agencies of the federal government for
10 the education of adults and to provide, assemble and house
11 materials and equipment for efficient instruction in any
12 and all such special classes, employ teachers, and to use
13 school facilities by way of buildings and equipment un-
14 der the control of said board. Any funds accruing from
15 such tuitions shall be credited to the current expense
16 fund of the county board of education and reported each
17 year as of June thirtieth in the manner required for
18 other financial reports of the board.

Sec. 19-c. *Supervision of Veterans and Adult Educa-
2 tion.*—The state superintendent of schools shall have au-
3 thority to establish in the state department of education
4 a division of veteran and adult education, and to provide
5 for suitable coordination and supervision of such educa-
6 tional programs as are established under the provisions
7 of sections nineteen-a and nineteen-b of this article. All
8 programs established under the preceding sections of this
9 act shall be under regulations of the state board of edu-
10 cation.

CHAPTER 54

(Senate Bill No. 186—By Mr. Hall, of Raleigh, and Mr. McKown)

AN ACT to amend and reenact section nine, article three, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the employment of the state supervisor of colored schools and other assistants and employees.

[Passed March 6, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 3. State Superintendent of Schools.

Section

9. State department of public schools; supervisor of colored schools.

Be it enacted by the Legislature of West Virginia:

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

Section 9. *State Department of Public Schools; Supervisor of Colored Schools.*—For carrying into effect the provisions of this chapter, the state superintendent of schools shall maintain a department of public schools at his office at the state capitol, and he shall have authority to employ assistants and such other employees as may be necessary, including a state supervisor of colored schools.

CHAPTER 55

(House Bill No. 153—By Mr. McVey)

AN ACT to amend article seven, 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 num-

bered two-a, relating to salaries for teachers and teachers' sick leave.

[Passed March 10, 1945; in effect July 1, 1945. Approved by the Governor.]

Article 7. Teachers.

Section

2-a. Teachers' sick leave.

Be it enacted by the Legislature of West Virginia:

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

Section 2-a. *Teachers' Sick Leave.*—A county board of
2 education may establish and maintain in the annual
3 budget an item to be known as the teachers' sick leave
4 item. Any funds so set aside shall be used to pay all or any
5 part of the salaries of such substitute teachers as are
6 needed because of the temporary inability of regularly
7 employed teachers to perform their duties. No regularly
8 employed teacher shall receive sick leave salary for more
9 than five days during any one school year. Sick leave
10 time for teachers shall not be accumulative from year to
11 year. The county board of education, if it establishes
12 such an item, shall promulgate rules and regulations cov-
13 ering eligibility of teachers for sick leave compensation
14 and for such other matters as it deems proper in estab-
15 lishing a sick leave item in the annual budget.

CHAPTER 56

(Com. Sub. for Senate Bill No. 200—Originating in the Senate Committee on Education)

AN ACT to amend and reenact sections one, one-a, one-b and one-c, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to membership, eligibility, term of office and organization of county boards of education.

[Passed March 9, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 5. District Board of Education.

Section

1. Members; non-partisan nomination and election.
- 1-a. Eligibility of members.
- 1-b. Term of office.
- 1-c. Organization of board of education.

Be it enacted by the Legislature of West Virginia:

That sections one, one-a, one-b and one-c, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and re-enacted to read as follows:

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 of Members.*—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 is an elective member of any political party executive committee, or who becomes a candidate for any other office than to succeed himself.

No member of any board of education shall be eligible for nomination or election to any public office, other than to succeed himself, unless and until after his membership on the board has been terminated at or before the time of his filing for such nomination for, or appointment to, such elective public office.

Sec. 1-b. *Term of Office.*—At the general election in the year one thousand nine hundred forty-six, one member shall be elected for a term of six years; at the general election in the year one thousand nine hundred forty-eight, two members shall be elected for a term of six

6 years; and at the general election in the year one thousand nine hundred fifty, two members shall be elected for a term of six years. As the terms provided above expire, the offices shall be filled for six-year terms at the time of each regular general election.

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

This section, however, shall in no manner be construed so as to affect the unexpired terms of county school board members who hold office or were elected under prior existing law, except that the term of office for which they were elected shall expire on the thirty-first day of December next following the general election at which their successors in office were elected.

The terms of newly elected members shall begin on the first day of January next following the general election at which they were elected.

Sec. 1-c. *Organization of Board of Education.*—On the first Monday of January, following each biennial general election, each respective board of education shall organize and elect, for a two-year term, a president from its own membership and report same promptly to the state superintendent of schools.

All previous acts or parts of acts, to the extent that they are inconsistent with the foregoing provisions of this act, are hereby repealed.

CHAPTER 57

(Senate Bill No. 136—By Mr. Jackson)

AN ACT to amend and reenact section four, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to nonpayment of orders issued by boards of education and liability of sheriff.

[Passed March 9, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 9. School Finances.**Section****4. Nonpayment of order; liability of sheriff.**

Be it enacted by the Legislature of West Virginia:

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

Section 4. Nonpayment of Order; Liability of Sheriff.—

2 If, when an order of any board of education of his county
3 is presented to the sheriff, there are no funds to pay the
4 same, the person entitled to receive the sum of money
5 specified in such order may require the sheriff to endorse
6 thereon, or write across the face thereof, the words "pre-
7 sented for payment", with the proper date, and sign the
8 same; and the order, if it was due at the time of present-
9 ment, shall in such case be payable with legal interest
10 from such date.

11 Any such order not paid when presented as aforesaid
12 shall again be presented to the sheriff for payment by the
13 person entitled to receive the money thereon, not later
14 than the first day of December after such endorsement,
15 and if not so presented, no further interest shall be
16 allowed or paid on such order thereafter, until such order
17 shall be so presented and endorsed as aforesaid a second
18 time by the sheriff, and in no case shall interest be allowed
19 or paid on such order for the period of time elapsed from
20 the first day of December following the first endorsement
21 of such order by the sheriff and the date when such order
22 is presented for payment or endorsement by the sheriff a
23 second time.

24 In no event shall any such order issued subsequent to
25 July one, one thousand nine hundred forty-five, bear in-
26 terest for a longer period than one year and six months
27 from date of its issue. But if the sheriff, having funds to
28 pay the same, fails to pay any proper order of any board
29 of education of his county, properly endorsed, when pre-
30 sented to him during business hours by a person entitled
31 to receive the money therein specified, if the same be then
32 due and payable, he and his sureties, and the personal

33 representatives of such of them as are dead, shall be
34 liable to the person entitled to receive the money due on
35 said order for the whole amount due thereon at the time
36 of such presentation, with legal interest on such amount
37 from that time until payment, and ten per cent on the
38 same amount as damages.

—C—

CHAPTER 58

(House Bill No. 169—By Mr. Speaker, Mr. Amos)

AN ACT to repeal article nine, chapter nine, and sections six and seven, article ten, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be designated article ten-a, relating to the vocational rehabilitation of handicapped or disabled persons.

[Passed February 22, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 10-a. Vocational Rehabilitation.

Section

1. Definitions.
2. State board of vocational education; division of vocational rehabilitation.
3. Director of division of vocational rehabilitation.
4. Administration.
5. Cooperation with federal government.
6. Receipt and disbursement of vocational rehabilitation funds.
7. Gifts.
8. Eligibility for vocational rehabilitation.
9. Hearings.
10. Misuse of vocational rehabilitation lists and records.
11. Limitation on political activity.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter nine, and sections six and seven, article ten, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that chapter eighteen of the code of West Virginia,

one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article to be designated article ten-a, to read as follows:

Section 1. *Definitions*.—As used in this article:

2 (1) "State board" means the state board of vocational
3 education.

4 (2) "Division" means the division of vocational reha-
5 bilitation established by this article.

6 (3) "Director" means the director of the division of
7 vocational rehabilitation.

8 (4) "Employment handicap" means a physical or men-
9 tal condition which constitutes, contributes to, or if not
10 corrected will probably result in, an obstruction to occu-
11 pational performance.

12 (5) "Disabled individual" means any person who has
13 a substantial employment handicap.

14 (6) "Vocational rehabilitation" and "vocational reha-
15 bilitation services" mean any services, provided directly
16 or through public or private instrumentalities, found by
17 the director to be necessary to compensate a disabled in-
18 dividual for his employment handicap, and to enable him
19 to engage in a remunerative occupation including, but not
20 limited to, medical and vocational diagnosis, vocational
21 guidance, counselling and placement, rehabilitation train-
22 ing, physical restoration, transportation, occupational li-
23 censes, customary occupational tools and equipment,
24 maintenance, and training books and materials.

25 (7) "Rehabilitation training" means all necessary
26 training provided to a disabled individual to compensate
27 for his employment handicap including, but not limited to,
28 manual, pre-conditioning, pre-vocational, vocational, and
29 supplementary training and training provided for the
30 purpose of achieving broader or more remunerative skills
31 and capacities.

32 (8) "Physical restoration" means any medical, surgi-
33 cal or therapeutic treatment necessary to correct or sub-
34 stantially reduce a disabled individual's employment
35 handicap within a reasonable length of time including,

36 but not limited to, medical, psychiatric, dental and surgi-
37 cal treatment, nursing services, hospital care not to ex-
38 ceed ninety days, convalescent home care, drugs, medical
39 and surgical supplies, and prosthetic appliances, but ex-
40 cluding curative treatment for acute or transitory con-
41 ditions.

42 (9) "Prosthetic appliance" means any artificial device
43 necessary to support or take the place of a part of the
44 body or to increase the acuity of a sense organ.

45 (10) "Occupational licenses" means any license, per-
46 mit or other written authority required by any govern-
47 mental unit to be obtained in order to engage in an occu-
48 pation.

49 (11) "Maintenance" means money payments not ex-
50 ceeding the estimated cost of subsistence during vocational
51 rehabilitation.

52 (12) "Regulations" means regulations made by the
53 director with the approval of the state board.

Sec. 2. *State Board of Vocational Education; Division*
2 *of Vocational Rehabilitation.*—For the purposes of this
3 article, the state board of education is hereby designated
4 as the state board of vocational education. As such, it is
5 authorized and directed to cooperate with the federal
6 government to the fullest extent in an effort to provide
7 vocational rehabilitation for disabled persons. To this end,
8 there is hereby established in the state board of vocational
9 education a division of vocational rehabilitation.

Sec. 3. *Director of Division of Vocational Rehabilita-*
2 *tion.*—The division shall be administered, under the gen-
3 eral supervision and direction of the state board, by a
4 director appointed by such board in accordance with
5 established personnel standards and on the basis of his
6 education, training, experience, and demonstrated abil-
7 ity.

8 In carrying out his duties under this article the director
9 shall:

10 (1) Appoint, with the approval of the state board,
11 such personnel as he deems necessary for the efficient
12 performance of the functions of the division.

13 (2) Establish a merit system of personnel manage-
14 ment, or in lieu thereof, avail himself of the services of
15 the state merit system upon payment of a fair share of
16 the expenses of the operation of such system.

17 (3) Make regulations governing the protection of rec-
18 ords and confidential information; the manner and form
19 of filing applications for vocational rehabilitation serv-
20 ices, eligibility therefor, and investigation and determi-
21 nation thereof; procedures for fair hearings; and such
22 other matters as may be necessary or desirable in accom-
23 plishing the purposes of this article.

24 (4) Establish, with the approval of the state board,
25 appropriate subordinate administrative units within the
26 division.

27 (5) Prepare and submit to the state board annual re-
28 ports of activities and expenditures and, prior to each
29 regular session of the Legislature, estimates of sums re-
30 quired for carrying out the provisions of this article and
31 estimates of the amounts to be made available for this
32 purpose from all sources.

33 (6) Make requisition for disbursement, in accordance
34 with regulations, of the funds available for vocational re-
35 habilitation purposes.

36 (7) Take such other action, with the approval of the
37 state board, as may be deemed necessary or appropriate
38 to carry out the purposes of this article.

39 , In addition to the foregoing, the director may, with
40 the approval of the state board, delegate to any officer or
41 employee of the division such of his powers and duties,
42 except the making of regulations and the appointment of
43 personnel, as may be necessary or appropriate for the
44 purposes of this article.

Sec. 4. *Administration.*—Except as otherwise provided
2 by law, the state board, through the division, shall pro-
3 vide vocational rehabilitation services to disabled indi-
4 viduals determined by the director to be eligible therefor,
5 and for this purpose the division is authorized among
6 other things to:

7 (1) Cooperate with other departments, agencies and

8 institutions, both public and private, in providing for the
9 vocational rehabilitation of disabled individuals, in study-
10 ing the problems involved therein, and in establishing,
11 developing and providing, in conformity with the pro-
12 visions of this article, such programs, facilities and serv-
13 ices as may be necessary or desirable.

14 (2) Enter into reciprocal agreements with any other
15 state to provide for the vocational rehabilitation of resi-
16 dents of such state.

17 (3) Conduct research and compile statistics relating to
18 the vocational rehabilitation of disabled individuals.

Sec. 5. *Cooperation with Federal Government.*—The
2 state board, through the division, shall make agreements
3 or plans to cooperate with the federal government in carry-
4 ing out the purposes of any federal statutes pertaining to
5 vocational rehabilitation, and to this end may adopt such
6 methods of administration as are found by the federal
7 government to be necessary for the proper and efficient
8 operation of such agreements or plans for vocational re-
9 habilitation and to comply with such conditions as may
10 be necessary to secure the full benefits of such federal
11 statutes.

Sec. 6. *Receipt and Disbursement of Vocational Reha-
2 bilitation Funds.*—The state treasurer is hereby designated
3 as the custodian of all funds received from the federal
4 government under any federal statutes pertaining to vo-
5 cational rehabilitation. The state treasurer shall make
6 disbursements from such funds and from all state funds
7 available for vocational rehabilitation purposes on war-
8 rants of the state auditor, requisitioned as provided in
9 section three of this article.

Sec. 7. *Gifts.*—The director is hereby authorized and
2 empowered, with the approval of the state board, to accept
3 and use gifts made unconditionally by will or otherwise
4 for carrying out the purposes of this article. Gifts made
5 under such conditions as in the judgment of the state
6 board are proper and consistent with the provisions of
7 this article may be so accepted and shall be held, in-

8 vested, reinvested, and used in accordance with the con-
9 ditions of the gift.

Sec. 8. *Eligibility for Vocational Rehabilitation.*—Voca-
2 tional rehabilitation services shall be provided to any
3 disabled individual who is a resident of the state at the
4 time of filing his application therefor, if the director after
5 full investigation shall determine that his rehabilitation
6 can be satisfactorily achieved. Such services shall also
7 be provided to any person who is eligible therefor under
8 the terms of an agreement with another state or with the
9 federal government.

10 Except as otherwise provided by law or as specified in
11 an agreement with the federal government with respect
12 to classes of individuals certified to the state board there-
13 under the following rehabilitation services shall be pro-
14 vided at public cost only to disabled individuals found to
15 require financial assistance with respect thereto:

16 (1) Physical restoration.

17 (2) Transportation, for any other purpose than that of
18 determining the eligibility of the individual for voca-
19 tional rehabilitation services and the nature and extent
20 of the services necessary.

21 (3) Occupational licenses.

22 (4) Customary occupational tools and equipment.

23 (5) Maintenance.

24 (6) Training books and materials.

25 The rights of a disabled individual under the provisions
26 of this article shall not be transferable or assignable at
27 law or in equity.

Sec. 9. *Hearings.*—Any individual applying for or re-
2 ceiving vocational rehabilitation who is aggrieved by any
3 action or inaction of the division shall be entitled, in ac-
4 cordance with regulations, to a fair hearing by the state
5 board.

Sec. 10. *Misuse of Vocational Rehabilitation Lists and*
2 *Records.*—It shall be unlawful, except for purposes di-
3 rectly connected with the administration of the vocational
4 rehabilitation program and in accordance with regula-
5 tions, for any person or persons to solicit, disclose, re-

6 ceive, or make use of, or authorize, knowingly permit,
7 participate in, or acquiesce in the use of, any list of, or
8 names of, or any information concerning, persons apply-
9 ing for or receiving vocational rehabilitation, directly or
10 indirectly derived from the records, papers, files, or com-
11 munications of the state or subdivisions or agencies there-
12 of, or acquired in the course of the performance of offi-
13 cial duties.

14 Any person who violates any of the provisions of this
15 section shall be guilty of a misdemeanor, and upon con-
16 viction thereof shall be fined not less than fifty dollars nor
17 more than five hundred dollars, or imprisoned for not less
18 than thirty days nor more than ninety days, or both
19 such fine and imprisonment, in the discretion of the court.

Sec. 11. *Limitation on Political Activity.*—No officer or
2 employee engaged in the administration of the voca-
3 tional rehabilitation program shall use his official author-
4 ity or influence or permit the use of the vocational reha-
5 bilitation program for the purpose of interfering with an
6 election or affecting the result thereof or for any partisan
7 political purpose. No such officer or employee shall take
8 an active part in the management of political campaigns
9 or participate in any political activity, except that he
10 shall retain the right to vote as he may please and to ex-
11 press his opinions as a citizen on all subjects. No such
12 officer or employee shall solicit or receive, nor shall any
13 such officer or employee be obliged to contribute or ren-
14 der, any service, assistance, subscription, assessment, or
15 contribution for any political purpose. Any officer or em-
16 ployee violating this provision shall be discharged.

CHAPTER 59

(Senate Bill No. 67—By Mr. Bowling, by request)

AN ACT to amend and reenact section nine, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment of election boards for general and special elections.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 5. Conducting Election; Ascertaining and Certifying the Result.

Section

9. Appointment of commissioners and clerks.

Be it enacted by the Legislature of West Virginia:

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

Section 9. Appointment of Commissioners and Clerks.—

2 The county court of each county shall hold a regular or
3 special session at the courthouse of the county on the
4 first Tuesday of the month next preceding the date on
5 which any election is to be held and appoint three com-
6 missioners and two clerks to hold the election in each
7 precinct in the county, to be selected from the two politi-
8 cal parties which at the last preceding election cast the
9 highest and second highest number of votes in this state:
10 *Provided, however,* That for every precinct in which
11 there are three hundred, but not more than four hundred,
12 registered voters, there may be two boards of election of-
13 ficers, and for all precincts in which there are more than
14 four hundred registered voters, there shall be two boards
15 of election officers, and where two boards are used, each
16 board shall consist of three election commissioners and
17 two poll clerks, one of which boards shall be designated
18 the "receiving board" and the other the "counting board",
19 and not more than two commissioners and one poll clerk
20 of each board shall be appointed from the same political
21 party. If, at any time before or during the session of the
22 county court, the county executive committee of either
23 or both of the political parties, from which commissioners
24 and clerks of election are to be selected, shall file with or
25 present to the county court a writing signed by them, or
26 by the chairman or secretary of such committee on their
27 behalf, requesting the appointment of a member and of
28 one clerk of each board of the political party for which
29 such committee, chairman or secretary is acting, and des-

30 ignating persons who are qualified under this article for
31 such appointment for each election precinct in the county,
32 the county court shall appoint the persons so designated.

33 If any person appointed receiving commissioner or clerk
34 of election shall fail to appear at the voting place at the
35 hour for opening the polls, the remaining commissioner
36 or commissioners of election of the political party to
37 which the absentee belongs shall select another commis-
38 sioner or clerk, as the case may be, of such political party.
39 But if the qualified voters of his party present at the polls
40 shall nominate a voter of his party qualified to act under
41 the provisions of this section, such nominee shall be ap-
42 pointed. If none of the receiving commissioners of the
43 election or poll clerks shall appear at the voting place at
44 the hour appointed for opening the polls, the qualified
45 voters present, being at least ten in number, of the politi-
46 cal party which cast the highest number of votes in the
47 county at the last preceding election, shall select two com-
48 missioners and one clerk and those of the political party
49 which cast the next highest number of votes in the county
50 at such election shall select one commissioner and one
51 clerk of the receiving board of such precinct, and the per-
52 sons so selected shall constitute the receiving board for
53 the precinct. A vacancy or vacancies on the counting
54 board shall be filled in the manner herein provided for
55 filling a vacancy or vacancies on the receiving board, ex-
56 cept that such vacancy or vacancies shall be determined
57 and filled as of the hour appointed in this chapter for the
58 counting board to attend at the polls. Any commissioner
59 of election acting at any election precinct is hereby em-
60 powered and authorized to administer oaths and to take
61 and certify affidavits in relation to any matter or thing
62 required or permitted to be done by any of the provisions
63 of this article in conducting and holding the election.

CHAPTER 60

(Senate Bill No. 66—By Mr. Bowling, by request)

AN ACT to amend and reenact section fifteen, article four, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, relating to the appointment of election boards for primary elections.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 4. Nomination of Candidates.

Section

15. Commissioners and clerks for primary.

Be it enacted by the Legislature of West Virginia:

That section fifteen, 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 15. *Commissioners and Clerks for Primary.*—

2 The county court of every county shall hold a regular or
3 special session at the courthouse of the county on the
4 second Tuesday of the month preceding that in which
5 any primary election is to be held, and shall appoint for
6 each precinct in the county three commissioners of elec-
7 tion and two poll clerks, who shall be legal voters in the
8 magisterial district in which such precinct is located.
9 Such commissioners and poll clerks shall be persons of
10 good standing and character and not addicted to drunken-
11 ness. They shall be selected from the two political parties
12 which, at the last preceding general election, cast the
13 highest and next highest number of votes in the county
14 in which the election is to be held, and not more than two
15 of such commissioners or one clerk shall belong to the
16 same political party: *Provided, however,* That for every
17 precinct in which there are three hundred but not more
18 than four hundred registered voters, there may be two
19 boards of election officers, and for all precincts in which
20 there are more than four hundred registered voters, there
21 shall be two boards of election officers, and where two

boards are used, each board shall consist of three election commissioners and two poll clerks, one of which boards shall be designated the "receiving board" and the other the "counting board", and not more than two commissioners and one poll clerk of each board shall be appointed from the same political party. If, at any time prior to or during such session, the county executive committee of either political party from which such commissioners of election and poll clerks are to be selected or appointed, as herein provided, shall present to such court a writing signed by them, or by the chairman or secretary of such committee on their behalf, requesting the appointment of a qualified voter of their political party, for commissioner and/or poll clerk, who is otherwise qualified to act as such under the provisions of this chapter, it shall be the duty of the county court to appoint the person so named in such writing as such commissioner and/or poll clerk. No person shall be eligible to appointment as commissioner or poll clerk, or in any way to act as such, who has anything of value bet or wagered on the result of such primary election, or has received a promise, agreement or understanding that he is to receive appointment as deputy by any candidate to be voted for at such primary election, or has any agreement, understanding or arrangement that he shall receive any sum of money or any portion of the salary, fees or emoluments of any office, for which any candidate is to be voted for at such primary election, should such candidate be nominated at such primary election and elected to such office at the ensuing general election, or who is a candidate to be voted for at such primary election.

If any of the commissioners of election and poll clerks of the receiving board so selected shall fail to appear at the hour appointed for the opening of the polls, the remainder of the commissioners of such board may select a commissioner and poll clerk, if necessary, who shall be of the same political party as the absent commissioner or poll clerk; but if the qualified voters of the party of such absent commissioner or poll clerk, present at the opening of the polls, shall nominate a voter, having the qualifica-

62 tions to act under the provisions of this section, for com-
63 missioner or poll clerk, or both if necessary, such nominee
64 or nominees shall be appointed. If none of the commis-
65 sioners of election or poll clerks of such board appear
66 at the hour appointed for opening the polls, the qualified
67 voters present, being at least ten in number, shall elect
68 three commissioners of election and two poll clerks for
69 such board to act in their stead, by a viva voce vote; not
70 more than two of such commissioners and one poll clerk
71 for such board shall belong to or be elected by the voters
72 of the same political party. A vacancy or vacancies on
73 the counting board shall be filled in the manner herein
74 provided for filling a vacancy or vacancies on the receiv-
75 ing board, except that such vacancy or vacancies shall be
76 determined and filled as of the hour appointed in this
77 chapter for the counting board to attend at the polls.
78 A list of all commissioners and poll clerks appointed by
79 the county court as herein provided, shall be published
80 in two newspapers of general circulation in the county,
81 of opposite politics, if such there be, for at least two weeks
82 prior to such primary election.

CHAPTER 61

(House Bill No. 162—By Mrs. Walker and Mr. McClung)

AN ACT to amend and reenact section thirty-three, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, relating to the duties of the county courts as canvassing boards, and providing for the canvassing of the vote of elections in their counties; the certification of the result thereof; the manner of recounting same; hearing contests thereof, and providing for bond to guarantee the costs and expenses thereof where no change in the result is made.

[Passed February 23, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 5. Conducting Election; Ascertaining and Certifying the Result.**Section****33. Canvassing board.**

Be it enacted by the Legislature of West Virginia:

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

Section 33. *Canvassing Board.*—The commissioners of
2 the county court shall be ex officio a board of canvassers,
3 and, as such, shall keep in a well-bound book, marked
4 “election record”, a complete record of all their proceed-
5 ings in ascertaining and declaring the result of every
6 election in their respective counties. They shall con-
7 vene as such canvassing board at the courthouse on the
8 fifth day (Sundays excepted) after every election held in
9 their county, or in any district thereof, and the officers
10 in whose custody the ballots, poll books, tally sheets and
11 certificates have been placed shall lay the same before
12 them for examination. They may, if deemed necessary,
13 require the attendance of any of the commissioners, poll
14 clerks or other persons present at the election, to appear
15 and testify respecting the same, and make such other
16 orders as shall seem proper, to procure correct returns
17 and ascertain the true result of the election in their
18 county; but in such case all the questions to the witnesses
19 and all the answers thereto, and evidence, shall be taken
20 down in writing and filed and preserved. All orders made
21 shall be entered upon the record. They may adjourn
22 from time to time, but no longer than absolutely neces-
23 sary, and, when a majority of the commissioners are not
24 present, their meeting shall stand adjourned until the
25 next day, and so from day to day, until a quorum be
26 present. The board, before proceeding to canvass the re-
27 turns of the election, shall open each sealed package of
28 ballots so laid before them, and, without unfolding them,
29 count the number in each package and enter the same
30 upon their record. The ballots shall then be again
31 sealed up carefully in a new envelope, and each member

32 of the board shall write his name across the place where
33 such envelope is sealed. After canvassing the returns of
34 the election, the board shall, upon the demand of any
35 candidate voted for at such election, open and examine
36 any one or more of the sealed packages of ballots, and
37 recount the same; but in such case they shall seal the
38 same again, along with the envelope above named, and
39 the clerk of the county court and each member of the board
40 shall write his name across the place or places where
41 it is sealed, and indorse in ink, on the outside: "Ballots
42 of the election held at precinct No. _____, in the district
43 of _____, and county of _____,
44 on the _____ day of _____": *Provided,*
45 That the board shall require every candidate who demands
46 such recount to furnish bond in a reasonable amount
47 with good and sufficient surety to guarantee payment
48 of the costs and the expenses of such recount in the event
49 the result of the election be not changed by such recount;
50 but the amount of such bond shall in no case exceed three
51 hundred dollars. When they have made their certificates
52 and declared the results as hereinafter provided, they shall
53 deposit the sealed packages of ballots, poll books, tally
54 sheets, and precinct certificates, with the clerks of the
55 county and circuit courts from whom they were re-
56 ceived, who shall carefully preserve the same for sixty
57 days, and if there be no contest pending as to any such
58 election, and their further preservation be not required
59 by any order of a court, such ballots, poll books, tally
60 sheets and certificates shall be destroyed by fire or other-
61 wise, without opening the sealed packages of ballots; and
62 if there be such contest pending, then they shall be so
63 destroyed as soon as the contest is ended. If the result
64 of the election be not changed by such recount, the costs
65 and expenses thereof shall be paid by the party at whose
66 instance the same was made.

CHAPTER 62

(Com. Sub. for House Bill No. 208—Originating in the House Committee on the Judiciary)

AN ACT to repeal section twenty-five, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact sections sixteen, seventeen, thirty-three, thirty-eight and forty-seven of such article and chapter, all relating to the registration of voters.

[Passed March 9, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 2. Registration of Voters.

Section

16. Appointment of registrars; qualifications and duties.
17. Salary of registrars.
25. Repealed.
33. Transfers.
38. Time of hearings before county court.

Be it enacted by the Legislature of West Virginia:

That section twenty-five, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that sections sixteen, seventeen, thirty-three, thirty-eight and forty-seven of such article and chapter be amended and reenacted to read as follows:

- Section 16. *Appointment of Registrars; Qualifications and Duties.*—The county court of each county shall, not less than twelve nor more than fourteen weeks prior to the date of any state-wide primary or general election, appoint for each magisterial district of its county not more than ten nor less than two competent persons to act as registrars therein. No person shall be eligible to appointment as a registrar, or in any way act as such if he has been convicted of a felony or if he holds any elective or appointive office, or is a public employee, under the laws of this state or of the United States; or cannot read or write the English language; or is a candidate to be voted for at such election. If any such registrar shall fail or refuse to serve or is properly dismissed, the vacancy shall be

15 filled either by the county court or by the clerk thereof
16 in vacation, in the manner provided for the appointment
17 of registrars. Each registrar before entering upon the
18 discharge of his duties, shall take an oath that he will
19 perform the duties of the office to the best of his ability,
20 which oath shall be filed in the office of the clerk of the
21 county court. An equal number of such registrars shall
22 be selected from the political parties which at the last
23 preceding election cast the highest and next highest
24 number of votes in the county in which the election is to
25 be held. The county executive committees of the two po-
26 litical parties may, not less than one hundred twenty days
27 before any election for which registrars are to be ap-
28 pointed, submit to the county court, or to the clerk there-
29 of in vacation, a list of names of persons qualified to vote
30 in each district of said county, and who are qualified to
31 act as registrars therein; and the county court shall, if
32 such lists are submitted, appoint the respective registrars
33 therefrom. Every such list so presented shall be filed and
34 preserved for one year by the clerk of such court in his
35 office. The registrars shall sit at the places, dates and
36 hours, hereafter provided for, for the purpose of regis-
37 tering voters, and for the purpose of altering, correcting,
38 changing, and amending the registration records of any
39 voter so desiring to have his registration record altered,
40 corrected, changed or amended.

41 Before acting, all such registrars shall attend a session,
42 or sessions, of instruction by the clerk of the county court,
43 or some person designated by him, concerning the per-
44 formance of their duties. For his attendance at such ses-
45 sion, or sessions, not to exceed three in number, each
46 registrar shall be entitled to one day's compensation for
47 each day he attends.

48 The county court shall designate the places, the dates
49 and the hours of sittings by registrars in each magisterial
50 district and cause notice thereof to be placed in at least
51 five conspicuous places in each precinct within the area
52 served, not less than five days prior to the first sitting
53 in such area. The places designated must be reasonably
54 accessible to the members of the public residing in the
55 area to be served. The dates of such sittings shall be fixed

56 so as to commence on the eighth Monday preceding any
57 state-wide primary or general election. In any magis-
58 terial district having a voting population of less than
59 fifteen thousand, the total number of days on which regis-
60 trars shall sit shall be not less than four, and in all other
61 districts, not less than ten. For the convenience of the
62 public, the court shall so arrange the schedule of hours
63 that at all times not less than two registrars of opposite
64 political parties shall sit together between the hours of
65 nine in the morning and five in the afternoon on the first
66 day and each alternate day thereafter, and between the
67 hours of three in the afternoon and ten at night on the
68 second day and each alternate day thereafter.

Sec. 17. *Salary of Registrars.*—Each registrar appointed
2 as provided in the preceding section shall, for the per-
3 formance of his duties, be paid not less than three dollars
4 nor more than seven dollars a day, at the discretion of
5 the county court, and in addition thereto five cents for
6 each mile necessarily traveled in the performance of such
7 duties. Any part or all of the salary and mileage of any
8 registrar may be withheld until the duties of the registrar
9 have been fulfilled.

Sec. 25. *Quadrennial Check-up.*—This section is re-
2 pealed.

Sec. 33. *Transfers.*—Whenever a voter removes his
2 residence from one place to another within the same
3 county he shall request that the change be made on his
4 registration record. Such request shall be made by filling
5 in, and, if he is able, signing under oath or affirmation
6 the necessary form, which may be procured in person or
7 by mail from the office of the clerk of the county court.
8 The form of such notice shall be prescribed by the secre-
9 tary of state.

10 Upon receipt of such notice the clerk of the county
11 court shall cause the signature thereon to be compared
12 with the signature of the applicant upon his registration
13 card and, if such signatures correspond, shall make entry
14 of such change of residence upon all the registration rec-
15 ords and the necessary transfers in the files. If the clerk

16 of the county court is not satisfied as to the genuineness
17 of the signature of the notice of change of residence, and
18 if the right of such applicant to register is challenged, ac-
19 cording to the procedure hereinbefore prescribed, such
20 transfer shall not be made.

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, but no such hearings shall be held within
5 the twenty days immediately preceding the election in
6 which the person whose registration is affected seeks to
7 vote.

Sec. 47. *Withholding of Information; Penalties.*—Any
2 person who neglects or refuses to furnish to the secretary
3 of state, the county court, or the clerk of the county court
4 any information which they are authorized to obtain in
5 connection with registration, or to exhibit any records,
6 papers, or documents herein authorized to be inspected
7 by them, shall be guilty of a misdemeanor, and upon con-
8 viction thereof shall be fined not more than one thousand
9 dollars, or confined in the county jail for not more than
10 one year, or both, at the discretion of the court.

CHAPTER 63

(Senate Bill No. 93—By Mr. Allen and Mr. Young)

AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article, numbered eleven-a, requiring the enrichment of flour and bread to meet certain standards of vitamin and mineral content, prescribing the method of enrichment, and fixing penalties for violation of the provisions of said article.

[Passed March 3, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 11-a. Vitamin and Mineral Enrichment of Flour and Bread.**Section**

1. Definitions.
2. Enrichment of flour required; exceptions as to flour sold to distributors, bakers or other processors.
3. Vitamin and mineral content of white bread or rolls.
4. Enforcement of article; powers of commissioner; rules and regulations.
5. Penalties for violation of article; inconsistent acts repealed; provisions severable.

Be it enacted by the Legislature of West Virginia:

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

- Section 1. *Definitions.*—When used in this article, unless the context otherwise requires:
- (a) "Flour" includes and shall be limited to the foods commonly known in the milling and baking industries as (1) white flour, also known as wheat flour or plain flour; (2) bromated flour; (3) self-rising flour, also known as self-rising white flour or self-rising wheat flour, and (4) phosphated flour, also known as phosphated white flour or phosphated wheat flour, but excludes whole wheat flour and also excludes special flours not used for bread, roll, bun or biscuit baking, such as specialty cake, pancake and pastry flours.
 - (b) "White bread" means any bread made with flour as defined in paragraph (a) whether baked in a pan or on a hearth or screen, which is commonly known or usually represented and sold as white bread, including Vienna bread, French bread, and Italian bread.
 - (c) "Rolls" includes plain white rolls and buns of the semi-bread dough type, namely: Soft rolls, such as hamburger rolls, hot dog rolls, Parker House rolls, and hard rolls, such as Vienna rolls, Kaiser rolls, but shall not include yeast-raised sweet rolls or sweet buns made with fillings or coatings, such as cinnamon rolls or buns and butterfly rolls.
 - (d) "Commissioner" means the commissioner of agriculture.

27 (e) "Person" means an individual, a corporation, a
28 partnership, an association, a joint stock company, a trust,
29 or any group of persons whether incorporated or not, en-
30 gaged in the commercial manufacture or sale of flour,
31 white bread or rolls.

Sec. 2. *Enrichment of Flour Required; Exceptions as to*
2 *Flour Sold to Distributors, Bakers or Other Processors.*—
3 It shall be unlawful for any person to manufacture, mix,
4 compound, sell or offer for sale, for human consumption in
5 this state, flour as defined in section one of this article,
6 unless the following vitamins and minerals are contained
7 in each pound of such flour: not less than two (2) and
8 not more than two and five-tenths (2.5) milligrams of
9 thiamine; not less than one and two-tenths (1.2) and not
10 more than one and five-tenths (1.5) milligrams of ribo-
11 flavin; not less than sixteen (16) and not more than
12 twenty (20) milligrams of niacin or niacin-amide; not
13 less than thirteen (13) and not more than sixteen and
14 five-tenths (16.5) milligrams of iron (Fe); except in the
15 case of self-rising flour, which in addition to the above
16 ingredients shall contain not less than five hundred (500)
17 and not more than fifteen hundred (1500) milligrams of
18 calcium (Ca): *Provided, however,* That the provisions
19 of this section shall not apply to flour sold to distributors,
20 bakers or other processors, if the purchaser furnishes to
21 the seller a certificate in such form as the commissioner
22 shall by regulation prescribe, certifying that such flour
23 will be (1) resold to a distributor, baker or other pro-
24 cessor, or (2) used in the manufacture, mixing or com-
25 pounding of flour, white bread or rolls enriched to meet
26 the requirements of this article, or (3) used in the manu-
27 facture of products other than flour, white bread or rolls.
28 It shall be unlawful for any such purchaser so furnishing
29 any such certificate to use or resell the flour so purchased
30 in any manner other than as prescribed in this section:
31 *Provided further,* That the provisions of this section shall
32 not apply to non-commercial flour manufactured by small
33 flour mills, located in this state, for persons from wheat
34 harvested in this state, or to any other flour produced and
35 sold at retail by such mills.

Sec. 3. Vitamin and Mineral Content of White Bread or

2 *Rolls.*—It shall be unlawful for any person to manufac-
3 ture, bake, sell, or offer for sale, for human consumption
4 in this state, any white bread or rolls, as defined in sec-
5 tion one of this article, unless the following vitamins and
6 minerals are contained in each pound of such bread or
7 rolls: Not less than one and one-tenth (1.1) and not more
8 than one and eight-tenths (1.8) milligrams of thiamine;
9 not less than seven-tenths (0.7) and not more than one
10 and six-tenths (1.6) milligrams of riboflavin; not less
11 than ten (10.0) and not more than fifteen (15.0) milli-
12 grams of niacin; and not less than eight (8.0) and not
13 more than twelve and five-tenths (12.5) milligrams of
14 iron (Fe).

Sec. 4. Enforcement of Article; Powers of Commis-

2 *sioner; Rules and Regulations.*—(a) The commissioner
3 is hereby charged with the duty of enforcing the pro-
4 visions of this article and he is hereby authorized and
5 directed to make, amend or rescind rules, regulations and
6 orders for the efficient enforcement of this article.

7 (b) Whenever the vitamin and mineral requirements
8 set forth in sections two and three of this article are no
9 longer in conformity with the legally established stand-
10 ards governing the interstate shipment of enriched flour
11 and enriched white bread or enriched rolls, the commis-
12 sioner, in order to maintain uniformity between the in-
13 trastate and interstate vitamin and mineral requirements
14 for the foods within the provisions of this article, and to
15 maintain and protect the health of the citizens of this
16 state, is authorized and directed to modify or revise such
17 requirements to conform with amended standards govern-
18 ing interstate shipments, and there shall be a presumption
19 that the amended standards governing interstate ship-
20 ments do actually represent the standards which will pro-
21 mote the health and well-being of such citizens.

22 (c) In the event of findings by the commissioner that
23 there is an existing or imminent shortage of any in-
24 gredient required by sections two or three of this article,
25 and that because of such shortage the sale and distribu-
26 tion of flour or white bread or rolls may be impeded by

27 the enforcement of this article, the commissioner shall is-
28 sue an order, to be effective immediately upon issuance,
29 permitting the omission of such ingredient from flour or
30 white bread or rolls; and if he finds it necessary or ap-
31 propriate, excepting such foods from labeling require-
32 ments until the further order of the commissioner. Any
33 such findings may be made without hearing, on the basis
34 of an order or of factual information supplied by the
35 appropriate federal agency or officer. In the absence of
36 any such order of the appropriate federal agency or
37 factual information supplied by it, the commissioner on
38 his motion may, and upon receiving the sworn statement
39 of ten or more persons subject to this article that they be-
40 lieve such a shortage exists or is imminent, shall, within
41 twenty days thereafter, hold a public hearing with re-
42 spect thereto at which any interested person may present
43 evidence; and shall make findings based upon the evi-
44 dence presented.

45 Whenever the commissioner has reason to believe that
46 such shortage no longer exists, he shall hold a public
47 hearing, at which any interested person may present evi-
48 dence, and he shall make findings based upon the evi-
49 dence so presented. If his findings be that such shortage
50 no longer exists, he shall issue an order to become effec-
51 tive not less than thirty days after date of issuance, re-
52 voking such previous order: *Provided, however,* That un-
53 disposed floor stocks of flour on hand at the effective date
54 of such revocation order, or flour manufactured prior to
55 such effective date, for sale in this state, may thereafter
56 be lawfully sold or disposed of.

57 (d) All orders, rules and regulations adopted by the
58 commissioner pursuant to this article, and, within the
59 limits specified by this article, shall become effective upon
60 such date as the commissioner shall fix.

61 (e) It shall be the duty of the commissioner to furnish
62 to any person or organization, filing a written request for
63 such information, a copy of any and all orders, rules or
64 regulations, adopted pursuant to this article, at least ten
65 days prior to the effective date of such orders, rules or
66 regulations, and to make copies of same available to the
67 press. In case any interested person files written ob-

68 jections to any proposed order, rule or regulation, the
69 commissioner shall give an opportunity for a public hear-
70 ing upon such order, rule or regulation, before the same
71 shall become effective.

72 (f) For the purpose of this article, the commissioner,
73 or such officers or employees under his supervision as he
74 may designate, is authorized to take samples for analysis
75 and to conduct examinations and investigations, and to
76 enter, at reasonable times, any factory, mill, bakery, ware-
77 house, shop or establishment where flour, white bread or
78 rolls are manufactured, processed, packed, sold or held,
79 or any vehicle being used for the transportation thereof,
80 and to inspect any such place or vehicle and any flour,
81 white bread or rolls therein, and all pertinent equipment,
82 materials, containers and labeling.

Sec. 5. *Penalties for Violation of Article; Inconsistent*
2 *Acts Repealed; Provisions Severable.*—Any person who
3 violates any of the provisions of this article or the orders,
4 rules or regulations promulgated by the commissioner
5 under authority thereof, shall be guilty of a misdemeanor
6 and, upon conviction thereof, shall be fined for each and
7 every offense, a sum of not less than twenty-five
8 dollars nor more than two hundred dollars, or im-
9 prisoned not to exceed sixty days, or both fined and
10 imprisoned, within the discretion of the court. Justices of
11 the peace shall have jurisdiction to try cases involving
12 violations of any provision of this article, or of the orders,
13 rules and regulations promulgated by the commissioner
14 under authority thereof.

15 All acts and parts of acts inconsistent with the pro-
16 visions of this article are hereby repealed to the extent of
17 such inconsistency.

18 If any part of this article is declared unconstitutional
19 by a court of competent jurisdiction, its decision shall not
20 affect any portion of the article which remains, but the
21 remaining portions of the article shall be in full force
22 and effect as if the portions declared unconstitutional had
23 never been a part of the article.

CHAPTER 64

(Com. Sub. for House Bill No. 141—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section twenty-four, article one, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the fixing of standard weights for containers for wheat and corn flours, corn meals, hominy and hominy grits; labeling packages with quantity; and defining "package".

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 1. Weights and Measures.

Section

24. Standard weights for sale of wheat and corn flours, corn meals, hominy and hominy grits in packages; labeling package with quantity; "package" defined.

Be it enacted by the Legislature of West Virginia:

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

Section 24. *Standard Weights for Sale of Wheat and Corn Flours, Corn Meals, Hominy and Hominy Grits in Packages; Labeling Package with Quantity; "Package" Defined.*—It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this state any of the following commodities except in containers of net avoirdupois weights of two (2), five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100) pounds, and multiples of one hundred (100) pounds: Wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meals, hominy and hominy grits: *Provided, however,* That the provisions hereof shall not apply to (a) the retailing of flours, meals, hominy and hominy grits direct to the consumer from bulk stock, or (b) the sale of flours and

18 meals to commercial bakers or blenders or for export
19 in containers of more than one hundred (100) pounds,
20 or (c) flours, meals, hominy and hominy grits packed in
21 cartons the net contents of which are less than five (5)
22 pounds, or (d) the exchange of wheat for flour by mills
23 grinding for toll.

24 It shall also be unlawful to keep for the purpose of
25 sale, offer or expose for sale, or sell any commodity in
26 package form unless the net quantity of the contents be
27 plainly and conspicuously marked on the outside of the
28 package, in terms of weights, measures, or numerical
29 count: *Provided, however,* That reasonable variations or
30 tolerances and also exemptions as to small packages shall
31 be established by rules and regulations made by the com-
32 missioner of weights and measures: *Provided fur-*
33 *ther,* That this section shall not be construed to apply to
34 medicinal articles and to those commodities in packages
35 the manner of sale of which is specifically regulated by
36 the provisions of other sections of this article.

37 The word "package" as used in this section shall be
38 construed to include the package, carton, case, basket,
39 can, box, barrel, half barrel, hamper, keg, drum, jug,
40 jar, crock, bag, pail, wrapping parcel, package, bottle,
41 phial, or other receptacle put up by the manufacturer;
42 or, when put up prior to the order of the commodity, by
43 the vendor; which may be labeled, branded, stenciled
44 or otherwise marked, or which may be suitable for label-
45 ing, branding, stenciling, or marking otherwise, making
46 one complete package of the commodity. The word
47 "package" shall be construed to include both the whole-
48 sale and the retail package: *Provided,* That a box or car-
49 ton used for shipping purposes containing a number of
50 similar packages which are individually marked, as here-
51 inbefore provided, will not be required to bear the
52 weight or measure of contents.

CHAPTER 65

(Senate Bill No. 144—By Mr. Bambrick)

AN ACT authorizing and empowering the conservation commission of the state of West Virginia to lease a camp site within the Tomlinson's Run state park, in Clay district of Hancock county, to the Boy Scouts of America for the purpose of constructing, erecting and maintaining a boy scout camp therein.

[Passed February 23, 1945; in effect from passage. Approved by the Governor.]

Section

1. Conservation commission authorized to lease a camp site in the Tomlinson's Run state park to the Boy Scouts of America.

Be it enacted by the Legislature of West Virginia:

Section 1. *Conservation Commission Authorized to Lease a Camp Site in the Tomlinson's Run State Park to the Boy Scouts of America.*—The conservation commission of the state of West Virginia is hereby authorized and empowered to lease a camp site within the confines of the Tomlinson's Run state park, situated in Clay district, Hancock county, West Virginia, to the Boy Scouts of America for the purpose of constructing, erecting and maintaining a boy scout camp therein for the exclusive use of said Boy Scouts of America; and said conservation commission of the state of West Virginia is hereby authorized and empowered to enter into such lease agreement with the Boy Scouts of America under such terms and conditions as the commission shall deem proper. No such lease shall be for any period longer than ninety-nine years.

CHAPTER 66

(House Bill No. 295—By Mr. McElwee)

AN ACT to provide for distribution by the state of West Virginia of funds received from the United States on account of re-

ceipts from national forests, in accordance with acts of congress relative thereto.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Disposition of funds received from the federal government on account of receipts from national forests.

Be it enacted by the Legislature of West Virginia:

Section 1. *Disposition of Funds Received from the Federal Government on Account of Receipts from National Forests.*—That receipts from any one national forest, paid to the state of West Virginia or its proper officers, pursuant to directions of acts of congress, shall be allocated by the auditor to each county which has acreage located in such one national forest, in the proportion which the acreage in such county bears to the total acreage of such national forest in this state. Following such allocation, funds so allocated to any county shall be paid to the sheriff and be deposited in the general county fund to be used for general expenses and purposes as may be directed by the county court.

CHAPTER 67

(House Bill No. 309—By Mr. Hall and Mr. Doring)

AN ACT to amend and reenact section ten, article nine, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to financial assistance for forestry purposes.

[Passed March 9, 1945; in effect July 1, 1945. Approved by the Governor.]

Article 9. Forests.

Section

10. Financial assistance from owners of forest lands; expenditures by commission.

Be it enacted by the Legislature of West Virginia:

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

Section 10. *Financial Assistance from Owners of Forest Lands; Expenditures by Commission.*—The commission may cooperate with the owners of forest lands and receive financial assistance from them for the purposes aforesaid and do any and all things necessary therefor, including the establishment and maintenance of patrol and lookout stations: *Provided*, That the commission shall expend for forestry purposes only such moneys as shall be appropriated therefor by the state, and such moneys as may be contributed therefor by the private owners, and such moneys as may be recovered from persons giving origin to forest fires, and such moneys as may be received from the federal government by appropriation under the Weeks and the Clarke-McNary laws, or otherwise; and in addition for the aforementioned purposes, shall provide twenty per cent of the funds derived annually from the sale of game and fish licenses.

CHAPTER 68

(House Bill No. 2—By Mr. Cavender)

AN ACT to permit members of the armed forces to hunt or fish without license while on leave or furlough.

[Passed March 2, 1945; in effect from passage. Approved by the Governor.]

Section

1. Hunting and fishing licenses not required of members of armed forces.

Be it enacted by the Legislature of West Virginia:

Section 1. *Hunting and Fishing Licenses Not Required of Members of Armed Forces.*—All members of the armed

3 forces of the United States of America shall have the
4 rights and privileges of hunting and fishing in season
5 without state or county hunting and fishing licenses
6 while on leave or furlough. Leave or furlough papers
7 shall serve in lieu of regularly issued state hunting and
8 fishing license, in any county within the state of West
9 Virginia.

CHAPTER 69

(Senate Bill No. 209—By Mr. Bowling)

AN ACT to amend and reenact sections three and three-a, article four, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to add section three-b to said article four, relating to the deer of the state.

[Passed March 10, 1945; in effect May 1, 1945. Approved by the Governor.]

Article 4. Game and Fur-Bearing Animals.

Section

- 3. Hunting deer; report to director; tagging; penalties.
- 3-a. Dogs chasing deer.
- 3-b. Permit to kill deer causing damage to cultivated crops, fruit trees or commercial nurseries; penalties.

Be it enacted by the Legislature of West Virginia:

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

- Section 3. *Hunting Deer; Report to Director; Tagging;*
2 *Penalties.*—No person shall hunt, capture or kill any deer
3 in this state except in open season, or as provided under
4 section three-b of this article. A licensed person may
5 hunt, capture or kill a buck deer with one or both antlers
6 branched, or an antlerless deer, but only during the open
7 season fixed by the conservation commission for the

8 counties or parts thereof. The provisions of this section
9 shall not apply to a licensed owner of deer which are kept
10 in a park or field sufficiently enclosed reasonably to pre-
11 vent escape therefrom.

12 No person shall:

13 (1) Kill more than one deer in any one open season of
14 the year;

15 (2) Hunt, pursue, shoot or kill any fawn, doe or deer
16 other than a buck with one or both antlers branched, ex-
17 cept in such counties or parts thereof as may be declared
18 open to the taking of antlerless deer by the conservation
19 commission, or as may be authorized under section
20 three-b of this article. Antlerless deer seasons may be
21 established by the conservation commission when deemed
22 necessary due to over-populations of deer, extreme crop
23 damages, unbalanced sex ratios, or other unusual condi-
24 tions in various counties or parts thereof;

25 (3) Have in his possession the fresh skin or any other
26 part of an illegally killed doe, fawn or buck deer;

27 (4) Chase or hunt deer with dogs;

28 (5) Kill a deer that is being chased by, or is fleeing
29 from dogs;

30 (6) Catch, capture or kill any deer by means of poison
31 baits; salt lick, natural or artificial; trap or snare; or de-
32 vices of any kind;

33 (7) Hunt, pursue, catch or kill a deer between sunset
34 on one day and sunrise of the next day;

35 (8) Kill or wound a deer while the deer is in a stream,
36 lake or pond;

37 (9) Participate further in the hunt after he has killed
38 his legal limit of deer if he has firearms of any description
39 in his possession;

40 (10) Hunt deer with a shotgun using ammunition
41 loaded with more than one solid ball, or rifle using rim
42 fire ammunition of less than twenty-five calibre.

43 A person who kills or wounds a deer by accident, such
44 as by striking it with an automobile, or has knowledge
45 that a deer is in distress for any reason whatever, shall
46 promptly notify a game protector or other proper officer
47 of the fact.

48 Any person who kills a legal deer during the open sea-
49 son shall, within twenty-four hours after the kill is made,
50 securely attach, or have attached, to its head, an of-
51 ficial tag furnished by the commission. No such deer shall
52 be tagged unless the head is attached in a natural way to
53 the carcass of said deer. The director shall furnish such
54 official tags and shall distribute them to game protectors,
55 county clerks, sheriffs, state police and other qualified of-
56 ficers. The tag shall specify the date and place of killing,
57 the person by whom killed, the person, or persons hunt-
58 ing with him at the time, and the length and branching of
59 horns or antlers. The person who killed the deer shall
60 mail a duplicate of the tag to the director within five days
61 after the deer is killed. The deer shall not be removed
62 from the county where killed until the tag is attached,
63 and is checked and countersigned by a game protector or
64 other duly authorized officer or agent of the director.

65 Any person who violates any of the provisions of this
66 section shall be guilty of a misdemeanor, and, upon con-
67 viction, shall be fined not less than one hundred nor more
68 than three hundred dollars, and confined in the county
69 jail not less than thirty days, nor more than ninety days:
70 *Provided, however,* That any person who kills a deer il-
71 legally during the open season therefor, and voluntarily
72 reports same to a game protector or other officer, shall be
73 fined not less than fifty dollars nor more than one hundred
74 dollars.

Sec. 3-a. *Dogs Chasing Deer.*—No person shall permit
2 his dogs to hunt or chase deer.

3 A game protector, or other duly authorized officer, shall
4 take into possession any dog known to have hunted or
5 chased deer, and shall advertise in a newspaper of gen-
6 eral circulation in the county that he has the dog in his
7 possession, giving a description of the dog and stating
8 the circumstances under which it was taken. He shall
9 hold the dog for a period of ten days, and shall report the
10 facts in full to the director.

11 If, within ten days, the owner does not claim the dog,
12 the game protector or other officer shall destroy it. In

13 this event, the cost of keep and advertising shall be paid
14 by the director.

15 If, within ten days, the owner claims the dog, he may
16 repossess it on the payment of the costs of advertising
17 and the cost of keep, not exceeding fifty cents per day.

18 A game protector, or other duly authorized officer, af-
19 ter a bona fide but unsuccessful effort to capture dogs
20 detected chasing or pursuing deer, may kill such dogs.

Sec. 3-b. *Permit to Kill Deer Causing Damage to Cul-*
2 *tivated Crops, Fruit Trees or Commercial Nurseries;*
3 *Penalties.*—Whenever it shall be found that deer are caus-
4 ing damage to cultivated crops, fruit trees or commercial
5 nurseries, the owner or lessee of the lands on which such
6 damage is done shall report such fact to the county con-
7 servation officer, heretofore called game protector, or to
8 the office of the conservation commission in the state cap-
9 itol. A representative of the conservation commission
10 shall then investigate the reported damage, and if found
11 substantial shall issue a permit to the owner or lessee
12 to kill one or more adult deer by means of firearms only,
13 as hereinbefore specified in subsection ten of section three
14 of this article, when such deer are found in the act of in-
15 juring such cultivated crops, fruit trees or commercial
16 nurseries on his premises. No such permit may be issued
17 to owner or lessee when such lands are posted against
18 public hunting of deer.

19 The first deer killed under this permit may be retained
20 by the permittee for food. He shall, however, within forty-
21 eight hours after such kill, notify the county conservation
22 officer or the state director of conservation.

23 The permittee, upon killing any additional deer under
24 this permit, shall immediately dress the carcass by re-
25 moving the entrails, and shall remove the deer killed to
26 his residence or other specified place of safekeeping. He
27 shall notify the county conservation officer within twenty-
28 four hours after the kill, who shall pick up the carcass
29 and shall make proper disposition to a hospital, charitable
30 institution, school, or as otherwise designated by the
31 conservation commission.

32 Any person who violates any of the provisions of this

33. section shall be guilty of a misdemeanor, and, upon con-
34 viction, shall be fined not less than one hundred nor more
35 than three hundred dollars, and confined in the county
36 jail not less than thirty days, nor more than ninety days.

CHAPTER 70

(House Bill No. 282—By Mr. Knight)

AN ACT to amend and reenact sections three, four, five, seven, eight, ten, eleven, twelve and fourteen, and to repeal sections four-a and sixteen, article one; to amend and reenact sections one, three, five, six, seven, eight, nine and eleven, and to add section ten to article one-a, all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the reorganization and powers of the conservation commission of West Virginia.

[Passed March 9, 1945; in effect July 1, 1945. Approved by the Governor.]

Article

1. Conservation Commission.

1-a. Director of Conservation.

Be it enacted by the Legislature of West Virginia:

That sections three, four, five, seven, eight, ten, eleven, twelve and fourteen, article one, be amended and reenacted; that sections four-a and sixteen, article one, be repealed; that sections one, three, five, six, seven, eight, nine and eleven, article one-a, be amended and reenacted; and that article one-a be amended by adding thereto a new section to be numbered ten, all of chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to read as follows:

Article 1. Conservation Commission.

Section

3. Members of the commission.

4. Terms of office.

4-a. Repealed.

5. Qualifications of members; political activities to vacate office.
7. Director; quorum.
8. Traveling expenses.
10. Regular and special meetings.
11. Powers and duties of the commission.
12. Director may submit matters for advice.
14. Annual report.
16. Repealed.

Section 3. *Members of the Commission.*—The commission shall consist of six members and a director of conservation. There shall be one member for each congressional district. The members shall be appointed by the governor, with the advice and consent of the senate.

Sec. 4. *Terms of Office.*—The term of office of members of the commission shall be six years. The governor, following the adoption of this act, shall appoint the members of the commission upon the following basis: In making initial appointments, the governor shall designate their respective terms of office in such manner that thereafter the term of one member shall expire in each calendar year. As the initial appointments expire, all appointments shall be made for six-year terms, or for unexpired terms of members who for any reason have died, resigned or become disqualified.

Sec. 4-a. This section is hereby repealed.

Sec. 5. *Qualifications of Members; Political Activities to Vacate Office.*—The members of the commission shall be citizens and residents of the state, selected with special reference to their training and experience in relation to the principal activities required of the commission, and for their ability and fitness to perform their duties within the purposes of this chapter.

No member of the commission shall be a candidate for or hold any public office other than that of member of the commission; nor shall he be a member of any committee of a political party. In case a member becomes a candidate for or is appointed to any public office or political committee, his office as member of the commission shall be immediately vacated.

Sec. 7. *Director; Quorum.*—The director shall be the
2 presiding officer of the commission. A majority of the
3 commission shall constitute a quorum for the conduct of
4 official business.

Sec. 8. *Traveling Expenses.*—Each member of the com-
2 mission shall receive his actual and necessary traveling
3 expense incurred in the performance of his duties.

Sec. 10. *Regular and Special Meetings.*—The commis-
2 sion shall hold four regular sessions each year, as fol-
3 lows: On the first Monday in the months of July, October,
4 January and April. Special meetings may be convened
5 at any time on the call of the director of conservation, the
6 governor or a majority of the commission.

Sec. 11. *Powers and Duties of the Commission.*—The
2 members of the commission shall serve only as an advisory
3 body to the director of conservation, and, as such, shall
4 have the following powers and duties:

5 (1) To consider and study the entire field of legisla-
6 tion and administrative methods concerning the forests
7 and their maintenance and development, the protection
8 of fish and game, the beautification of the state and its
9 highways, and the development of lands and natural re-
10 sources;

11 (2) To advise with the director concerning the conser-
12 vation problems of particular localities or districts of
13 the state;

14 (3) To recommend policies and practices to the director
15 relative to any duties imposed upon him by law;

16 (4) To investigate the work of the director, and for this
17 purpose to have access at reasonable times to all official
18 books, papers, documents, and records.

19 (5) To advise or make recommendations to the gover-
20 nor relative to the conservation policy of the state; and

21 (6) To keep minutes of the transactions of each session,
22 regular or special, which shall be public records and filed
23 with the director.

Sec. 12. *Director May Submit Matters for Advice.*—

- 2 The director of conservation may submit to the commis-
- 3 sion or any committee thereof at any regular or special
- 4 meeting any matter upon which he desires the advice or
- 5 opinion of the commission.

Sec. 14. *Annual Report.*—Upon the request of the com-
2 mission the director shall, and upon his own initiative he
3 may, incorporate the proceedings of the commission in
4 his report to the governor.

Sec. 16. This section is hereby repealed.

Article 1-a. Director of Conservation.

Section

1. Appointment; term of office.
3. Oath and bond.
5. Salary and traveling expenses.
6. Heads of divisions; necessary assistants and employees.
7. Powers and duties of the director.
8. Powers and duties exercised by appointees.
9. Legal services by attorney general and prosecuting attorneys.
10. Powers and duties vested in director.
11. Cooperation with federal government in wildlife projects.

Section 1. *Appointment; Term of Office.*—The governor,
2 with the advice and consent of the senate, shall appoint
3 a director of conservation to serve at the will and pleasure
4 of the governor. The director shall devote his entire time
5 to the duties of his office.

Sec. 3. *Oath and Bond.*—The director, before entering
2 upon the duties of his office, shall take and subscribe to
3 the oath prescribed by the constitution. He shall also
4 execute a bond approved by the governor in the penalty of
5 five thousand dollars for the faithful performance of his
6 duties as director, and in case a surety company executes
7 such bonds the premiums shall be paid out of the funds
8 of the commission. The bond and the oath shall be filed
9 with the secretary of state.

Sec. 5. *Salary and Traveling Expenses.*—The director
2 shall receive a salary of six thousand dollars per annum
3 and the necessary traveling expenses incident to the per-
4 formance of his duties. Requisition for traveling expenses

5 shall be accompanied by a sworn and itemized statement
6 which shall be filed with the auditor and preserved as a
7 public record.

Sec. 6. *Heads of Divisions; Necessary Assistants and*
2 *Employees.*—The director shall appoint the heads of the
3 divisions of the department and shall employ such assist-
4 ants and employees as may be necessary to the efficient
5 operation of his department, and fix their salaries: *Pro-*
6 *vided, however,* That in the employment of assistants
7 and employees the director's actions shall be controlled at
8 all times by the provisions of paragraph twenty-one, sec-
9 tion seven of this article.

Sec. 7. *Powers and Duties of the Director.*—The direc-
2 tor, in addition to the other powers granted by this chapter,
3 shall have the sole authority to:

4 (1) Exercise general supervision of, and make rules and
5 regulations for the government of his commission or de-
6 partment;

7 (2) Sign and execute in the name of the state by "The
8 Conservation Commission of West Virginia" any con-
9 tract or agreement with the federal government or its
10 departments or agencies, subdivisions of the state, corpo-
11 rations, associations, copartnerships or individuals;

12 (3) Supervise the fiscal affairs and responsibilities of
13 the department;

14 (4) Make a general conservation plan or program for
15 the state; conduct research in improved conservation
16 methods, and disseminate information on conservation
17 matters to the residents of the state;

18 (5) Organize his department to give adequate treat-
19 ment to the problems of fish and game, forestry, parks
20 and playgrounds, natural resources, education in prin-
21 ciples of conservation, and publicity: *Provided, however,*
22 That publicity work of an advertising nature shall be
23 coordinated with that of the West Virginia industrial
24 and publicity commission so far as possible;

25 (6) Set and alter the open seasons and bag limits as
26 provided in this chapter;

27 (7) Designate such localities as he shall determine to

28 be necessary and desirable for the perpetuation of any
29 species of fish and for the purpose of replenishing adjacent
30 fishing waters;

31 (8) Designate such localities as he shall determine to
32 be necessary and desirable for the perpetuation of any
33 species of game bird or animal and for the purpose of
34 replenishing adjacent hunting grounds;

35 (9) Enter private lands to make surveys or inspections
36 for conservation purposes; and

37 (10) Acquire by purchase, condemnation, lease, or
38 agreement or receive by gifts or devise, lands or waters
39 suitable for the following purposes:

40 (a) For state forests for the purpose of growing timber,
41 demonstrating forestry, furnishing or protecting water-
42 sheds or providing public recreation;

43 (b) For state parks for the purpose of preserving
44 scenic or historical values or natural wonders, or pro-
45 viding public recreation;

46 (c) For public shooting, trapping or fishing grounds
47 or waters for the purpose of providing areas in which
48 any citizen may hunt, trap or fish;

49 (d) For fish hatcheries and game farms;

50 (e) For forest nurseries and experimental stations;

51 (f) To extend and consolidate lands or waters suitable
52 for the above purposes by exchange of other lands or
53 waters under his supervision;

54 (11) Capture, propagate, transport, sell or exchange
55 any species of game or fish needed for stocking any
56 lands or waters of this state;

57 (12) Exercise the powers granted by this chapter for
58 the protection of forests;

59 (13) Regulate fires and smoking in the woods or in
60 their proximity at such times and in such localities as is
61 necessary to reduce the danger of forest fires;

62 (14) Cooperate with the state road commission in the
63 beautification of state highways, and establishment and
64 maintenance of roadside parks and planning of roadside
65 slopes;

66 (15) Cooperate with other departments and agencies
67 of the state and federal government;

68 (16) Keep a complete and accurate record of all pro-
69 ceedings, record and file all bonds and contracts taken
70 or entered into, and assume responsibility for the custody
71 and preservation of all papers and documents pertaining
72 to his office. Rules and regulations shall be recorded in
73 a book especially kept for that purpose, and in his dis-
74 cretion may be published for general circulation. All
75 other records and entries necessary to show the official
76 conduct of the department shall be preserved and shall
77 be public records and open for inspection during business
78 hours;

79 (17) Purchase as provided by law all equipment neces-
80 sary for the conduct of his department;

81 (18) Report to the governor each year all information
82 relative to the operation and functions of his department.
83 He shall make such other reports and recommendations
84 as may be required by the governor.

85 (19) Exercise any other power that may be necessary
86 or proper for the orderly conduct of his business and the
87 effective discharge of his duties. Invoke any legal or
88 equitable remedies, civil or criminal, for the enforcement
89 of his orders or the provisions of this chapter;

90 (20) This section shall not be construed as authorizing
91 the director to change any penalty for violating any game
92 law or regulation, or change the amount of any license
93 established by the Legislature, or to extend any open
94 season or bag limit on migratory birds prescribed by fed-
95 eral law or regulation.

96 (21) Establish a merit system of personnel manage-
97 ment for any division in order to insure the impartial
98 selection of competent and qualified personnel and to
99 accord to the employees of the commission, except the
100 director, rights of tenure and advancement so long as
101 they discharge their duties in a satisfactory manner. Such a
102 merit system shall be established for the game protectors
103 and for those employed in the division of forestry. In-
104 stead of establishing its own merit system, however, the

105 commission may avail itself of the services of the state
106 merit system council, and for this purpose may contribute
107 its fair share of the expenses of such council.

108 (22) Regulate fires in the woods or in their proximity
109 at such times and in such localities as is necessary to
110 reduce the danger of forest fires.

Sec. 8. *Powers and Duties Exercised by Appointees.*—

2 All powers and duties vested in the director, except the
3 power to sign contracts, may be exercised by the ap-
4 pointees or employees of the director at his discretion and
5 pursuant to his directions; but the director shall be re-
6 sponsible for their acts.

Sec. 9. *Legal Services by Attorney General and Prose-*

2 *cuting Attorneys.*—The attorney general and his assist-
3 ants and the prosecuting attorneys of the several counties
4 shall render to the director, without additional compen-
5 sation, such legal services as he shall require of them in
6 the discharge of his duties under the provisions of this
7 chapter.

Sec. 10. *Powers and Duties Vested in Director.*—The

2 powers and duties granted by chapter twenty of the code
3 of West Virginia, one thousand nine hundred thirty-one,
4 as amended, to any officer, board, or commission, or else-
5 where vested in the game, fish and forestry commission or
6 commission, shall now be vested in the director of con-
7 servation. He shall have possession of all records, papers,
8 equipment and property of every nature now belonging
9 to the game, fish and forestry commission.

Sec. 11. *Cooperation with Federal Government in Wild-*

2 *life Projects.*—The state of West Virginia hereby assents
3 to the provision of the act of congress entitled, "An Act
4 to provide that the United States shall aid the states in
5 wildlife restoration projects and for other purposes,"
6 approved September second, one thousand nine hundred
7 thirty-seven (public law number four hundred fifteen,
8 seventy-fifth congress), and the executive director is
9 hereby authorized, empowered and directed to perform

10 such acts as may be necessary to the conduct and estab-
11 lishment of cooperative wildlife restoration projects, as
12 defined in said act of congress, in compliance with said
13 act and with rules and regulations promulgated by the
14 secretary of interior thereunder. Funds accruing to the
15 state from license fees paid by hunters shall not be di-
16 verted for any purpose other than the activities of this
17 chapter.

CHAPTER 71

(Com. Sub. for House Bill No. 58—Originating in the House Committee on the Judiciary)

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 twelve, authorizing officers, boards, commissions and agencies of the state and of counties, municipalities and other units of state or local government, having the right to expend public funds, or to direct the expenditure of public funds, to provide at public expense for bodily injury liability and property damage liability insurance against the negligence of drivers of motor vehicles operated by or for such officers, boards, commissions and agencies, and authorizing such officers, boards, commissions and agencies to require contractors to provide like insurance.

[Passed March 8, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 12. Bodily Injury and Property Damage Insurance by State and Local Governments.

Section

1. Bodily injury and property damage insurance at public expense to protect against the negligence of drivers of certain motor vehicles; contractors to provide like insurance.
2. Policy may contain a provision authorizing action to be brought against insurance company either with or without joining driver as a party defendant.
3. Article not to authorize right of action not now existent.

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 twelve, to read as follows:

Section 1. *Bodily Injury and Property Damage Insurance at Public Expense to Protect Against the Negligence of Drivers of Certain Motor Vehicles; Contractors to Provide Like Insurance.*—Officers, boards, commissions or agencies of the state or of any county, municipality or any other unit of local or state government, authorized to spend public funds, or to direct the expenditure of public funds, may provide at public expense for bodily injury liability and property damage liability insurance against the negligence of the drivers of motor vehicles operated by or for such officers, boards, commissions and agencies in such amount as such officers, boards, commissions and agencies may specify, and any such officer, board, commission or agency having the authority to contract for the use in the service of such officer, board, commission or agency, of any motor vehicle, may require the contractor to provide like insurance at his own expense in such amount as such officer, board, commission or agency may specify.

Sec. 2. *Policy May Contain a Provision Authorizing Action to Be Brought Against Insurance Company Either With or Without Joining Driver as a Party Defendant.*—Any insurance policy obtained in pursuance of the provisions of section one of this article may, by agreement between the insurance company issuing the policy and the officer, board, commission or agency applying for such insurance, contain a provision authorizing an action on such policy to be maintained against the insurance company issuing the policy by or in the name of any person sustaining bodily injury or property damage, either with or without joining the driver of such motor vehicle as a party defendant, or in the name of the personal representative of a deceased person, the proximate cause of whose death was the negligence of the driver. Such provision shall be valid and enforceable if set forth in the body

17 of the policy or in a rider attached to the policy as a part
18 thereof.

Sec. 3. *Article Not to Authorize Right of Action Not
2 Now Existent.*—This article shall not be so construed as
3 to authorize a right of action against any officer, board,
4 commission or agency where no right of action has hereto-
5 fore existed.

CHAPTER 72

(Senate Bill No. 137—By Mr. Winters, by request)

AN ACT to amend article ten, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section numbered sixteen, relating to the deposit of securities by automobile mutual insurance companies.

[Passed February 27, 1945; in effect from passage. Approved by the Governor.]

Article 10. Automobile Mutual Insurance Companies.

Section

16. Deposit of securities.

Be it enacted by the Legislature of West Virginia:

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

Section 16. *Deposit of Securities.*—Any automobile
2 mutual insurance company organized or chartered under
3 the laws of this state may maintain a deposit in securities
4 with the state treasurer in trust for the protection of
5 policyholders generally of such company. When such de-
6 posit is maintained with the state treasurer, and upon ap-
7 plication by the company, the insurance commissioner
8 shall issue apt and proper certificates specifying the na-
9 ture and description of such securities and stating in such
10 certificates that the deposit is held by the state treasurer,

11 in trust, for the protection of policyholders generally of
12 such company. The securities deposited as required here-
13 in may be substituted by the company with others of like
14 kind and quality, or withdrawn, upon approval of such
15 substitution or withdrawal by the insurance commis-
16 sioner, in writing, and filed with the state treasurer. In-
17 terest or dividends accruing on such deposit shall be re-
18 leased by the state treasurer to the company making such
19 deposit upon demand of the company.

CHAPTER 73

(Senate Bill No. 73—By Mr. Hardesty and Mr. Hall, of Raleigh)

AN ACT to amend and reenact sections seven and eight, article four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, prescribing the form of fire insurance policies and of endorsements and contracts supplementary thereto for use in this state.

[Passed February 27, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 4. Fire and Marine Insurance.

Section

7. Form of fire policies.
8. Additional matter which may be inserted in fire policy.

Be it enacted by the Legislature of West Virginia:

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

- Sec. 7. *Form of Fire Policies.*—(a) The printed form
2 of a policy of fire insurance, as set forth in subsection (f)
3 shall be known and designated as the standard fire insur-
4 ance policy of the state of West Virginia.
5 (b) No policy or contract of fire insurance shall be
6 made, issued or delivered by any insurer or by any agent
7 or representative thereof, on any property in this state,
8 unless it shall conform as to all provisions, stipulations,

9 agreements and conditions, with such form of policy:
10 *Provided, however,* That any company organized under
11 special charter provisions may so indicate upon its policy,
12 and may add a statement of the plan under which it
13 operates in this state.

14 There shall be printed at the head of said policy the
15 name of the insurer or insurers issuing the policy; the
16 location of the home office thereof; a statement whether
17 said insurer or insurers are stock or mutual corporations;
18 and there may be added thereto such device or devices
19 as the insurer or insurers issuing said policy shall desire.

20 The standard fire insurance policy provided for herein
21 need not be used for effecting reinsurance between in-
22 surers.

23 If the policy is issued by a mutual insurer having special
24 regulations with respect to the payment by the policy-
25 holder of assessments, such regulations shall be printed
26 upon the policy, and any such insurer may print upon
27 the policy such regulations as may be appropriate to or
28 required by its form of organization.

29 (c) Binders or other contracts for temporary insur-
30 ance may be made, orally or in writing, for a period
31 which shall not exceed fifteen days, and shall be deemed
32 to include all the terms of such standard fire insurance
33 policy and all such applicable endorsements, approved
34 by the insurance commissioner, as may be designated in
35 such contract of temporary insurance; except that the
36 cancellation clause of such standard fire insurance policy,
37 and the clause thereof specifying the hour of the day at
38 which the insurance shall commence, may be superseded
39 by the express terms of such contract of temporary
40 insurance.

41 (d) Two or more insurers authorized to do in this
42 state the business of fire insurance, may, with the appro-
43 val of the insurance commissioner, issue a combination
44 standard form of fire insurance policy which shall contain
45 the following provisions:

46 (1) A provision substantially to the effect that the
47 insurers executing such policy shall be severally liable
48 for the full amount of any loss or damage, according to
49 the terms of the policy, or for specified percentages or

50 amounts thereof, aggregating the full amount of such
51 insurance under such policy;

52 (2) A provision substantially to the effect that service
53 of process, or of any notice or proof of loss required
54 by such policy; upon any of the insurers executing such
55 policy, shall be deemed to be service upon all such
56 insurers.

57 (e) Appropriate forms of supplemental contract or
58 contracts or extended coverage endorsements whereby
59 the interest in the property described in such policy
60 shall be insured against one or more of the perils which
61 the insurer is empowered to assume, in addition to the
62 perils covered by said standard fire insurance policy,
63 may be approved by the insurance commissioner, and
64 their use in connection with a standard fire insurance
65 policy may be authorized by him. The first page of the
66 policy may in form approved by the insurance com-
67 missioner be rearranged to provide space for the listing
68 of amounts of insurance, rates and premiums for the
69 basic coverages insured under the standard form of policy
70 and for additional coverages or perils insured under
71 endorsements attached, and such other data as may be
72 conveniently included for duplication on daily reports
73 for office records.

74 (f) The form of the standard fire insurance policy of
75 the state of West Virginia (with the right to number the
76 lines, if desired, in the provisions and stipulations on page
77 two of the form and to substitute for the word "company"
78 a more accurate descriptive form for the type of insurer)
79 shall be as follows:

80 No.

81 [Space for insertion of name of company or companies
82 issuing the policy and other matter permitted to be stated
83 at the head of the policy.]

84 [Space for listing amounts of insurance, rates and
85 premiums for the basic coverages insured under the
86 standard form of policy and for additional coverages or
87 perils insured under endorsements attached.]

88 In Consideration of the Provisions and Stipulations
89 herein or added hereto and of _____

90 _____ Dollars Premium, this company, for the

91 term of..... (from the..... day of
92, 19..... to the..... day of.....,
93 19.....) at noon, Standard Time, at location of property
94 involved, to an amount not exceeding.....
95 Dollars,
96 does insure.....
97 and legal representatives, to the extent of the actual cash
98 value of the property at the time of loss, but not exceed-
99 ing the amount which it would cost to repair or replace
100 the property with material of like kind and quality
101 within a reasonable time after such loss, without allow-
102 ance for any increased cost of repair or reconstruction
103 by reason of any ordinance or law regulating construc-
104 tion or repair, and without compensation for loss result-
105 ing from interruption of business or manufacture, nor in
106 any event for more than the interest of the insured,
107 against all DIRECT LOSS BY FIRE, LIGHTNING AND
108 BY REMOVAL FROM PREMISES ENDANGERED BY
109 THE PERILS INSURED AGAINST IN THIS POLICY,
110 EXCEPT AS HEREINAFTER PROVIDED, to the prop-
111 erty described hereinafter while located or contained as
112 described in this policy, or pro rata for five days at each
113 proper place to which any of the property shall necessarily
114 be removed for preservation from the perils insured
115 against in this policy, but not elsewhere.

116 Assignment of this policy shall not be valid except with
117 the written consent of this company.

118 This policy is made and accepted subject to the fore-
119 going provisions and stipulations and those hereinafter
120 stated, which are hereby made a part of this policy, to-
121 gether with such other provisions, stipulations and agree-
122 ments as may be added hereto, as provided in this policy.

123 IN WITNESS WHEREOF, this Company has executed
124 and attested these presents; but this policy shall not be
125 valid unless countersigned by the duly authorized Agent
126 of this Company at.....
127

128 *Secretary.*

President.

129 Countersigned this..... day of....., 19.....
130

131 *Agent.*

Concealment, fraud.

This entire policy shall be void if, whether before or after a loss, the insured has wilfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

Uninsurable and excepted property. This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

Perils not included.

This Company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided

that such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this Company be liable for loss by theft.

Other Insurance. Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring

(a) while the hazard is increased by any means within the control or knowledge of the insured; or
(b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or
(c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Other perils or subjects.

Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

Added provisions. The extent of the application of

insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

Waiver provisions. No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

Cancellation of policy. This policy shall be cancelled at any time at the request of the insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this Company by giving to the insured a five days' written notice of cancellation with or without tender of the excess of paid

premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

Mortgagee interests and obligations. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten days' written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mort-

gagee may be added hereto by agreement in writing.

Pro rata liability. This Company shall not be liable

for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

Requirements in case loss occurs. The insured shall give immediate written notice to this Company of

any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed; and within sixty days after the loss, unless such time is extended in writing by this Company, the insured shall render to this Company a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: the time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether

valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

Appraisal.

In case the insured and this Com-

pany shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

Company's options. It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace

the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

Abandonment. There can be no abandonment to this Company of any property.

When loss payable. The amount of loss for which this Company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

Suit. No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months next after inception of the loss.

Subrogation. This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

ATTACH FORM BELOW THIS LINE

Standard Fire Insurance Policy of the States of

Expires _____***Property*** _____***Assured*** _____***No.*** _____**(COMPANY)**

It is important that the written portions of all policies covering the same property read exactly alike. If they do not, they should be made uniform at once.

Sec. 8. *Additional Matter Which May Be Inserted in*
2 *Fire Policy.*—The insurance commissioner, either in per-
3 son or by any one or more competent and disinterested
4 persons specially appointed by him for that purpose,
5 shall have access to and may at any time examine the
6 books, papers and documents of any fire insurance cor-
7 poration doing business in this state, or of any corpor-
8 ation, association or bureau maintained for the purpose
9 of suggesting, approving or making rates to be used by
10 more than one underwriter for insurance on property
11 located in this state, for the purpose of determining the
12 number and extent of use of any riders, indorsements,
13 clauses, permits, forms or other memoranda attached to

14 and made a part of any fire insurance contract relating
15 to property located in this state; and after such examin-
16 ation and inspection such insurance commissioner may
17 determine that the use of any such rider, indorsement,
18 clause, permit, form or other memoranda is so exten-
19 sive that there should be in his judgment a standard
20 form thereof, and he shall thereupon prepare and file in
21 his office such standard form of rider, indorsement, clause,
22 permit, form or other memoranda, and thereafter no fire
23 insurance corporation shall attach to any such standard
24 policy of insurance, any rider, indorsement, clause, per-
25 mit, form or other memoranda covering substantially
26 the same agreement provided for by such standard rider,
27 indorsement, clauses, permit, form or other memoranda
28 except it be in the precise language of the form so
29 filed by the insurance commissioner. Forms of riders,
30 indorsements, clauses, permits, forms or other memo-
31 randa to be attached to and made a part of fire insurance
32 contracts relating to property located in this state may
33 be presented for filing in the office of the insurance com-
34 missioner by any corporation, association or bureau main-
35 tained for the purpose of suggesting, approving or mak-
36 ing rates to be used by more than one underwriter for
37 insurance on property located in this state, and when
38 approved and filed by such insurance commissioner, shall
39 thereupon become standard forms of riders, indorsements,
40 clauses, permits, forms or other memoranda and their
41 use shall be required as hereinbefore provided. Whenever,
42 in the judgment of the insurance commissioner, there
43 shall be no further necessity for requiring the use of any
44 standard form of rider, indorsement, clause, permit, form
45 or other memoranda in the precise language theretofore
46 required, he may give notice in writing of such determin-
47 ation, to each fire insurance corporation doing business
48 in this state, and to each such corporation, association or
49 bureau maintained for the purpose of suggesting, approv-
50 ing or making rates, as aforesaid, and thereafter the use
51 of such standard form shall not be required as herein
52 provided: *Provided, however,* That nothing in this section
53 or the preceding section shall relate or apply to farmers'

54 mutual insurance companies organized under article five
55 of this chapter. The insurance commissioner may, upon
56 complaint, after hearing, reduce any fire insurance rate
57 that is excessive.

CHAPTER 74

(Senate Bill No. 123—Originating in the Senate Committee on Finance)

AN ACT to amend article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one as amended, by repealing sections thirty-seven, thirty-eight and thirty-nine, and enacting in lieu thereof a new section, designated section thirty-seven, relating to insurance companies and requiring an annual return of premiums for the purpose of taxation and requiring the payment of an annual premium tax by every licensed insurance company.

[Passed February 20, 1945; in effect from passage. Approved by the Governor.]

Article 2. General Provisions.

Section

- 37. Annual return of and tax on premiums of insurance companies; amount of tax; payment into state fund.
- 38. Repealed.
- 39. Repealed.

Be it enacted by the Legislature of West Virginia:

That sections thirty-seven, thirty-eight and thirty-nine, article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, be repealed, and that a new section, designated section thirty-seven, be enacted to read as follows:

- Section 37. *Annual Return of and Tax on Premiums of Insurance Companies; Amount of Tax; Payment into State Fund.*—Every insurance company licensed to trans-
- act business in this state shall make a return annually,
- on or before the first day of March, to the insurance com-

6 missioner, under the oath of its president or secretary,
7 of the gross amount of premiums collected and received
8 by it during the previous calendar year on business done
9 in this state; and upon receiving from the commissioner
10 a certificate of the acceptance of such return and of the
11 amount of tax due thereon, such company shall pay such
12 tax to the insurance commissioner annually on or before
13 the first day of March. The annual tax which a licensed
14 insurance company is required to pay under the provisions
15 of this section shall be a sum equal to two per cent
16 of the gross premiums received by it on the business
17 written or renewed in this state, including any so-called
18 dividends on participating insurance policies applied in
19 reduction of premiums less premiums returnable for can-
20 cellation. All such taxes paid to the commissioner shall
21 be paid by him into the state treasury for the benefit of
22 the state fund.

CHAPTER 75

(House Bill No. 121—By Mr. Meredith)

AN ACT to amend article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section designated section forty-six, prohibiting an insurance company in this state from writing a public liability policy which contains a guest exclusion provision.

[Passed March 5, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 2. General Provisions.

Section

46. Insurance policies to cover injury to guest or invitee of motor vehicle owner or operator.

Be it enacted by the Legislature of West Virginia:

That article two, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended,

be amended by adding thereto a new section designated section forty-six to read as follows:

- Section 46. *Insurance Policies to Cover Injury to Guest or Invitee of Motor Vehicle Owner or Operator.*—No insurance company, doing business in this state as provided in this chapter, shall make, write or place any policy of bodily injury liability or property damage liability insurance which, by its terms, excludes coverage to the owner or operator of a motor vehicle on account of bodily injury to any guest or invitee of any such motor vehicle owner or operator.

CHAPTER 76

(Senate Bill No. 81—By Mr. Hall, of Raleigh)

AN ACT to amend chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, by adding thereto a new article to be designated article fourteen, authorizing and regulating the exchange of certain classes of reciprocal or inter-insurance contracts among individuals, partnerships and corporations; empowering corporations generally to make such contracts; regulating venue and process in actions and suits on such contracts; fixing certain fees and taxes on business done under this act; and making other regulations providing for the licensing and revocation of licenses of attorneys-in-fact acting under reciprocal insurance contracts.

[Passed February 27, 1945; in effect from passage. Approved by the Governor.]

Article 14. Reciprocal or Inter-Insurance Contracts.

Section

1. Exchange of insurance contracts authorized; laws governing.
2. Execution of contracts by attorney-in-fact; location of office.
3. Declaration to be filed with insurance commissioner.
4. Filing instrument relating to venue and service of process.
5. Statements as to amount of risks.
6. Funds to be maintained.

7. Annual and other reports by attorney-in-fact; extension of license period; examination by commissioner.
8. Corporations empowered to exchange insurance contracts.
9. Copy of form of policy contract and power of attorney with statement of organization to be filed; compliance with provisions of article.
10. Issuance of certificate of authority; renewal; revocation of license or certificate.
11. License fees and taxes.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Exchange of Insurance Contracts Authorized; Laws Governing.*—Individuals, partnerships and corporations of this state, hereby designated subscribers, are hereby authorized to exchange reciprocal or inter-insurance contracts with each other or with individuals, partnerships and corporations of other states and countries providing indemnity among themselves from any loss which may be insured against under other provisions of the law excepting life insurance and health and accident insurance. Such contracts and the exchange thereof and subscribers, their attorneys-in-fact and representatives shall be regulated by this act, by sections forty-two and forty-five, article two, chapter thirty-three; sections nine, eleven and twelve, article four, chapter thirty-three; and section one, article one, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, and by no other part of said chapter thirty-three and no other insurance law unless such law is referred to in this act, and no law hereafter enacted shall apply to them, unless they be expressly designated therein. Whenever in said sections forty-two and forty-five, article two, and section nine, article four, chapter thirty-three, the word company is used, it shall be deemed to mean attorney-in-fact when such sections are applied to reciprocal or inter-insurance exchanges or contracts.

Sec. 2. *Execution of Contracts by Attorney-in-Fact; Location of Office.*—Such contracts may be executed by

3 an attorney-in-fact duly authorized and acting for such
4 subscribers, and such attorney-in-fact may be a corpora-
5 tion. The office or offices of such attorney-in-fact may be
6 maintained at such place or places as may be designated
7 by the subscribers in the power of attorney.

Sec. 3. *Declaration to Be Filed with Insurance Com-*
2 *missioner.*—Such attorney-in-fact shall file with the
3 insurance commissioner of this state a declaration verified
4 by the oath of such attorney-in-fact, or when such
5 attorney-in-fact is a corporation, by the oath of a chief
6 officer thereof, setting forth:

7 (a) The name of the attorney-in-fact and the name or
8 designation under which such contracts are to be issued,
9 which name or designation shall not be so similar to any
10 other name or designation previously adopted by any
11 attorney-in-fact or any insurance organization in this
12 state so as to confuse or deceive;

13 (b) The kind or kinds of insurance to be effected or
14 exchanged;

15 (c) A copy of the form of policy contract or agreement
16 under or by which such insurance is to be effected or
17 exchanged. Such form of policy contract or agreement
18 must conform to the statutory form, if any has been or
19 is provided by West Virginia statute, for policies for like
20 risks issued by other insurers, but may contain additional
21 provisions, including the subscribers agreement or inter-
22 insurance contract; and any other proper matters which
23 may be approved by the insurance commissioner;

24 (d) A copy of the form of power of attorney or other
25 authorization of such attorney-in-fact under or by which
26 such insurance to be effected or exchanged;

27 (e) The location of the office or offices from which such
28 contracts or agreements are to be issued;

29 (f) That except as to the kinds of insurance herein-
30 after specifically mentioned in this subdivision, applica-
31 tions shall have been made for indemnity upon at least
32 twenty separate risks aggregating not less than five hun-
33 dred thousand dollars represented by executed contracts
34 or bona fide applications to become concurrently effective.
35 In the case of automobile insurance, applications shall

36 have been made for indemnity upon at least two hundred
37 motor vehicles represented by executed contracts or bona
38 fide applications to become concurrently effective on any
39 or all classes of automobile insurance effected by said
40 subscribers through said attorney-in-fact. In the case of
41 airplane insurance, applications shall have been made for
42 indemnity upon at least twenty-five airplanes repre-
43 sented by executed contracts or bona fide applications
44 to become concurrently effective;

45 (g) That there is in the possession of such attorney-
46 in-fact and available for the payment of losses, assets
47 conforming to the requirements of section six hereof;

48 (h) A financial statement in form prescribed by the
49 insurance commissioner for the annual statement;

50 (i) An instrument authorizing service of process as
51 provided for in this act.

Sec. 4. *Filing Instrument Relating to Venue and Serv-*
2 *ice of Process.*—Concurrently with the filing of the
3 declaration provided for by the terms of section three
4 hereof, the attorney-in-fact shall file with the insurance
5 commissioner an instrument in writing, executed by him
6 for said subscribers, conditioned that upon the issuance of
7 certificate of authority, provided for in section ten hereof,
8 any action, suit or other proceeding arising out of any
9 insurance contract or policy issued under such license,
10 may be brought in the county of this state wherein the
11 property insured was situated either at the date of the
12 policy or at the time when the right of action accrued, or
13 the person insured had a legal residence at the date of his
14 death or at the time the right of action accrued, and that
15 service of any process or notice may be had upon the
16 auditor of this state in all actions, suits or other proceed-
17 ings in this state arising out of such policies, contracts,
18 agreements or other business of insurance transacted
19 under such license, and that said auditor may accept
20 service of any such process or notice.

21 Such service or acceptance of service shall be valid and
22 binding upon such attorney-in-fact and upon all sub-
23 scribers exchanging at any time reciprocal or inter-
24 insurance contracts through such attorney-in-fact. Two

25 copies of such process or notice, in addition to the original,
26 shall be furnished the auditor, and he shall file one copy,
27 forward one copy to said attorney-in-fact and return the
28 original with his acceptance of service or for return of
29 service. But no process or notice shall be served on the
30 auditor or accepted by him less than ten days before
31 the return day thereof. Where the principal office of the
32 attorney-in-fact is located in this state, service of process
33 may be had upon all subscribers by serving same upon
34 the attorney-in-fact at said office. Service of process shall
35 not be had upon said subscribers or any of them in any
36 suit or other proceeding in this state except in the man-
37 ner provided in this section, and any action, suit, or other
38 proceeding may be begun and prosecuted against or de-
39 fended by them under the name or designation adopted
40 by them.

Sec. 5. *Statements as to Amount of Risks.*—There shall
2 be filed with the insurance commissioner of this state by
3 such attorney-in-fact a statement under the oath of such
4 attorney-in-fact, giving, in the case of fire insurance, the
5 maximum amount of indemnity upon any single risk,
6 and such attorney-in-fact shall whenever and as often
7 as shall be required, file with the commissioner of this
8 state a verified statement to the effect that he has ex-
9 amined the commercial rating of such subscribers as
10 shown by the reference book of a commercial agency
11 having at least one hundred thousand subscribers, and
12 that from such examination or from other information
13 in his possession it appears that no subscriber has as-
14 sumed on any fire insurance risk an amount greater
15 than ten per cent of the net worth of such subscriber.

Sec. 6. *Funds to Be Maintained.*—There shall be main-
2 tained at all times as assets for the payment of losses,
3 cash or securities authorized by the laws of the state in
4 which the principal office of the attorney-in-fact is
5 located for the investment of similar funds of insurance
6 companies doing the same kind of business, an amount
7 equal to fifty per cent of the net annual advance prem-
8 iums or deposits collected and credited to the accounts

9 of subscribers on policies having one year or less to
10 run, and pro rata on those for longer periods; or in lieu
11 thereof, one hundred per cent of the net unearned
12 premiums or deposits collected and credited to the ac-
13 counts of subscribers. In addition to the assets previously
14 provided for in this section, there shall also be main-
15 tained on deposit at the exchange, a surplus fund in cash
16 or such securities of not less than fifty thousand dollars.
17 There shall also be maintained as a claim or loss reserve,
18 in cash or such securities, sufficient to discharge all liabili-
19 ties on all outstanding losses arising under policies issued,
20 the same to be calculated in accordance with the laws
21 of the state relating to similar reserves for companies
22 insuring similar risks. If at any time the amounts on
23 hand are less than the foregoing requirements, the sub-
24 scribers or their attorney-in-fact for them shall make
25 up the deficiency. If it appears that the amount of funds
26 required in this section has not been accumulated, then
27 the subscribers or the attorney-in-fact for them shall
28 immediately advance such sums as are needed to comply
29 with the provisions of this section, and the funds so
30 advanced shall not be treated as a liability at the exchange
31 and shall not be withdrawn except with the approval of
32 the insurance commissioner of the state wherein the
33 exchange is domiciled, and such advances shall be repaid
34 only out of the surplus funds of the exchange.

Sec. 7. *Annual and Other Reports by Attorney-in-Fact; Extension of License Period; Examination by Commissioner.*—Said attorney-in-fact shall make an annual re-
2 port to the insurance commissioner for each calendar
3 year on or before the expiration of the license period,
4 which license period shall correspond to that of other
5 insurance organizations licensed in this state for the
6 transaction of the same class of business. Such license
7 may be extended by the insurance commissioner for not
8 exceeding sixty days upon his extending the time for
9 filing the annual statement. Such annual statement shall
10 show that the financial condition of affairs at the office
11 where such contracts are issued is in accordance with
12 the standard of solvency provided for herein, and shall
13
14

15 furnish such additional information and reports as may
16 be required to show the total premiums or deposits col-
17 lected, the total losses paid, the total amounts returned
18 to subscribers and the amounts retained for expenses:
19 *Provided, however,* That such attorney-in-fact shall not
20 be required to furnish the names and addresses of any
21 subscribers except of those holding unpaid final judg-
22 ments. The business affairs and assets of said reciprocal
23 or inter-insurance exchanges, as shown at the office of the
24 attorney-in-fact thereof, shall be subject to examination
25 by the insurance commissioner at the expense of such
26 exchange, at least once in every three years.

Sec. 8. *Corporations Empowered to Exchange Insur-*
2 *ance Contracts.*—Any corporation now or hereafter
3 organized under the laws of this state, shall, in addition
4 to the rights, powers and franchises specified in its articles
5 of incorporation, have full power and authority to ex-
6 change insurance contracts of the kind and character
7 herein mentioned. The right to exchange such contracts
8 is hereby declared to be incident to the purposes for
9 which such corporations are organized and as much
10 granted as the rights and powers expressly conferred.

Sec. 9. *Copy of Form of Policy Contract and Power of*
2 *Attorney with Statement of Organization to Be Filed;*
3 *Compliance with Provisions of Article.*—No such attor-
4 ney-in-fact or other person shall directly or indirectly
5 solicit or negotiate any application for contracts of
6 indemnity of the kind and character specified in this act
7 or do any act in the organization of any such exchange
8 until he shall first have filed with the insurance commis-
9 sioner a copy of the form of policy contract and power
10 of attorney with a statement of the plan or organization,
11 and except as aforesaid no such attorney-in-fact or other
12 person shall solicit or accept any such applications for
13 contracts of indemnity; and no such attorney-in-fact shall
14 put into effect or exchange any such contracts of indem-
15 nity of the kind and character mentioned in this act
16 without first complying with all of the provisions thereof.

Sec. 10. *Issuance of Certificate of Authority; Renewal; Revocation of License or Certificate.*—Except as herein-
after provided, upon compliance with the foregoing
requirements of this act, the insurance commissioner
shall issue a certificate of authority to the attorney-in-
fact in the name and title of the office mentioned in
subdivision (a) of section three. The insurance commis-
sioner may revoke or suspend any certificate of authority
issued hereunder in case of breach of any of the condi-
tions imposed by this act after reasonable notice has
been given said attorney-in-fact in writing so that he
may appear and show cause why such action should
not be taken. Any attorney-in-fact who may have pro-
cured a certificate of authority hereunder shall have
the same renewed annually thereafter: *Provided, how-
ever,* That any certificate of authority issued shall
continue in force and effect until a new certificate of
authority is issued or specifically refused.

The insurance commissioner may refuse to issue a
certificate of authority to any attorney-in-fact if in his
judgment such refusal will best promote the interests of
the people of this state. When the insurance commis-
sioner upon investigation is satisfied that any attorney-
in-fact acting under his supervision and holding a license,
or certificate of authority from him, is insolvent, or has
failed to comply with or is violating the insurance laws
of this state applicable to such attorney-in-fact, or is
conducting business fraudulently, or is not carrying out
its contracts in good faith, he shall begin proceedings
for the revocation of the license or certificate of authority
of such attorney-in-fact.

When the insurance commissioner, on application, shall
refuse to issue any license, or certificate of authority, or
when he shall proceed to revoke the same, whether for
any of the reasons aforesaid or in pursuance of any other
provision of this act, the attorney-in-fact shall be fur-
nished a statement of the reasons for such failure to issue
or revocation and shall be given thirty days notice of
the time and place of a hearing at which the insurance
commissioner will proceed to determine whether such
license, or certificate, shall be finally refused, or shall

42 be revoked, as the case may be. Such statement and
43 notice shall be given by mailing the same addressed to
44 the attorney-in-fact at the latest address furnished said
45 insurance commissioner by the attorney-in-fact, by regis-
46 tered mail, the mailing to be at such a time that the
47 statement and notice should reach its destination by due
48 course of mail not less than thirty days before such
49 hearing. The attorney-in-fact may appear with witnesses,
50 and may be heard through its officers or agents, or by
51 counsel, or both. The insurance commissioner may take
52 such oral or written proof, for or against the issuance
53 or revocation, as he may deem advisable, or such at-
54 torney-in-fact may request. If upon the hearing the
55 commissioner finds that the reasons stated for refusing
56 or revoking the license are true, he may finally refuse
57 to issue, or may revoke, the license, or certificate of au-
58 thority. A stenographic report of each proceeding under
59 this section shall be made at the expense of the com-
60 missioner, and a transcript thereof retained in his files,
61 and he shall make a written report of his findings, which
62 shall constitute a part of the record.

63 Any attorney-in-fact, the application of which for a
64 license has been refused, or the license of which has been
65 revoked, in the manner aforesaid, may, within thirty days
66 after the decision of the insurance commissioner upon
67 the hearing aforesaid, present its petition in writing to
68 the circuit court of the county in which the seat of gov-
69 ernment of this state is situated, or to the judge of such
70 court in vacation, praying for a review and reversal of
71 such decision. Before presenting its petition to the court
72 or judge, the petitioner shall mail a copy thereof to the
73 insurance commissioner. Upon receipt of such copy,
74 the insurance commissioner shall forthwith transmit
75 to the clerk of such court the record of the proceedings
76 before him. The court or judge shall fix a time for the
77 review of said proceedings at his earliest convenience.
78 Notice in writing of the time and place of such hearing
79 shall be given to the insurance commissioner at least
80 ten days before the date set therefor. The court or judge
81 shall, without a jury, hear and determine the case upon
82 the record of the proceedings before the insurance com-

83 missioner. The court or judge may enter an order re-
84 vising or reversing the decision of the insurance com-
85 missioner, if it appears that the decision was clearly
86 wrong, or may affirm such decision. The judgment of
87 the circuit court or judge may be reviewed upon appeal
88 in the supreme court of appeals: *Provided*, That nothing
89 contained in this section shall be taken or construed as
90 preventing any such attorney-in-fact from continuing in
91 good faith all contracts made in this state during the
92 time such attorney-in-fact was legally authorized to
93 transact business therein.

94 When any license, or certificate of authority, has been
95 revoked by the insurance commissioner under the pro-
96 visions of the preceding paragraph, the same may, except
97 where it is otherwise specially provided by law, be re-
98 issued by him when he is satisfied that the conditions
99 causing the revocation have ceased to exist.

Sec. 11. *License Fees and Taxes.*—Such attorney-in-
2 fact shall pay into the state treasury the sum of ten
3 dollars as an annual license fee, and a tax of two per cent
4 of the gross premiums or deposits collected from West
5 Virginia subscribers during the preceding calendar year,
6 less cancellations and all amounts returned to subscribers
7 or credited to their accounts as savings; and in addition
8 to the foregoing taxes and fees, such attorney-in-fact
9 shall pay an annual premium tax of one-half of one per
10 cent of said premiums for fire policies for the support of
11 the state fire marshal's department; and such license fees
12 and taxes shall be in lieu of all license fees and taxes of
13 whatever character in this state.

CHAPTER 77

(Senate Bill No. 241—By Mr. Hall, of Raleigh)

AN ACT to amend sections three, five, eight and eighteen,
article three, chapter thirty-three of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended,

and by adding a new section designated section eighteen-a to said article, all relating to life insurance policies.

[Passed March 9, 1945; in effect from passage. Approved by the Governor.]

Article 3. Life Insurance.

Section

3. Valuation of life policies.
5. Payment of dividends.
8. Reports by insurance companies of other states; valuation of policies.
18. Rights of insured after default in payment of premium in policies issued prior to operative date of standard nonforfeiture law.

Be it enacted by the Legislature of West Virginia:

That sections three, five, eight and eighteen, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and re-enacted, and that said article be further amended by the addition thereto of a new section designated section eighteen-a to read as follows:

Section 3. *Valuation of Life Policies.*—(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves.

All valuations made by him or by his authority shall be made upon the net premium basis.

In every case the standard of valuation employed shall be stated in his annual report.

In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state

23 or jurisdiction accepts as sufficient and valid for all
24 legal purposes the certificate of valuation of the commis-
25 sioner when such certificate states the valuation to have
26 been made in a specified manner according to which the
27 aggregate reserves would be at least as large as if they had
28 been computed in the manner prescribed by the law of
29 that state or jurisdiction.

30 Any such company which at any time shall have
31 adopted any standard of valuation producing greater ag-
32 gregate reserves than those calculated according to the
33 minimum standard herein provided may, with the ap-
34 proval of the commissioner, adopt any lower standard of
35 valuation, but not lower than the minimum herein pro-
36 vided.

37 (2) This subsection shall apply to only those policies
38 and contracts issued prior to the operative date of section
39 eighteen-a (the Standard Nonforfeiture Law). All valu-
40 ations shall be according to the standard of valuations
41 adopted by the company for the obligations to be valued.
42 Any company may adopt different standards for obliga-
43 tions of different dates or classes, but if the total value
44 determined by any such standard for the obligations for
45 which it has been adopted shall be less than that deter-
46 mined by the legal minimum standard hereinafter pre-
47 scribed, or if the company adopt no standard, said legal
48 minimum standard shall be used.

49 The legal minimum standard for contracts issued before
50 the first day of January, in the year one thousand nine
51 hundred one, shall be actuaries' or combined experience
52 table of mortality with interest at four per cent per annum,
53 and for contracts issued on or after said date shall be the
54 "American Experience Table" of mortality with interest
55 at three and one-half per cent per annum. Policies issued
56 by companies doing business in this state may provide
57 for not more than one year preliminary term insurance:
58 *Provided, however,* That, if the premium charged for
59 term insurance under a limited payment life preliminary
60 term policy providing for the payment of all premiums
61 thereof in less than twenty years from the date of the
62 policy, or under an endowment preliminary term policy,

63 exceeds that charged for like insurance under twenty
64 payment life preliminary term policies of the same com-
65 pany, the reserve thereon at the end of any year, includ-
66 ing the first, shall not be less than the reserve on a twenty
67 payment life preliminary term policy issued in the same
68 year and at the same age, together with an amount which
69 shall be equivalent to the accumulation of a net level
70 premium sufficient to provide for a pure endowment at
71 the end of the premium payment period, equal to the
72 difference between the value at the end of such period of
73 such a twenty payment life preliminary term policy and
74 a full reserve at such time of such a limited payment life
75 or endowment policy.

76 The commissioner may vary the standards of interest
77 and mortality in the case of corporations from foreign
78 countries and in particular cases of invalid lives and other
79 extra hazards.

80 Reserves for all such policies and contracts may be cal-
81 culated, at the option of the company, according to any
82 standards which produce greater aggregate reserves for
83 all such policies and contracts than the minimum reserves
84 required by this subsection.

85 (3) This subsection shall apply to only those policies
86 and contracts issued on or after the operative date of sec-
87 tion eighteen-a (the Standard nonforfeiture Law).

88 (a) The minimum standard for the valuation of all such
89 policies and contracts shall be the commissioners reserve
90 valuation method defined in paragraph (b), three and
91 one-half per cent interest, and the following tables:

92 (i) For all ordinary policies of life insurance issued
93 on the standard basis, excluding any disability and acci-
94 dental death benefits in such policies,—the Commission-
95 ers 1941 Standard Ordinary Mortality Table.

96 (ii) For all industrial life insurance policies issued on
97 the standard basis, excluding any disability and accidental
98 death benefits in such policies,—the 1941 Standard Indus-
99 trial Mortality Table.

100 (iii) For annuity and pure endowment contracts, ex-
101 cluding any disability and accidental death benefits in
102 such policies,—the 1937 Standard Annuity Mortality
103 Table.

104 (iv) For total and permanent disability benefits in or
105 supplementary to ordinary policies or contracts—Class
106 (3) Disability Table (1926) which, for active lives, shall
107 be combined with a mortality table permitted for calcu-
108 lating the reserves for life insurance policies.

109 (v) For accidental death benefits in or supplementary
110 to policies—the Inter-Company Double Indemnity Mor-
111 tality Table combined with a mortality table permitted
112 for calculating the reserves for life insurance policies.

113 (vi) For group life insurance, life insurance issued on
114 the substandard basis and other special benefits—such
115 tables as may be approved by the commissioner.

116 (b) Reserves according to the commissioners reserve
117 valuation method, for the life insurance and endowment
118 benefits of policies providing for a uniform amount of in-
119 surance and requiring the payment of uniform premiums
120 shall be the excess, if any, of the present value, at the
121 date of valuation, of such future guaranteed benefits pro-
122 vided for by such policies, over the then present value of
123 any future modified net premiums therefor. The modi-
124 fied net premiums for any such policy shall be such uni-
125 form percentage of the respective contract premiums for
126 such benefits that the present value, at the date of issue
127 of the policy, of all such modified net premiums shall be
128 equal to the sum of the then present value of such benefits
129 provided for by the policy and the excess of (A) over (B),
130 as follows:

131 (A) A net level annual premium equal to the present
132 value, at the date of issue, of such benefits provided for
133 after the first policy year, divided by the present value, at
134 the date of issue, of an annuity of one per annum payable
135 on the first and each subsequent anniversary of such policy
136 on which a premium falls due: *Provided, however,* That
137 such net level annual premium shall not exceed the net
138 level annual premium on the nineteen year premium
139 whole life plan for insurance of the same amount at an age
140 one year higher than the age at issue of such policy.

141 (B) A net one year term premium for such benefits
142 provided for in the first policy year.

143 Reserves according to the commissioners reserve valu-

144 ation method for (i) life insurance policies providing for
145 a varying amount of insurance or requiring the payment
146 of varying premiums, (ii) annuity and pure endowment
147 contracts, (iii) disability and accidental death benefits
148 in all policies and contracts, and (iv) all other benefits,
149 except life insurance and endowment benefits in life
150 insurance policies, shall be calculated by a method con-
151 sistent with the principles of this paragraph (b).

152 (c) In no event shall a company's aggregate reserves
153 for all life insurance policies, excluding disability and
154 accidental death benefits, be less than the aggregate
155 reserves calculated in accordance with the method set
156 forth in paragraph (b) and the mortality table or tables
157 and rate or rates of interest used in calculating non-
158 forfeiture benefits for such policies.

159 (d) Reserves for any category of policies, contracts or
160 benefits as established by the commissioner may be cal-
161 culated, at the option of the company, according to any
162 standards which produce greater aggregate reserves for
163 such category than those calculated according to the
164 minimum standard herein provided, but the rate or rates
165 of interest used shall not be higher than the correspond-
166 ing rate or rates of interest used in calculating any non-
167 forfeiture benefits provided for therein: *Provided, how-*
168 *ever,* That reserves for participating life insurance policies
169 may, with the consent of the commissioner, be calculated
170 according to a rate of interest lower than the rate of
171 interest used in calculating the non-forfeiture benefits in
172 such policies, with the further proviso that if such lower
173 rate differs from the rate used in the calculation of the
174 non-forfeiture benefits by more than one-half per cent
175 the company issuing such policies shall file with the
176 commissioner a plan providing for such equitable in-
177 creases, if any, in the cash surrender values and non-
178 forfeiture benefits in such policies as the commissioner
179 shall approve.

180 (e) If the gross premium charged by any life insurance
181 company on any policy or contract is less than the net
182 premium for the policy or contract according to the mor-
183 tality table, rate of interest and method used in calculat-

184 ing the reserve thereon, there shall be maintained on
185 such policy or contract a deficiency reserve in addition
186 to all other reserves required by law. For each such
187 policy or contract the deficiency reserve shall be the
188 present value, according to such standard, of an annuity
189 of the difference between such net premium and the pre-
190 mium charged for such policy or contract, running for
191 the remainder of the premium-paying period.

Sec. 5. *Payment of Dividends.*—Except where it is
2 otherwise specially provided in this chapter, payments in
3 the form of dividends or otherwise shall not be made to
4 its stockholders by any life insurance company organized
5 under the laws of this state, unless its assets exceed by
6 the amount of such payment the amount of its paid-up
7 capital stock and all of its liabilities, including its re-
8 insurance reserve computed in accordance with the mini-
9 mum basis prescribed in section three of this article; and
10 no payment shall be made to the policyholders of any
11 such company except for matured claims and in the pur-
12 chase of surrendered policies, unless the assets of such
13 company exceed by the amount of such payments its lia-
14 bilities, including its reinsurance reserve, computed as
15 above provided in this section; but for all other purposes
16 the reinsurance reserve of every such company shall be
17 computed as provided in section three of this article.

Sec. 8. *Reports by Insurance Companies of Other
2 States; Valuation of Policies.*—Every life insurance com-
3 pany organized under the laws of any other state or coun-
4 try, before being admitted to do business in this state,
5 in addition to conforming to requirements of article two
6 of this chapter, shall annually, on or before the first day
7 of March, furnish to the insurance commissioner, on
8 blanks to be furnished by him for that purpose, a full re-
9 port of its condition on the preceding thirty-first day of
10 December, duly sworn to by its president and secretary
11 or other proper officers, together with a certificate, by the
12 proper officers of the government by whose authority it
13 is organized, and that it has complied with the laws of
14 such state or country and is authorized to transact busi-

ness therein. No license, or certificate of authority, to do business in this state shall be issued to such company, unless such certificate is furnished and the insurance commissioner is satisfied with such certificate, nor unless such other state or country shall license life insurance companies incorporated by this state to transact business within its jurisdiction upon a similar certificate from the insurance commissioner, until such company makes the report required by companies incorporated by this state.

Sec. 18. *Rights of Insured After Default in Payment of Premium in Policies Issued Prior to Operative Date of Standard Nonforfeiture Law.*—In event of default in payment of any premium due on any policy issued prior to the operative date of section eighteen-a, (the Standard Nonforfeiture Law), provided not less than three full years' premiums shall have been paid, there shall be secured to the insured, without action on his part, insurance either paid up or extended, or extended as specified in the policy, the net value of which shall be at least equal to the entire net reserve held by the company on such policy, less two and one-half per cent of the amount insured by the policy and dividend additions, if any, and less any outstanding indebtedness to the company on the policy at the time of default. There shall be secured to the insured the right to surrender such policy to the company at its home office within one month after the date of default for the cash value otherwise available for the purchase of the paid up or extended insurance as aforesaid.

Sec. 18-a. *Standard Nonforfeiture Law.*—(1) In the case of policies issued on or after the operative date of this section, as defined in subsection (7), no policy of life insurance, except as stated in subsection (6), shall be issued or delivered in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

(a) That, in the event of default in any premium payment, the company will grant, upon proper request not

12 later than sixty days after the due date of the premium
13 in default, a paid-up non-forfeiture benefit on a plan
14 stipulated in the policy, effective as of such due date,
15 of such value as may be hereinafter specified;

16 (b) That, upon surrender of the policy within sixty
17 days after the due date of any premium payment in
18 default after premiums have been paid for at least three
19 full years, the company will pay, in lieu of any paid-up
20 non-forfeiture benefit, a cash surrender value of such
21 amount as may be hereinafter specified;

22 (c) That a specified paid-up non-forfeiture benefit shall
23 become effective as specified in the policy unless the per-
24 son entitled to make such election elects another avail-
25 able option not later than sixty days after the due date
26 of the premium in default;

27 (d) That, if the policy shall have become paid up by
28 completion of all premium payments or if it is continued
29 under any paid-up non-forfeiture benefit which became
30 effective on or after the third policy anniversary the
31 company will pay, upon surrender of the policy within
32 thirty days after any policy anniversary, a cash surren-
33 der value of such amount as may be hereinafter specified;

34 (e) A statement of the mortality table and interest rate
35 used in calculating the cash surrender values and the
36 paid-up non-forfeiture benefits available under the policy,
37 together with a table showing the cash surrender value,
38 if any, and paid-up non-forfeiture benefits, if any, avail-
39 able under the policy on each policy anniversary either
40 during the first twenty policy years or during the term of
41 the policy, whichever is shorter, such values and benefits
42 to be calculated upon the assumption that there are no
43 dividends or paid-up additions credited to the policy and
44 that there is no indebtedness to the company on the policy;

45 (f) A statement of the method to be used in calculating
46 the cash surrender value and the paid-up non-forfeiture
47 benefit available under the policy on any policy anniver-
48 sary with an explanation of the manner in which the
49 cash surrender values and the paid-up non-forfeiture
50 benefits are altered by the existence of any paid-up addi-
51 tions credited to the policy or any indebtedness to the
52 company on the policy.

53 Any of the foregoing provisions or portions thereof
54 not applicable by reason of the plan of insurance may,
55 to the extent inapplicable, be omitted from the policy.

56 (2) Any cash surrender value available under the
57 policy in the event of default in a premium payment
58 due on any policy anniversary, whether or not required
59 by subsection (1), shall be an amount not less than
60 the excess, if any of the present value, on such anni-
61 versary, of the future guaranteed benefits which would
62 have been provided for by the policy, including any
63 existing paid-up additions, if there had been no default,
64 over the sum of (i) the then present value of the adjusted
65 premiums as defined in subsection (4), corresponding to
66 premiums which would have fallen due on and after such
67 anniversary, and (ii) the amount of any indebtedness to
68 the company on the policy. Any cash surrender value
69 available within thirty days after any policy anniversary
70 under any policy paid up by completion of all premium
71 payments or any policy continued under any paid-up non-
72 forfeiture benefit, whether or not required by subsection
73 (1), shall be an amount not less than the present value,
74 on such anniversary, of the future guaranteed benefits
75 provided for by the policy, including any existing paid-up
76 additions, decreased by any indebtedness to the company
77 on the policy.

78 (3) Any paid-up non-forfeiture benefit available under
79 the policy in the event of default in a premium payment
80 due on any policy anniversary shall be such that its
81 present value as of such anniversary shall be at least
82 equal to the cash surrender value then provided for
83 by the policy or, if none is provided for, that cash
84 surrender value which would have been required by
85 this section in the absence of the condition that
86 premiums shall have been paid for at least a specified
87 period.

88 (4) The adjusted premiums for any policy shall be
89 calculated on an annual basis and shall be such uniform
90 percentage of the respective premiums specified in the
91 policy for each policy year that the present value, at
92 the date of issue of the policy, of all such adjusted

93 premiums shall be equal to the sum of (i) the then
94 present value of the future guaranteed benefits provided
95 for by the policy; (ii) two per cent of the amount of
96 insurance, if the insurance be uniform in amount, or
97 of the equivalent uniform amount, as hereinafter de-
98 fined, if the amount of insurance varies with duration
99 of the policy; (iii) forty per cent of the adjusted
100 premium for the first policy year; (iv) twenty-five per
101 cent of either the adjusted premium for the first policy
102 year or the adjusted premium for a whole life policy
103 of the same uniform or equivalent uniform amount
104 with uniform premiums for the whole of life issued at
105 the same age for the same amount of insurance, which-
106 ever is less: *Provided, however,* That in applying the
107 percentages specified in (iii) and (iv) above, no adjusted
108 premium shall be deemed to exceed four per cent of the
109 amount of insurance or level amount equivalent thereto.
110 The date of issue of a policy for the purpose of this sub-
111 section shall be the date as of which the rated age of the
112 insured is determined.

113 In the case of a policy providing an amount of insur-
114 ance varying with duration of the policy, the equiva-
115 lent level amount thereof for the purpose of this
116 subsection shall be deemed to be the level amount of
117 insurance provided by an otherwise similar policy,
118 containing the same endowment benefit or benefits, if
119 any, issued at the same age and for the same term,
120 the amount of which does not vary with duration and
121 the benefits under which have the same present value
122 at the inception of the insurance as the benefits under
123 the policy.

124 All adjusted premiums and present values referred
125 to in this section shall be calculated on the basis of
126 the Commissioners 1941 Standard Ordinary Mortality
127 Table for ordinary insurance and the 1941 Standard
128 Industrial Mortality Table for industrial insurance and
129 the rate of interest, not exceeding three and one-half
130 per cent per annum, specified in the policy for calcu-
131 lating cash surrender values and paid-up non-forfeiture
132 benefits: *Provided, however,* That in calculating the

133 present value of any paid-up term insurance with ac-
134 companying pure endowment, if any, offered as a non-
135 forfeiture benefit, the rates of mortality assumed may
136 be not more than one hundred and thirty per cent of
137 the rates of mortality according to such applicable
138 table: *Provided further*, That for insurance issued on
139 a sub-standard basis, the calculation of any such adjusted
140 premiums and present values may be based on such
141 other table of mortality as may be specified by the com-
142 pany and approved by the commissioner.

143 (5) Any cash surrender value and any paid-up non-
144 forfeiture benefit, available under the policy in the event
145 of default in a premium payment due at any time other
146 than on the policy anniversary, shall be calculated with
147 allowance for the lapse of time and the payment of frac-
148 tional premiums beyond the last preceding policy anni-
149 versary. All values referred to in subsections (2), (3)
150 and (4) may be calculated upon the assumption that any
151 death benefit is payable at the end of the policy year of
152 death. The net value of any paid-up additions, other than
153 paid-up term additions, shall be not less than the divi-
154 dends used to provide such additions. Notwithstanding
155 the provisions of subsection (2), additional benefits pay-
156 able (a) in the event of death or dismemberment by
157 accident or accidental means, (b) in the event of total
158 and permanent disability, (c) as reversionary annuity
159 or deferred reversionary annuity benefits, (d) as de-
160 creasing term insurance benefits provided by a rider
161 or supplemental policy provision to which, if issued as a
162 separate policy, this section would not apply, and (e) as
163 other policy benefits additional to life insurance and
164 endowment benefits, and premiums for all such addi-
165 tional benefits, shall be disregarded in ascertaining cash
166 surrender values and non-forfeiture benefits required by
167 this section, and no such additional benefits shall be
168 required to be included in any paid-up non-forfeiture
169 benefits.

170 (6) This section shall not apply to any reinsurance,
171 group insurance, pure endowment, annuity or reversion-
172 ary annuity contract, nor to any term policy of uniform
173 amount, or renewal thereof, of fifteen years or less expir-

174 ing before age sixty-six, for which uniform premiums are
175 payable during the entire term of the policy, nor to any
176 term policy of decreasing amount on which each adjusted
177 premium, calculated as specified in subsection (4), is less
178 than the adjusted premium so calculated, on such fifteen
179 year term policy issued at the same age and for the same
180 initial amount of insurance, nor to any policy which shall
181 be delivered outside this state through an agent or other
182 representative of the company issuing the policy.

183 (7) After the effective date of this act, any company
184 may file with the commissioner a written notice of its
185 election to comply with the provisions of this section after
186 a specified date before January first, nineteen hundred
187 forty-eight. After the filing of such notice, then upon
188 such specified date (which shall be the operative date
189 for such company), this section shall become opera-
190 tive with respect to the policies thereafter issued by such
191 company. If a company makes no such election, the
192 operative date of this section for such company shall be
193 January first, nineteen hundred forty-eight.

CHAPTER 78

(House Bill No. 104—By Mr. Davis)

AN ACT to amend and reenact section twenty-one, article one, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter fifty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-three, relating to compensation of petit jurors.

[Passed February 17, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 1. Petit Juries.

Section

21. Compensation of jurors; taxation of jury fees as costs; disposition thereof.

Be it enacted by the Legislature of West Virginia:

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

Section 21. Compensation of Jurors; Taxation of Jury

2 *Fees as Costs; Disposition Thereof.*—Any person sum-
3 moned as aforesaid, by virtue of a venire facias or other-
4 wise, to serve as a petit juror, and actually attending
5 upon the court, or attending at the courthouse, at the
6 time summoned, whether he be called to serve on a jury
7 or not, shall, for each day he so attends, be entitled to
8 receive the sum of not less than two and not more than
9 five dollars to be fixed by order entered of record and
10 the same mileage allowed to witnesses, to be paid out of
11 the county treasury: *Provided*, That the per diem afore-
12 said shall be paid out of the state treasury for the day or
13 days any person serves as a juror on a felony case; that
14 for each day he shall not actually attend at the court-
15 house he shall receive nothing, and that he shall be al-
16 lowed mileage but once during the term: *Provided further*,
17 That when a jury in case of felony shall be placed in the
18 custody of the sheriff, he shall provide for and furnish
19 such jury necessary meals and lodging while they are in
20 such sheriff's custody, at a reasonable cost to be determined
21 by an order of the court, and such meals and lodging shall
22 be paid for out of the state treasury, as provided for above,
23 for jury service in felony cases. There shall be taxed in
24 the costs against any person against whom a judgment
25 on the verdict of a jury may be rendered in a case of mis-
26 demeanor, and against any person against whom judg-
27 ment on the verdict of a jury may be rendered in a civil
28 action, and against any person on whose motion the ver-
29 dict of a jury is set aside and a new trial granted, eight
30 dollars for jury costs, which, when collected from the
31 party, shall be paid into the county treasury. All money
32 so received by the clerk shall be forthwith paid by him
33 to the sheriff, and the clerk and his surety shall be liable

34 therefor on his official bond as for other money coming
35 into his hands by virtue of his office.

36 The clerk of the circuit court of each county in this state
37 shall annually certify to the county court a list of all
38 money so paid to him, and by him paid to the sheriff, and,
39 in addition thereto, a correct list of all the cases in which
40 jury fees have been taxed, and are, at the time, properly
41 due and payable in the county treasury, and the sheriff of
42 the county shall be held to account in his annual settle-
43 ment for all such moneys collected by him.

CHAPTER 79

(House Bill No. 102—By Mr. Davis)

AN ACT to amend and reenact section two, article one, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to exemptions and disqualifications from jury service.

[Passed February 15, 1945; In effect ninety days from passage. Approved by the Governor.]

Article 1. Petit Juries.

Section

2. Exemptions and disqualifications.

Be it enacted by the Legislature of West Virginia:

That section two, 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 2. *Exemptions and Disqualifications.*—The following persons shall be exempt but not disqualified, from serving on juries: Licensed practicing attorneys, licensed practicing physicians and dentists, registered practicing pharmacists, postmasters, all persons employed in the actual care and conveyance of the mails of the United States, officers of any court, justices of the peace, constables, all state, county and federal officers, all officers

9 and employees of the department of public safety, all
10 officers and members of the national guard of West Vir-
11 ginia while in actual service, all telegraph operators ac-
12 tually engaged as such in any office in this state, minis-
13 ters of the gospel, superintendents, officers and assistants
14 of hospitals, prisons and jails, conductors and engineers
15 of railways, the members of any regularly organized fire
16 or police department in any city, town or village, all per-
17 sons in the army or navy or volunteer force of the United
18 States, all professors, tutors and pupils of institutions of
19 learning while such institutions are actually in session;
20 and the following persons shall be disqualified from serv-
21 ing on juries: Idiots, lunatics, paupers, vagabonds, habit-
22 ual drunkards, and persons convicted of infamous crimes.

CHAPTER 80

(House Bill No. 105—By Mr. Davis)

AN ACT to amend and reenact section four, article one, chap-
ter fifty-two of the code of West Virginia, one thousand
nine hundred thirty-one, relating to preparation of jury
lists.

[Passed February 17, 1945; in effect ninety days from passage. Approved
by the Governor.]

Article 1. Petit Juries.

Section

4. Preparation of jury list.

Be it enacted by the Legislature of West Virginia:

That section 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 4. *Preparation of Jury List.*—The jury com-
2 missioners of each county shall, annually, at the levy
3 term of the county court thereof, or annually at such

4 other time as may be designated by order of the circuit
5 court of such county (and at any other time when re-
6 quired by the circuit court of such county), prepare, with-
7 out reference to party affiliations, a list of such inhabi-
8 tants of the county, not exempted or disqualified by law
9 as aforesaid, as they shall think well qualified to serve as
10 jurors, being persons of sound judgment, of good moral
11 character, and free from legal exception, which list shall
12 include not less than two hundred nor more than one
13 thousand persons: *Provided, however,* That in counties
14 having a population of fifty thousand or more, the jury
15 commissioners shall be required to have at least eight
16 hundred names in such list. The name of no person shall
17 be put on such list who shall have been drawn and who
18 actually served as a petit juror in any court of record
19 within a period of two years prior thereto, or who shall
20 have requested the jury commissioners or either of them,
21 by himself or another person, to have his name placed
22 on such list; and any such person shall be disqualified
23 from serving as a juror for the period of two years from
24 the date of such service or from the time of making such
25 request.

CHAPTER 81

(House Bill No. 103—By Mr. Davis)

AN ACT to amend and reenact section eleven, article one, chapter fifty-two of the code of West Virginia, one thousand nine hundred thirty-one, relating to the summoning of jurors.

[Passed February 15, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 1. Petit Juries.

Section

11. Special jury commissioners; delivery of list; summoning the jurors.

Be it enacted by the Legislature of West Virginia:

That section eleven, 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 11. *Special Jury Commissioners; Delivery of List; Summoning the Jurors.*—If either, or both, of the jury commissioners fail to attend as required by such summons, the clerk of the circuit court shall appoint a special jury commissioner or commissioners, having the qualifications herein required, to act in his or their place and stead, for the time being, and such jurors shall be drawn by such commissioners; and it shall be the duty of the clerk of such court to place the list thereof in the hands of the sheriff or other officer authorized to summon them. And it shall be the duty of such officer, at least three days before the time when the jurors are required to attend, to summon each person who is drawn to attend the sitting of the court at the time and place mentioned in the writ, and make due return thereof, and of the summons aforesaid, to such court, at the opening thereof.

In addition to any other method provided by law, any person named in writs of venire facias, or a summons for jurors, by direction of the court, may be served by the sheriff mailing a copy thereof to such person commanding him to attend as a juror, at a time and place designated therein, which copy shall be registered and deposited in the post office, addressed to such person at his usual post office address. And the personal receipt of the person so addressed for such registered copy shall be regarded as personal service of such writ or summons upon such person.

CHAPTER 82

(Senate Bill No. 181—By Mr. Bean)

AN ACT to amend chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be designated article fourteen, defining the terms "factoring", "factor" and "factors", providing for liens of factors upon goods or merchandise, and the giving and filing of notice of such liens.

[Passed March 9, 1945; in effect from passage. Approved by the Governor.]

Article 14. Factors' Liens.

Section

1. Definitions.
2. Factors' liens.
3. Filing.
4. Effect of filing.
5. Discharge.
6. Returned merchandise and allowances.
7. Common law lien.
8. Construction.

Be it enacted by the Legislature of West Virginia:

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

- Section 1. *Definitions.*—The term "factoring" as used
- 2 in this article means the financing of a manufacturer in
 - 3 his purchases, manufacture and sales of goods and mer-
 - 4 chandise.
 - 5 The terms "factor" and "factors" wherever used in this
 - 6 article include banks, persons, firms and corporations,
 - 7 and their successors in interest, who purchase or lend on
 - 8 the security of accounts receivable or who advance money
 - 9 on the security of materials, goods in process, or mer-
 - 10 chandise, whether or not they are employed to sell such
 - 11 materials, goods in process, or merchandise.

- Sec. 2. *Factors' Liens.*—If so provided by any written
- 2 agreement, all factors shall have a continuing general lien

3 upon all materials, goods in process, and merchandise
4 from time to time consigned to or pledged with them,
5 whether in their constructive, actual or exclusive oc-
6 cupancy or possession or not, and upon any accounts re-
7 ceivable or other proceeds resulting from the sale or other
8 disposition of such materials, goods in process, and mer-
9 chandise, for all their loans and advances to or for the
10 account of the person creating the lien (hereinafter called
11 the borrower), together with interest thereon, and also
12 for the commissions, obligations, indebtedness, charges,
13 and expenses properly chargeable against or due from
14 said borrower and for the amounts due or owing upon
15 any notes or other obligations given to or received by
16 them for or upon account of any such loans or advances,
17 interest, commissions, obligations, indebtedness, charges,
18 and expenses, and such lien shall be valid from the time
19 of filing the notice hereinafter referred to, whether such
20 materials, goods in process, or merchandise shall be in
21 existence at the time of the agreement creating the lien or
22 at the time of filing such notice or shall come into exist-
23 ence subsequently thereto or shall subsequently thereto
24 be acquired by the borrower: *Provided*, That there shall
25 be placed and maintained on the door of, or in a conspicu-
26 ous place at, one of the principal entrances of the place
27 of business or other premises in or at which such mate-
28 rials, goods in process, and merchandise, or any part
29 thereof, shall be located, kept or stored, the name of the
30 factor in legible lettering and a designation of said factor
31 as factor: *Provided further*, That a notice of the lien is
32 filed, stating:

33 (a) The name of the factor, the name under which the
34 factor does business, if an assumed name; the principal
35 place of business of the factor within the state, or if he
36 has no place of business within the state, his principal
37 place of business outside this state; and if the factor is a
38 partnership or association, the name of the partners, and
39 if a corporation, the state under whose laws it was or-
40 ganized;

41 (b) The name of the borrower, and the interest of such
42 person in the materials, goods in process, and merchan-
43 dise, as far as known to the factor;

44 (c) The general character of materials, goods in process,
45 and merchandise subject to the lien, or which may become
46 subject thereto, and the period of time during which such
47 loans or advances may be made under the terms of the
48 agreement providing for such loans or advances and for
49 such lien and the maximum amount to be loaned or ad-
50 vanced under such agreement. Amendments of the notice
51 may be filed from time to time to record any changes in
52 the information contained in the original, subsequent or
53 amended notices.

Sec. 3. *Filing*.—Such notice must be verified by the
2 factor or his agent, to the effect that the statements
3 therein contained are true to the best of his knowledge.
4 It must be filed in the office of the clerk of the county
5 court in the county where the materials, goods in process,
6 or merchandise subject to the lien, or any part thereof,
7 are, or at any time shall be located, kept or stored, and
8 also, if the factor has an office or principal place of busi-
9 ness in the state, in the county where such principal of-
10 fice or place of business of the factor within the state is
11 or at any time shall be located. The clerk shall file every
12 such notice presented to him for that purpose and shall
13 endorse thereon its number and the time of its receipt.
14 The clerk at the time of filing such notice shall, upon
15 request, issue to the person filing the same a receipt in
16 writing setting forth the filing data. The clerk shall en-
17 ter in a book provided for that purpose, in separate
18 columns, the names of the parties named in each notice
19 so filed under the head of borrowers and factors, the
20 number of such notice and the date of filing thereof, and
21 the general character of the merchandise as therein stated.
22 The names of the persons, firms or corporations creating
23 the liens, as stated in the notice, shall be arranged in
24 alphabetical order under the head of borrower. The
25 clerk shall be entitled to receive a fee of one dollar for
26 the filing and indexing of each such notice.

Sec. 4. *Effect of Filing*.—Such notice shall be filed
2 within thirty days after the making of the agreement, and
3 shall be effectual from the time of the filing thereof as
4 against all claims and unsecured creditors of the borrower

5 and as against subsequent liens of creditors, except that if,
6 pursuant to the laws of this state, a lien should subse-
7 quently attach to the materials, goods in process, or mer-
8 chandise in favor of a processor, dyer, mechanic, or other
9 artisan, or in favor of a landlord, then the lien of the
10 factor on such materials, goods in process, or merchandise
11 shall be subject to such subsequent lien. When materials,
12 goods in process, or merchandise subject to the lien pro-
13 vided for by this act are sold in the ordinary course of
14 the business of the borrower, such lien, whether or not
15 the purchaser has knowledge of the existence thereof,
16 shall terminate as to the materials, goods in process, or
17 merchandise and shall attach to the proceeds of such sale
18 in the hands of the borrower.

Sec. 5. *Discharge.*—Upon the payment or satisfaction
2 of indebtedness secured by any lien specified in this act,
3 the factor or his legal representative, upon the request
4 of any person interested in the said materials, goods in
5 process, and merchandise, shall sign and acknowledge a
6 certificate setting forth such payment or satisfaction.
7 The county clerk with whom the notice of lien is filed,
8 on receipt of such certificate or a copy thereof certified
9 as required by law, shall file the same in his office and
10 write the word "Discharged" in the book where the notice
11 of lien is entered, opposite the entry thereof, and the
12 lien is thereby discharged. The county clerk shall be
13 entitled to receive a fee of fifty cents for filing each such
14 certificate of payment or satisfaction. All notices of liens
15 filed pursuant to this act and not satisfied by filing a
16 certificate setting forth payment or satisfaction thereof
17 shall be deemed to be and remain in full force and effect
18 under this act without further or other filing.

Sec. 6. *Returned Merchandise and Allowances.*—Where
2 accounts receivable, whether or not arising out of the
3 sale of materials, goods in process, or merchandise which
4 has become subject to the lien provided for by this act
5 by compliance with the provisions of section two hereof,
6 are assigned to a factor, the right to or lien of the factor
7 upon any balance remaining owing on such accounts
8 receivable, and his right to or lien upon any other ac-

9 counts receivable assigned to him by the assignor shall
10 not be invalidated by reason of the fact that the materials,
11 goods in process, or merchandise sold, or any part thereof,
12 are returned to or recovered by the assignor from the
13 person owing the account receivable and is thereafter
14 dealt with by him as his own property or by reason of
15 the fact that the assignor grants credits, allowances or
16 adjustments to the person owing an account receivable,
17 irrespective of whether the factor shall have consented
18 to, or acquiesced in, such acts of the assignor.

2 Sec. 7. *Common Law Lien*.—When any factor, or any
3 third party for the account of any such factor, shall have
4 possession of materials, goods in process, or merchandise,
5 such factor shall have a continuing general lien, as set
6 forth in section two of this act, without filing the notice
and posting the sign provided for in this act.

2 Sec. 8. *Construction*.—This act is to be construed liber-
3 ally to secure the beneficial interest and purposes thereof.
4 A substantial compliance with its several provisions shall
5 be sufficient for the validity of a lien and to give juris-
6 diction to the courts to enforce the same. Nothing in this
7 act shall be construed as affecting or limiting any exist-
8 ing or future lien at common law or any rights at common
9 law, or any right given by any other statute, and as to
10 any transaction falling within the provisions both of this
11 act and of any other statute of this state requiring filing,
12 recording, consent, publication, notices, or formalities of
13 execution, the factor shall not be required to comply
14 with both, but by complying with the provisions of either,
15 at his election, may have the protection given by the law
complied with.

CHAPTER 83

(Senate Bill No. 179—By Mr. Vickers, Mr. President, by request)

AN ACT to amend and reenact sections two, three and four,
article six, chapter twenty-two of the code of West Vir-
ginia, one thousand nine hundred thirty-one, as amended,

and to add section four-a to said article, all relating to miners' examining board, examination by the board, and fee for examination.

[Passed March 9, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 6. Coal Miners' Examining Board.

Section

2. Miners' examining board.
3. Examinations by the board; records.
4. Fee for examination.
- 4-a. Transfer of funds.

Be it enacted by the Legislature of West Virginia:

That sections two, three and four, article six, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that a new section designated section four-a be added, all to read as follows:

Section 2. *Miners' Examining Board.*—The chief of the department of mines with the approval of the governor, shall appoint a board of three members to be known as the miners' examining board, which shall be composed of two practical and experienced miners, one of whom shall be a Negro, and one coal mine operator's representative; not more than two members of the board shall belong to the same political party; they shall serve for a term of four years, unless sooner removed from office by the chief of the department of mines for incompetency, neglect of duty, drunkenness, malfeasance or other good cause.

The chief of the department of mines shall designate one member of the board as chairman, and shall furnish said board with a seal of the department of mines. All records, reports, books and papers of the board shall be kept in the department of mines.

The salaries of the members of the board shall be not less than thirty-three hundred dollars nor more than thirty-nine hundred dollars per annum, and they shall receive their actual traveling expenses, to be paid out of the state treasury; such salary shall be fixed by the chief

23 of the department of mines, and shall be uniform; said
24 chief of the department of mines shall provide for the
25 maintenance of said miners' examining board in the same
26 manner as is provided all other branches of the depart-
27 ment of mines.

Sec. 3. *Examinations by the Board; Records.*—The
2 miners' examining board shall meet at least once each
3 month in each mine inspection district at such places as
4 the chief of the department of mines may designate, so
5 that all persons in the state, or who wish to come into the
6 state to engage in coal mining, may be examined as to
7 their competency and qualifications. Public notice of the
8 time and place of examinations shall be given through the
9 press or otherwise, in the discretion of the board, not less
10 than seven days in advance of the date of examination.

11 The board shall keep an accurate record of its pro-
12 ceedings and meetings, and in said record shall show a
13 correct detailed account of the examination of each appli-
14 cant with questions asked and their answers. Such rec-
15 ords shall be open to public inspection.

Sec. 4. *Fee for Examination.*—Each applicant for ex-
2 amination shall pay to the miners' examining board a fee
3 of one dollar. All fees collected by the miners' examining
4 board shall be promptly transmitted to the chief of the
5 department of mines and by him paid into the state
6 treasury.

Sec. 4-a. *Transfer of Funds.*—All funds from the date
2 this bill becomes effective that have been deposited in
3 the state treasury under a special fund known as the
4 "miners' examination certificate fund" shall be transferred
5 to the department of mines to defray the expenses of the
6 coal miners' examining boards until other funds are made
7 available by direct appropriation for the expenses of
8 such boards.

CHAPTER 84

(House Bill No. 293—By Mr. Warden)

AN ACT to amend and reenact section eight, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the qualifications and salaries of mine inspectors.

[Passed March 8, 1945; in effect July 1, 1945. Approved by the Governor.]

Article 1. Department of Mines.

Section

8. Mine inspector; qualifications; oath; bond; removal; salary and expenses.

Be it enacted by the Legislature of West Virginia:

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

- Section 8. *Mine Inspector; Qualifications; Oath; Bond; Removal; Salary and Expenses.*—Every person appointed to the office of mine inspector shall be a citizen of West Virginia, of good moral character and temperate habits, shall have a practical knowledge of mining and the proper ventilation and drainage of mines, and a knowledge of the gases met with in coal mines, and shall be a miner of at least six years' experience in coal mines. A diploma from any accredited school of mining engineering, or having otherwise been engaged as an employee for six years within coal mines, shall qualify as two years' experience. He shall not while in office be interested as owner, operator, stockholder, superintendent or engineer of any coal mine. Before entering upon the discharge of his duties he shall take the oath of office prescribed by the constitution, and shall execute a bond in the penalty of two thousand dollars, with security to be approved by the governor, conditioned upon the faithful discharge of his duty, a certificate of which oath and which bond shall be filed in the office of the secretary of state.

22 A mine inspector shall be removed from office by the
23 chief of the department of mines for incompetency, neg-
24 lect of duty, drunkenness, malfeasance or for other good
25 cause.

26 The salaries of mine inspectors shall not be less than
27 three thousand dollars nor more than four thousand one
28 hundred dollars per annum, and actual traveling ex-
29 penses; such salary to be fixed by the chief of the de-
30 partment of mines, and shall be based on the ability and
31 experience of the inspector: *Provided*, That before pay-
32 ment of such expenses shall be made to the inspector he
33 shall file an account of such expenses, verified by his
34 affidavit showing they accrued in the discharge of his
35 official duties: *Provided further*, That the salaries of
36 mine inspectors herein mentioned shall be for the period
37 ending June thirty, one thousand nine hundred forty-
38 seven.

CHAPTER 85

(Com. Sub. for Senate Bill No. 83—Originating in the Senate Committee on
Mines and Mining)

AN ACT to repeal chapter eighty-four, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-nine, and to amend chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be designated article two-a, relating to the regulation and control of strip mining and to the collection of bond forfeitures and the disposition thereof, and the rehabilitation of the land affected by strip mining operations, and providing penalties.

[Passed March 10, 1945; in effect from passage. Became a law without the approval of the Governor.]

Article 2-a. Strip Mining.

Section

1. Declaration of legislative purpose.

2. Permit required.
3. Performance bond.
4. Duties of operator.
5. Bond forfeiture.
6. Validity of existing permits and bonds.
7. Certificate of release.
8. Offenses; penalty.
9. Provisions of act severable.

Be it enacted by the Legislature of West Virginia:

That chapter eighty-four, acts of the Legislature of West Virginia, 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, as amended, be amended by adding thereto a new article to be designated article two-a, to read as follows:

Section 1. *Declaration of Legislative Purpose.*—In view
2 of the fact that the practice of strip mining may and
3 commonly does cause soil erosion, stream pollution and
4 the accumulation of stagnant water, increases the likeli-
5 hood of floods, destroys the value of land for agricultural
6 purposes, counteracts efforts for the conservation of soil,
7 water and other natural resources of the state, and in
8 general creates hazards dangerous to life and property;
9 now therefore, the Legislature declares that its purpose
10 in the enactment of this article is to provide such regu-
11 lation and control of strip mining as to minimize its
12 injurious effects as much as may be possible.

Sec. 2. *Permit Required.*—It shall hereafter be unlawful
2 for any person, firm or corporation to engage in the strip
3 mining of coal without having first obtained from the
4 chief of the department of mines a permit therefor as
5 provided in this section. The following information must
6 be stated in the application for such a permit: (1) The
7 location and area of the land to be covered by the permit
8 and shown on a map or plat of portion to be stripped; (2)
9 the owner or owners of the surface of the land; (3) the
10 owner or owners of the coal to be mined; (4) the source
11 of the operator's legal right to enter and mine the coal on
12 the land covered by the permit; (5) the permanent and
13 temporary post office address of the operator; (6) whether

14 any permits are now held, and, if so, how many such
15 permits and the numbers thereof.

16 Upon payment to the department of mines of a regis-
17 tration fee of fifty dollars, and the posting with the depart-
18 ment of the bond required by the following section, the
19 chief of the department shall upon proper application
20 issue the requested permit.

Sec. 3. *Performance Bond.*—Each operator shall give a
2 bond with satisfactory corporate surety, in a penalty of
3 five hundred dollars for each acre or fraction thereof cov-
4 ered by said permit, with a minimum of one thousand
5 dollars, conditioned for the faithful performance of the
6 requirements contained in section four hereof.

Sec. 4. *Duties of Operator.*—It shall be the duty of each
2 operator to: (1) Cover the face of the coal and so far as
3 practicable, bury all roof coal and pyritic shales; (2) seal
4 off with an earth fill any break-through to underground
5 working in the coal; (3) drain all the surface involved in
6 the strip mining operation, and provide such outlets as
7 may be necessary to conduct storm and seepage waters
8 from such surface to a permanent stream or stream bed
9 with as little erosion as possible; (4) remove all metal,
10 lumber and other refuse resulting from the operation;
11 (5) regrade, in a manner approved by the state depart-
12 ment of mines and the agricultural experiment station
13 of West Virginia university, the overburden or other
14 strata removed from the coal so as to refill any ditches,
15 trenches or excavations made in the stripping operation,
16 in order to minimize the hazards of floods, pollution of
17 streams and water, accumulation of stagnant water, and
18 the loss of the soil for agricultural or grazing purposes:
19 *Provided, however,* That any lands upon which stripping
20 operations are conducted which are not used for agri-
21 cultural or grazing purposes, and in the opinion of the
22 director of the agricultural experiment station of West
23 Virginia university are not adapted therefor shall be
24 exempt from the provisions of this requirement by the
25 chief of the department of mines and the director of the
26 agricultural experiment station of West Virginia uni-
27 versity; and (6) plant trees, shrubs, grasses or vines

28 upon the lands affected in accordance with such regula-
29 tions in respect to the time and manner of planting and
30 the type and quantity of fertilizer and lime to be used as
31 may be prescribed by the state department of mines and
32 the agricultural experiment station of West Virginia
33 university: *Provided, however,* That the surface owner
34 shall be entitled to his choice of trees, shrubs, grasses or
35 vines prescribed by the department of mines, and the
36 agricultural experiment station of West Virginia uni-
37 versity.

38 If the operator, land owner, or coal owner, including the
39 lessee, desires to conduct drift mining upon the premises,
40 he may designate drift locations, and also outside haulage
41 ways along the exposed face of the coal, at which places
42 it will not be necessary to replace the over-burden on the
43 haulage way to the coal until such mining is completed.

44 For failure to do all of the things required by this sec-
45 tion within one year after the completion of the mining
46 operation on the land covered by the permit, and after
47 receipt of a thirty-day notice in writing from the chief
48 of the department of mines, which notice may be sent
49 by registered mail, that any one or more of such things
50 had not been done, the permit covering the particular
51 operation and any other strip mining permits that may
52 have been issued to the operator involved shall be re-
53 voked by the chief of the department of mines, and the
54 performance bond shall be forfeited, unless such operator
55 shall comply with the provisions of this section within
56 said thirty-day period.

57 Any operator whose strip mining permit has been re-
58 voked shall not be eligible to receive another such permit
59 until he shall have complied with the requirements of
60 all the laws in respect to former permits issued to him.

Sec. 5. *Bond Forfeitures.*—Upon default in the perform-
2 ance of the conditions of the performance bond. the chief
3 of the state department of mines shall give notice to the
4 attorney general and it shall be his duty to collect the
5 forfeiture without delay.

6 All such forfeitures shall be deposited in a special fund
7 to the credit of the state department of mines to be ex-

8 pended by it, in cooperation with and subject to the ap-
9 proval of the agricultural experiment station of West
10 Virginia university, solely for the purpose of promptly
11 reclaiming lands that have been injured by strip mining
12 operations since the effective date of this act. It shall be
13 the duty of the state department of mines and the agri-
14 cultural experiment station of West Virginia university
15 to reclaim and rehabilitate the lands affected in accord-
16 ance with the provisions of section four of this act. Inso-
17 far as is reasonably practicable, such forfeitures shall be
18 expended upon the lands upon which the permit was
19 issued for which the bond was given. The state depart-
20 ment of mines may avail itself of any services that may
21 be provided by the federal government for reclaiming
22 lands.

23 All money in the special fund created by this section
24 may be expended without the necessity of legislative ap-
25 propriation, and the auditor shall issue the warrants there-
26 for upon the requisition of the chief of the state depart-
27 ment of mines, approved by the director of the agricultural
28 experiment station of West Virginia university.

 Sec. 6. *Validity of Existing Permits and Bonds.*—The
2 provisions of chapter eighty-four of the acts of the Legis-
3 lature of West Virginia, regular session, one thousand
4 nine hundred thirty-nine, shall continue to be in full
5 force and govern in all respects every existing right for
6 strip mining operations, every outstanding permit for
7 strip mining operations and every existing cash or other
8 bond posted in connection therewith, as though this law
9 had never been passed, and the repeal herein made of
10 said chapter eighty-four of said acts shall not affect any
11 offenses or act committed or done, or any penalty or
12 forfeiture incurred, or any right established, accrued, or
13 accruing before the day this law takes effect: *Provided,*
14 *however,* That any money received from the forfeiture
15 of bonds given under the provisions of said act shall be
16 deposited in the same fund and used in the same manner
17 as forfeitures under this act: *Provided further,* That
18 every operator under an existing permit under which
19 actual mining operations have not been commenced prior

20 to March tenth, one thousand nine hundred forty-five,
21 shall nevertheless be required to perform all the duties
22 specified in section four of this act, and that for failure
23 to do so his bond shall be forfeited and he shall be subject
24 to all other penalties provided by the above-mentioned
25 former act: *And provided further*, That every such
26 operator shall be required to comply with the provisions
27 of section three of this act under which actual mining
28 operations have not been commenced prior to March
29 tenth, one thousand nine hundred forty-five, and for that
30 purpose shall post such additional bond as may be
31 necessary; if any such operator shall fail to post such
32 additional bond within thirty days after the effective
33 date of this act, the department of mines shall revoke his
34 permit.

Sec. 7. *Certificate of Release.*—If and when each oper-
2 ator has completed his strip mining operations under the
3 permit granted him by the department of mines in
4 accordance and in full compliance with the provisions
5 of this act, thereupon the chief of the department of mines
6 and the director of the agricultural experiment station
7 of West Virginia university shall issue to such operator
8 a certificate, wherein and whereby the bond given by the
9 operator shall be discharged and the surety thereon re-
10 leased.

Sec. 8. *Offenses; Penalty.*—Any operator who shall con-
2 duct any strip mining operation without a permit, or who
3 shall carry on such operation on land not covered by a
4 permit, shall be guilty of a misdemeanor, and upon con-
5 viction thereof shall be punished by a fine of one thousand
6 dollars, or by imprisonment in jail for not more than
7 one year, or by both such fine and imprisonment, in the
8 discretion of the court. It shall be the duty of the chief
9 of the department of mines to see that prosecutions are
10 instituted for any violation of the provisions of this sec-
11 tion.

Sec. 9. *Provisions of Act Severable.*—The various pro-
2 visions of this act shall be construed as separable and
3 severable, and should any of the provisions, sentences,
4 clauses, or parts thereof be construed or held unconsti-

- 5 tutional, or for any reason be invalid, the remaining pro-
6 visions of this act shall not be thereby affected.

CHAPTER 86

(Senate Bill No. 147—By Mr. Perry)

AN ACT to amend and reenact section eleven, article six, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by acts of the Legislature, extraordinary session, one thousand nine hundred thirty-three, relating to fees for motor vehicles designated as trucks or truck-tractors, other than those operated for compensation.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 6. Licenses.

Section

11. Class B. Fee for motor vehicles designated as trucks or truck-tractors, other than those operated for compensation; exemption of trucks used for agricultural or horticultural spraying purposes.

Be it enacted by the Legislature of West Virginia:

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

- Section 11. *Class B. Fee for Motor Vehicles Designated as Trucks or Truck-Tractors, Other Than Those Operated for Compensation; Exemption of Trucks Used for Agricultural or Horticultural Spraying Purposes.*—The registration fee for all motor vehicles, commonly designated as trucks or truck-tractors, other than those operated for compensation, shall be as follows:

8		Pneumatic	Solid
9	Capacity	Tires	Tires
10	One ton or less	\$ 15.00	\$ 27.00
11	Over one ton to one and one-half tons....	25.00	37.00
12	Over one and one-half tons to two tons..	35.00	50.00
13	Over two tons to three tons	78.00	117.00
14	Over three tons to four tons	120.00	180.00
15	Over four tons to five tons	170.00	255.00
16	Over five tons to six tons	228.00	342.00
17	Over six tons to seven tons	294.00	441.00
18	Over seven tons to eight tons	368.00	552.00
19	Over eight tons to nine tons.....	450.00	675.00
20	Over nine tons to ten tons	540.00	810.00
21	For each additional ton over ten tons...	100.00	150.00
22	Trucks having permanently installed spraying equip-		
23	ment on them, which are used exclusively by the owner		
24	for his personal agricultural or horticultural purposes are		
25	exempt from the provisions of this section.		

CHAPTER 87

(Com. Sub. for House Bill No. 78—Originating in the House Committee on Roads)

AN ACT to amend and reenact sections nine and twelve, article twenty-one, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter eighty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to the expiration, renewal and fees for operators' and chauffeurs' licenses.

[Passed February 27, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 21. Licensing of Chauffeurs and Other Motor Vehicle Operators.

Section

9. Issuance of operators' and chauffeurs' license; fees.
12. Expiration of licenses; renewals; fees.

Be it enacted by the Legislature of West Virginia:

That sections nine and twelve, article twenty-one, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter eighty-seven, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

Section 9. *Issuance of Operators' and Chauffeurs' License; Fees.*—The commissioner shall, upon payment of the fees hereinafter prescribed, issue to every applicant qualifying therefor an operator's or chauffeur's license as applied for, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, age, residence address, and a brief description of the licensee, and a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license. No such license shall be valid until it has been so signed by the applicant.

The fee for the issuance of an operator's license shall be one dollar. The fee for the issuance of a chauffeur's license shall be three dollars, except that a chauffeur's license may be issued on or after the first day of July in any year upon payment of a fee of one dollar and fifty cents.

Sec. 12. *Expiration of Licenses; Renewals; Fees.*—(a) Any operator's license issued under any prior act of the Legislature relating to the licensing of motor vehicle operators shall expire by its own limitation four years from the date of its issuance, except the operator's license of any person in the armed forces shall be extended for a period of six months from date of honorable discharge from service. Any operator's license issued subsequent to this act shall expire four years from the date of issue except as above provided. Any license so expiring may be thereafter renewable for successive periods of four years on or before its expiration date upon application and upon payment of a fee of one dollar for such renewal; if such license has been permitted to expire, it may be renewed by complying with the regulations of this section and the payment of a fee double

17 the regular fee for such renewal and without examina-
18 tion. The commissioner shall notify by first-class mail
19 not less than thirty days prior to the expiration date,
20 any person whose operator's license is about to expire,
21 giving the expiration date and including therewith a re-
22 newal application form. The commissioner may, in his
23 discretion, renew any license without examination.

24 (b) The commissioner shall, upon application and
25 upon payment of a fee of three dollars, issue a chauffeur's
26 license to any person holding a valid chauffeur's license
27 issued pursuant to the provisions of any prior act of the
28 Legislature. The commissioner may, in his discretion,
29 issue such chauffeur's license to any such applicant with-
30 out examination. Any chauffeur's license issued shall
31 expire by its own limitation on the thirty-first day of
32 December in the year following the issuance thereof, and
33 shall be thereafter renewable for successive periods of
34 one year upon application and upon payment of the re-
35 quired fee as hereinafter provided in this section.

CHAPTER 88

(Senate Bill No. 172—By Mr. Johnston, by request)

AN ACT to amend and reenact section one, article seven, chap-
ter seventeen of the code of West Virginia, one thousand
nine hundred thirty-one, as amended by the acts of the
Legislature, regular session, one thousand nine hundred
thirty-five, and regular session, one thousand nine hundred
thirty-seven, relating to certificates of title for motor
vehicles and imposing a tax upon the certification of such
titles.

[Passed March 6, 1945; in effect ninety days from passage. Approved
by the Governor.]

Article 7. Certificates of Title.

Section

1. Certificate of title; application; tax and fee.

Be it enacted by the Legislature of West Virginia:

That section one, article seven, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter sixty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-five, and chapter forty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, be amended and re-enacted to read as follows:

Section 1. *Certificate of Title; Application; Tax and Fee.*—Certificates of registration of any vehicle or registration plates therefor, whether original issues or duplicates, shall not be issued or furnished by the state road commission or any other officer charged with such duty, unless the applicant therefor already has received, or shall at the same time make application for and be granted, an official certificate of title of such motor vehicle. Such application shall be upon a blank form to be furnished by the state road commission and shall contain a full description of the motor vehicle, which description shall contain the manufacturer's number, the motor number and any distinguishing marks, together with a statement of the applicant's title and of any liens or encumbrances upon such motor vehicles, the names and addresses of the holders of such liens, and such other information as the state road commission may require. The application shall be signed and sworn to by the applicant. A tax is hereby imposed upon the privilege of effecting the certification of title of each motor vehicle in the amount equal to two per cent of the value of said motor vehicle at the time of such certification. If the motor vehicle is new, the actual purchase price or consideration to the purchaser thereof shall be the value of said vehicle; if the motor vehicle is a used or second-hand vehicle, the actual price or consideration paid therefor by the purchaser shall be deemed the value thereof for the purposes of this section: *Provided*, That so much of the purchase price or consideration as is represented by the exchange of other motor vehicles on which the tax herein imposed has been paid by the vendor shall be

32 deducted from the total actual price or consideration paid
33 for said vehicle, whether the same be new or second-hand.
34 No certificate of title for any motor vehicle shall be
35 issued to any applicant unless such applicant shall have
36 paid to the state road commissioner the tax imposed
37 by this section; but the tax imposed by this act shall not
38 apply to motor vehicles to be registered under sections
39 seventeen and eighteen, article six of this chapter, which
40 are used or to be used exclusively in interstate commerce,
41 nor shall the tax imposed by this act apply to titling
42 of motor vehicles by a registered dealer of this state for
43 resale only. The total amount of revenue collected by
44 reason of this tax shall be paid into the state road fund
45 and expended by the state road commissioner in the
46 maintenance and construction of the state's secondary
47 roads. In addition to said tax, there shall be a charge
48 of one dollar for each original certificate of title so issued.

49 The state road commissioner, or other officer charged
50 with such duty by the commission, if satisfied that the
51 applicant is the owner of such vehicle, or otherwise entitled
52 to have the same registered in his name, shall thereupon
53 issue to the applicant an appropriate certificate of title
54 over the signature of the official designated by the com-
55 mission, authenticated by a seal to be procured and
56 used for such purpose. Such certificates shall be num-
57 bered consecutively, beginning with number one, and
58 shall contain such description and other evidence of
59 identification of such motor vehicle as the state road com-
60 mission may deem proper.

61 Such certificate shall be good for the life of the car,
62 so long as the same is owned or held by the original
63 holder of such certificate, and need not be renewed an-
64 nually, or at any other time, except as herein provided.

65 If, by will or direct inheritance, a person becomes the
66 owner of a vehicle upon which the tax herein imposed
67 has been paid, he shall not be required to pay such tax.

68 A person who has paid the tax imposed by this section
69 shall not be required to pay the tax a second time for
70 the same vehicle, but he shall be required to pay a charge
71 of one dollar for the certificate of re-title of that vehicle.

CHAPTER 89

(Com. Sub. for House Bill No. 302—Originating in the House Committee on the Judiciary)

AN ACT to authorize agents of municipalities having gross sales tax ordinances to inspect tax returns filed by their respective taxpayers for state tax purposes in the office of the state tax commissioner.

[Passed March 10, 1945; in effect from passage. Approved by the Governor.]

Section

1. Authorizing agents of municipalities having gross sales tax ordinances to inspect gross sales tax returns in office of state tax commissioner.

Be it enacted by the Legislature of West Virginia:

Section 1. *Authorizing Agents of Municipalities Having Gross Sales Tax Ordinances to Inspect Gross Sales Tax Returns in Office of State Tax Commissioner.*—It shall be the duty of the state tax commissioner, upon the written request of the mayor of any municipality having a gross sales tax ordinance, to allow the duly authorized agent of such municipality to inspect and make copies of state gross sales tax returns filed in the commissioner's office by taxpayers of such municipality, for the purpose of securing information for municipal tax purposes: *Provided, however,* That before such agent may inspect and make copies of said returns he shall pay in advance, or furnish sufficient security for, such reasonable cost and expense as may be necessary to obtain such information.

CHAPTER 90

(House Bill No. 67—By Mr. Ross, of Mercer)

AN ACT to amend and reenact section one, article four-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter sixty-eight,

acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to authority of municipalities to construct public works.

[Passed February 20, 1945; in effect from passage. Approved by the Governor.]

Article 4-a. Municipal Public Works; Bonds.

Section

1. Definitions.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Definitions.*—(a) The term “municipality”,
2 as used in this act, shall be construed to mean any city
3 or incorporated town in the state of West Virginia;
4 (b) the term “municipal authorities”, as used in this
5 act, shall be construed to mean the mayor and council,
6 or similar governing body, board or commission of any
7 city or incorporated town; (c) the term “municipal
8 public works”, as used in this act, shall be construed
9 to mean and include cemeteries, incinerator plants, hos-
10 pitals, piers, docks, terminals, airports, drainage systems,
11 flood control systems, public markets, automobile park-
12 ing buildings, stadiums, public recreation parks, swim-
13 ming pools, tennis courts, golf courses, polo grounds,
14 public buildings, including libraries and museums, com-
15 mon jails, where such works or projects will be made
16 self-supporting, and the construction and/or acquisition
17 cost thereof, together with interest thereon, will be
18 returned within a reasonable period, not exceeding thirty
19 years, by means of tolls, fees, rents or charges other than
20 taxation, and shall mean and include such system, build-
21 ing plant or project in its entirety, and all integral parts
22 thereof.

CHAPTER 91

(Senate Bill No. 117—By Mr. Bowers)

AN ACT to amend and reenact section four, article fourteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to board of park commissioners.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 14. Board of Park Commissioners.

Section

4. Members; qualifications; election or appointment; terms; disqualification.

Be it enacted by the Legislature of West Virginia:

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

Section 4. *Members; Qualifications; Election or Appointment; Terms; Disqualification.*—The board shall consist of not less than three nor more than five members as the council may, by ordinance, determine, a majority of whom shall constitute a quorum for the transaction of business, except as may be hereinafter provided. Each member of said board shall be a bona fide resident of the municipality and shall own real estate within its corporate limits. The council of the municipality may provide either by the ordinance creating the board or by a subsequent ordinance for the appointment of the members thereof by the council, but unless and until it does so provide, the members of the board shall be elected by the duly qualified voters of the municipality at regular municipal elections. A councilman, if otherwise qualified, may be a member of said board, if the board consists of four or less members, but one such councilman may be appointed by the council, and if it consists of five members not more than two councilmen may be so appointed. The term of the board membership of any such councilman

21 so appointed shall continue during his term and until his
22 successor is appointed or elected and qualified. Member-
23 ship on the council shall not disqualify any member for
24 election to the board. The terms of other appointed or
25 elected members shall be for six years, and until their
26 successors have been duly elected or appointed and
27 qualified: *Provided, however,* That the council of the
28 municipality shall appoint the members of the first board,
29 such appointees to serve, one for a term of six years, one
30 for a term of four years, and one for a term of two years.
31 The ordinance creating the board shall fix the date upon
32 which the terms of such board members shall begin. When
33 any member of the board, during his term of office, shall
34 cease to be a bona fide resident of the municipality or a
35 freeholder thereof, he shall thereby be disqualified as a
36 member of said board and his office shall thereupon be-
37 come vacant.

CHAPTER 92

(House Bill No. 15—By Mr. Hansbarger, by request)

AN ACT to amend and reenact section two, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter twelve, acts of the Legislature, regular session, one thousand nine hundred forty-three, relating to the compensation of municipal officers.

[Passed March 2, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

Section

2. Compensation of officers and employees.

Be it enacted by the Legislature of West Virginia:

That section two, article four, chapter eight of the code of

West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter twelve, acts of the Legislature, regular session, one thousand nine hundred forty-three, be amended and reenacted to read as follows:

Section 2. *Compensation of Officers and Employees.*—

2 In any municipal corporation of this state, where no
3 provision is made by legislative charter or otherwise
4 for compensation to municipal officers and employees,
5 the mayor, recorder, superintendent of roads, streets
6 and alleys, members of the council and policemen of
7 such corporation, may each receive compensation for his
8 services, to be fixed by the council, by proper ordinance,
9 which shall not be increased or diminished during the
10 term for which they shall have been elected or appointed.
11 The compensation of each member of the council, other
12 than the mayor and recorder, shall not exceed the sum
13 of five dollars for each meeting of the council held at
14 which such member is in actual attendance; and, in no
15 event, shall a councilman, other than the mayor and re-
16 corder, receive compensation in any one fiscal year in ex-
17 cess of the sum of one hundred twenty dollars. Where
18 employed and acting as such, the compensation of the
19 sergeant in regard to the arrest of persons, the collection
20 of claims, and the execution and return of process, shall
21 be the same as that of a constable, except that he shall
22 receive for his services, in the collection of taxes and
23 assessments and such license and other fees as it is his
24 duty under the law to collect, a compensation, to be fixed
25 by the council, of not exceeding five per cent on the
26 amount duly collected and accounted for.

CHAPTER 93

(House Bill No. 300—Originating in the House Committee on Taxation and Finance)

AN ACT to amend and reenact sections fourteen and twenty, article six, chapter eight of the code of West Virginia, one

thousand nine hundred thirty-one, as amended, relating to the firemen's and policemen's pension or relief funds.

[Passed March 6, 1945; in effect July 1, 1945. Approved by the Governor.]

Article 6. Fire Department, Fire Companies, and Firemen's and Policemen's Pensions or Relief Funds.

Section

14. Levy to maintain fund; gifts, etc; assessments on members of departments; return of assessments.
20. Payments upon retirement without disability; payments for retirement at sixty-five; payments for permanent disability; credit for military service.

Be it enacted by the Legislature of West Virginia:

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

Section 14. *Levy to Maintain Fund; Gifts, etc; Assessments on Members of Departments; Return of Assessments.*—In every municipality there shall be a firemen's pension or relief fund and a policemen's pension or relief fund, which shall be maintained as follows: The council or other governing body of each municipality shall levy annually and in the manner provided by law for other municipal levies, and include within the maximum levy or levies permitted by law, and if necessary in excess of any charter provision, a tax of not less than one cent on each one hundred dollars of all real and personal property as listed for taxation in such municipality, for the firemen's pension or relief fund, and a like levy on all real and personal property as listed for taxation in such municipality, for a policemen's pension fund: *Provided, That* in any city or municipality of eight thousand three hundred population or less the laying of the levies herein provided for shall be within the discretion of the common council or other body of like power and duties in such city or municipality.

The levies authorized under this section, or any part of them, may by the council or other governing body be laid in addition to all other municipal levies, and to that

24 extent beyond the limit of levy imposed by the charter
25 of such municipality; and such levies shall supersede and
26 if necessary exclude levies for other purposes if such
27 priority or exclusion is necessary under limitation upon
28 taxes or tax levies imposed by law.

29 Such corporations are authorized to take by gift, grant,
30 devise or bequest, any money or real or personal property,
31 upon such terms as to the investment and expenditure
32 thereof as may be fixed by the grantor or determined by
33 said trustees.

34 In addition to all other sums provided for pensions in
35 this section, it shall be the duty of every municipal cor-
36 poration to assess and collect from each member of such
37 fire department and police department each month the
38 sum of three per cent of the monthly basic pay of such
39 fire or police department, that is, the monthly basic pay
40 for all equally and regardless of rank or position of the
41 member of such department and so that the amount of
42 such deduction shall be the same for all members of such
43 fire department and the same for all members of such
44 police department, which amount so to be deducted shall
45 be deducted from the monthly pay of such persons; and
46 the amount so collected shall become a regular part of the
47 firemen's pension fund, if collected from a fireman, and
48 of the policemen's pension fund, if collected from a
49 policeman.

50 Any member of a municipal fire or police department
51 who is released or who before retirement on any pension
52 severs his connection with said department, provided
53 he has served two full years or more, shall, upon request,
54 be refunded all deductions made from his salary, but
55 without interest. In event such refund is made and such
56 member subsequently reenters the department, no credit
57 shall be allowed him for any former service.

Sec. 20. *Payments Upon Retirement without Disability;*
2 *Payments for Retirement at Sixty-Five; Payments for*
3 *Permanent Disability; Credit for Military Service.*—Any
4 member of a municipal fire department or police depart-
5 ment who is entitled to benefits of said fund, and who has
6 been in the continuous service of such department for

7 twenty years, and upon reaching the age of fifty years,
8 may, upon written application to the board of trustees,
9 be retired from all service from such department without
10 medical examination or disability, and on such retire-
11 ment the board of trustees shall authorize the payment
12 of eighty-five dollars per month to such retired member
13 during the remainder of his life, and any member of such
14 department who is entitled to the benefits of said fund
15 and who has been in the continuous service of such de-
16 partment for more than twenty years at the time of his
17 retirement as herein provided shall in addition to the
18 eighty-five dollars per month authorized to be paid such
19 member upon retirement after twenty years of continu-
20 ous service, and reached the age of fifty years, receive
21 five dollars per month during the remainder of his life for
22 each year of the first three additional years served with
23 such department in excess of said twenty years, but in no
24 event shall he receive additional retirement pay for more
25 than three such additional years: *Provided, however,*
26 That any member of such department who has served in
27 the armed services, as defined hereinafter, shall be eligi-
28 ble to retirement prior to reaching the age of fifty years
29 if he is otherwise eligible hereunder. A member of such
30 department who may have served twenty years, but not
31 continuously, and reached the age of fifty years, shall be
32 entitled to the benefits of this section, provided he shall
33 not have been out of the service for a longer period than
34 two years and six months.

35 Any member of a municipal fire or police department
36 upon reaching the age of sixty-five years shall retire, un-
37 less a national emergency exists, and then at the expira-
38 tion of such national emergency, and the board of trus-
39 tees shall authorize the payment to such retired member,
40 who need not have served twenty years, of the sum of
41 eighty-five dollars per month to such retired member
42 during the remainder of his life, and any member of such
43 department who is entitled to the benefits of said fund
44 and who has been in the continuous service of such de-
45 partment for longer than twenty years and reached the
46 age of fifty at the time of his retirement as herein pro-
47 vided, shall in addition to the eighty-five dollars per

48 month authorized to be paid such member upon retirement
49 after twenty years of continuous service, receive five
50 dollars per month during the remainder of his life for
51 each year of the first three additional years served with
52 such department, but in no event shall he receive addi-
53 tional retirement pay for more than three such additional
54 years. A member of such department who may have
55 served twenty years, but not continuously, and reached
56 the age of fifty years, shall be entitled to the benefits of
57 this section, provided he shall not have been out of the
58 service for a longer period than two years.

59 The sum to be paid to permanently disabled members
60 shall be at the rate of one hundred dollars per month,
61 which shall be paid regardless of the position in the
62 department of such disabled member.

63 Absence from the service because of sickness or injury
64 shall not be construed as time out of service.

65 Any member of such departments who has served in
66 the armed forces of the United States between Septem-
67 ber fifteenth, one thousand nine hundred forty, the date
68 of the selective service act, and the official termination
69 of the present war as may be declared by the president
70 of the United States or by joint resolution of the con-
71 gress of the United States, and who has not been dis-
72 honorably discharged from said service, shall be given
73 credit for continuous service in said fire or police depart-
74 ments: *Provided*, That he shall not have reenlisted
75 in said armed forces after such official termination of the
76 present war, nor remained in such service without re-
77 signing or retiring where or when resignation or retire-
78 ment is necessary for discharge or release, and that with-
79 in six months after the receipt of an honorable discharge
80 he shall present himself to the officer, board or person
81 having power to make original appointments to the de-
82 partment and offer to resume service as an active member
83 of the department and that he, upon his return and proffer
84 to resume active service, be determined by the pension
85 board doctors as mentally and physically capable of per-
86 forming his duties as a member of the department. In
87 event such member becomes disabled after entering upon

88 his duties as a member of any municipal fire department
89 or police department, and it appears that such disability
90 was brought about by reason of his service in the armed
91 forces of the United States and that the government of
92 the United States has upon his application or otherwise
93 granted him a pension of less than one hundred dollars
94 per month, then, in that event, upon his application, the
95 board of trustees of the firemen's pension relief fund or
96 the policemen's pension relief fund, as the case may be,
97 may grant him a pension, payable monthly, so as to
98 bring his total monthly pension income from both the gov-
99 ernment of the United States and said firemen's pension
100 relief fund or the policemen's pension relief fund, to the
101 aggregate sum of one hundred dollars per month.

102 No member of the fire or police departments shall be
103 required to pay the monthly assessment as now required
104 by law, during his period of service in the armed forces
105 of the United States.

106 None of the provisions of this act shall apply to or
107 affect any person who at the time this act takes effect is
108 receiving any pension, payment or benefit from the fire-
109 men's or policemen's pension or relief funds.

CHAPTER 94

(Senate Bill No. 160—By Mr. Morrison, by request)

AN ACT to amend article one, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding a new section thereto, to be numbered section three, authorizing municipalities to become members of an association or league of municipalities, defraying the expense thereof by the payment of dues thereto.

[Passed March 6, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 1. Application of Charter to Municipal Corporations.

Section

3. Authority to become members of association or league of municipalities; payment of expenses.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Authority to Become Members of Association or League of Municipalities; Payment of Expenses.*—
2 Every municipality in this state is hereby authorized
3 and empowered to become a member of an association or
4 league of municipalities having for its general purpose
5 the exchange and dissemination of information and ideas
6 designed for the more efficient administration and con-
7 duct of municipal government and affairs. In order to
8 finance the maintenance of such organization, each mu-
9 nicipality is hereby authorized to expend and contribute
10 thereto annually, a sum not to exceed one cent per capita
11 for each inhabitant of such municipality based on the last
12 federal census, such expenditure to be appropriated by
13 the council as a current expense item and included in the
14 annual budget.
15

CHAPTER 95

(House Bill No. 215—By Mr. Speaker, Mr. Amos, by request)

AN ACT to amend and reenact sections twenty-four and twenty-five, article twelve, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to certificate or permit to be attached to nursery stock sold, duties of carriers bringing such stock into the state, and to registration of nurserymen; and to repeal section thirty-two of said article and chapter relating to tags required to be attached to shipments of nursery stock.

[Passed March 9, 1945; in effect from passage. Approved by the Governor.]

Article 12. Insects and Plant Diseases.**Section**

- 24. Certificate or permit to be attached to nursery stock sold; duties of carriers.
- 25. Registration of nurserymen.
- 32. Repealed.

Be it enacted by the Legislature of West Virginia:

That section thirty-two, article twelve, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be repealed, and that sections twenty-four and twenty-five be amended and reenacted to read as follows:

Section 24. *Certificate or Permit to Be Attached to Nursery Stock Sold; Duties of Carriers.*—It shall be unlawful for any nurseryman to deliver or give away, within the boundaries of this state, plants commonly known as nursery stock, which have not been duly inspected in accordance with the provisions of this article and do not carry plainly attached to each carload, box, bale or package, a copy of a certificate or permit as herein provided, except that in case of nursery stock shipped into the state from without, the commissioner shall provide by regulations for the acceptance of proper certificates from other states, and a tag or certificate so stating shall be attached to all such shipments, but no nursery stock shall be sold or shipped under the certificate issued as provided herein that was not raised in the nursery for or to which the certificate was issued, until such stock has been duly examined, as provided herein, and found to be apparently free from any dangerously injurious insect pest or plant disease. The commissioner may require all transportation companies and common carriers bringing nursery stock into this state, upon receiving such consignment, to notify immediately the commissioner of the fact that such consignment is in their possession or enroute to some point within the state, and give the names of the consignor and consignee, the point of shipment, the designation of such consignment and whether it bears the official tag hereinbefore

28 required. It shall be unlawful, after the promulgation
29 of the rules and regulations provided for in this article,
30 for any person to transport, by land or water, plants com-
31 monly known as nursery stock, in violation of the same,
32 and every such offense shall constitute a misdemeanor.

Sec. 25. *Registration of Nurserymen.*—It shall be un-
2 lawful for any person, either for himself or as agent for
3 another, to offer for sale, sell, deliver or give away,
4 within the bounds of this state, any plants known as
5 nursery stock, unless such person shall have first pro-
6 cured from the commissioner a certificate of registra-
7 tion, which certificate shall contain such rules and regu-
8 lations concerning the sale of nursery stock as the com-
9 missioner may prescribe, who shall have full power, and
10 is hereby authorized and required, to cancel and with-
11 draw any certificate upon satisfactory evidence that any
12 rules and regulations governing the sale of nursery stock
13 within this state have been violated by the holder of the
14 same. The commissioner shall not issue any certificate
15 of registration except on the filing with the commis-
16 sioner of a certified copy of a certificate of inspection, as
17 specified in sections twenty-one and twenty-four of this
18 article. All such certificates as may be granted shall ex-
19 pire and become null and void June thirtieth next suc-
20 ceeding the issuance thereof. Any person, either for
21 himself or as agent for another, who shall sell, offer for
22 sale, deliver or give away any plants, commonly known
23 as nursery stock, without exhibiting a copy of the certi-
24 ficate of registration as herein provided for to each and
25 every person to whom he shall sell, offer for sale, deliver
26 or give away any such plants, shall be guilty of a misde-
27 meanor, and, upon conviction thereof, shall be fined as
28 provided in section thirty-one of this article. This section
29 shall not be construed so as to prevent a neighbor from
30 giving away a plant or tree which is not from a nursery.

Sec. 32. This section is hereby repealed.

CHAPTER 96

(Senate Bill No. 68—By Mr. Bean, by request)

AN ACT to amend and reenact article seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the examination, licensing and regulation of registered professional nurses; to provide for a board of examiners and prescribe and define the powers and duties thereof; to provide for the annual recording of registration certificates; and to prescribe penalties for violation of the provisions of this act.

[Passed March 9, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 7. Nurses.

Section

1. Definitions.
2. Who may practice.
3. Use of title "Registered Nurse"; registration of alien graduate nurses.
4. Qualifications and examination of registered professional nurses.
5. Renewal of license.
6. Board of examiners for nurses.
7. Advisory council to board of examiners.
8. Schools of nursing.
9. Administration of anaesthetics by registered nurse.
10. Construction of this article.
11. Disciplinary proceedings; grounds for discipline.
12. Penalties.

Be it enacted by the Legislature of West Virginia:

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

- Section 1. *Definitions.*—As used in this article, the term
- 2 "board" means the West Virginia state board of exam-
 - 3 iners for registered nurses. The practice of registered
 - 4 nursing is defined as follows: A person practicing nurs-
 - 5 ing within the meaning of this article who for compensa-
 - 6 tion or personal profit (a) performs any professional serv-
 - 7 ice requiring the application of principles of nursing
 - 8 based on biological, physical and social sciences, such as
 - 9 responsible supervision of a patient requiring skill in ob-

10 servation of symptoms and reactions and the accurate
11 recording of the facts, and carrying out of treatments and
12 medications as prescribed by a licensed physician, and
13 the application of such nursing procedures as involve un-
14 derstanding of cause and effect in order to safeguard life
15 and health of a patient and others; or (b) performs such
16 duties as are required in the physical care of a patient and
17 in carrying out of medical orders as prescribed by a li-
18 censed physician, requiring an understanding of nursing
19 but not requiring the professional service as outlined
20 in (a).

Sec. 2. *Who May Practice.*—In order to safeguard life
2 and health, graduate nurses practicing or offering to prac-
3 tice nursing in this state for compensation or personal
4 profit shall, hereafter, be required to submit evidence that
5 he or she is qualified so to practice, and shall be licensed
6 as hereinafter provided. After December thirty-first,
7 one thousand nine hundred forty-five, it shall be un-
8 lawful for any graduate nurse to practice or to offer to
9 practice nursing in this state or to use any title, sign, card
10 or device to indicate that such a person is practicing
11 nursing unless such person has been duly licensed and
12 registered under the provisions of this article.

Sec. 3. *Use of Title "Registered Nurse"; Registration
2 of Alien Graduate Nurses.*—A registered professional
3 nurse shall be entitled to use such title and the abbrevi-
4 ation R. N. No other person shall assume such title or use
5 the abbreviation R. N. or any other words, letters or fig-
6 ures to indicate that the person using the same is a regis-
7 tered professional nurse. A license may be issued to a
8 person who is not a citizen of the United States but who
9 has declared his or her intention of becoming a citizen,
10 but shall terminate and become void at the end of seven
11 years from such declaration of intention if the holder
12 has not become a citizen. A license so terminated may be
13 reissued by the board any time thereafter upon evidence
14 of citizenship and an explanation of the delay satisfactory
15 to the board. Every alien graduate nurse who will register
16 under this act shall file with the application for registra-

tion a copy of his or her declaration of intention to become a citizen of the United States certified by the clerk of the court in which it was filed. In case of failure to present such certificate his or her application will not be acted upon until the certificate is filed.

Sec. 4. Qualifications and Examination of Registered Professional Nurses.—To obtain a license to practice as a registered professional nurse, the applicant shall submit to the board satisfactory evidence that he or she (a) is more than twenty years of age; (b) is of good moral character; (c) is a citizen of the United States or has legally declared his or her intention of becoming a citizen; (d) has completed at least an approved four-year high school course of study or three years of high school work after graduation from a standard junior high school and has received a diploma or certificate of graduation from a standard high school in this state or from a high school outside this state having equal standards, grades and requirements: *Provided*, That an applicant who began his or her course of study in a school of nursing registered by the board prior to January first, one thousand nine hundred thirty, may submit in lieu thereof evidence of having completed the preliminary educational requirements in force at that time; (e) has completed the course of study in, and holds the diploma of a school of nursing approved by the board. The applicant shall also be required to pass a written examination in such subjects as the board shall determine. Each written examination may be supplemented by such oral or practical examination as may be determined upon the recommendation of the board. The board shall determine the times and places for the examinations. Any person who (a) has graduated from a school of nursing accredited in any other state, province, or country and is licensed in any other state, province or country; (b) meets the requirements as to age, character and citizenship; (c) and who has completed a course in nursing considered by the board to be a satisfactory equivalent to that required in this state at that time, may file with the board an application for a license as a registered professional nurse. Upon recommendation of the

36 board, such person may be licensed as a registered pro-
37 fessional nurse without examination. In determining
38 what is a satisfactory equivalent of a course of study in a
39 school of nursing, the board shall grant an applicant
40 reasonable opportunity to furnish further evidence and
41 to make up any deficiencies, which, in the opinion of the
42 board, may be necessary to meet its requirements.

Sec. 5. *Renewal of License.*—The license of every nurse
2 registered in this state shall be annually renewed ex-
3 cept as hereinafter provided. On or before January first,
4 one thousand nine hundred forty-six, the board shall
5 mail an application for renewal of license to every known,
6 active, nurse who has ever been licensed in West Vir-
7 ginia. On or before January first in each year there-
8 after the board shall mail a renewal application to every
9 nurse whose license was renewed during the previous
10 year. The applicant shall fill in the application blank and
11 return it to the board with a renewal fee of one dollar
12 before January thirty-first of that year. Upon receipt
13 of the application and fee the board shall verify the ac-
14 curacy of the application and issue to the applicant a cer-
15 tificate of renewal for the current year beginning January
16 first and expiring December thirty-first. Such certificate
17 of renewal shall render the holder thereof a legal practi-
18 tioner for the period stated on the certificate of renewal.
19 Any licensee who allows his or her license to lapse by
20 failing to renew the license as provided above may be
21 reinstated by the board on satisfactory explanation for
22 such failure to renew his or her license, and on payment
23 of a fee of two dollars. Any person practicing nursing
24 during the time his or her license has lapsed shall be con-
25 sidered an illegal practitioner and shall be subject to the
26 penalties provided for violation of this article. A person
27 licensed under the provisions of this article desiring to
28 retire from practice temporarily, shall send a written no-
29 tice to the board. Upon receipt of such notice the board
30 shall place the name of such person upon the non-
31 practicing list. While remaining on this list the person
32 shall not be subject to the payment of any renewal fees
33 and shall not practice nursing in the state. When the

34 person desires to resume practice, application for renewal
35 of license and payment of renewal fee for the current year
36 shall be made to the board.

Sec. 6. *Board of Examiners for Nurses.*—The governor
2 shall appoint, by and with the advice and consent of the
3 senate, five citizens of the state of West Virginia, who
4 shall be registered nurses and residents of the state, who
5 shall constitute the West Virginia state board of exami-
6 ners for registered nurses: *Provided, however,* That the
7 present members of the West Virginia board of examiners
8 for nurses shall, unless sooner removed, serve as mem-
9 bers of the board until their successors are duly appointed
10 under the provisions of this act. Upon the expiration of
11 said present terms, or upon the appointment of such suc-
12 cessors, said appointments shall be made by the governor,
13 by and with the advice and consent of the senate, from
14 lists submitted to the governor by the West Virginia
15 state nurses' association, which lists shall consist of not
16 less than five nurses, each of whom shall have graduated
17 from an accredited school of nursing and had at least five
18 years' experience in nursing following graduation and
19 two years' experience in nursing education or administra-
20 tion in schools of nursing, and who shall have been active
21 in nursing within two years of his or her appointment.
22 Such appointments shall be for terms of five years each
23 or for the unexpired term, if any, of present members.
24 Any member may be eligible for a reappointment, but
25 no member shall serve longer than two successive
26 terms. Vacancies shall be filled in the same manner as
27 is provided for appointment in the first instance, from a
28 list of five names. The board is hereby authorized to
29 appoint and employ a registered nurse, who is duly quali-
30 fied, to perform the duties of a secretary to the board and
31 also to act as educational adviser; to survey and advise
32 the approved schools of nursing to the end that the rules
33 and regulations adopted by said board may be observed
34 throughout the state. Such secretary shall act under the
35 direction of said board. The board shall furnish the
36 secretary a headquarters and shall provide such office
37 equipment and clerical assistance as the duties of the of-

38 fice may require. The board shall have power to ap-
39 point such nurses, deputies, clerks, assistants, inspectors,
40 and employees as shall be necessary for the proper exer-
41 cise of the powers and duties of the board. The com-
42 pensation and expenses of the members of the board and
43 its appointees and employees shall be paid out of such
44 funds as are allocated to the board in its annual budget.
45 The secretary shall keep the records of all proceedings
46 of the board, and shall keep a register of the names and
47 addresses of all nurses registered under this article which
48 register shall be a public record. Said board shall hold
49 not less than two regular meetings each year, and such
50 additional meetings at such times and places as the board
51 may determine. Notice of each of said meetings shall be
52 published in two newspapers of general circulation in the
53 state, and in one state publication of a journal of nursing,
54 and notices of said meetings shall be sent by mail to each
55 person known by the secretary to be an applicant for an
56 examination or registration, at least thirty days previous
57 to any such meeting. The board is authorized to adopt
58 and, from time to time, revise such rules and regulations
59 not inconsistent with the law, as may be necessary to
60 enable it to carry into effect the provisions of this act.
61 The board shall prescribe curricula and standards for
62 schools and courses preparing persons for licensure under
63 this article. It shall provide for surveys of such schools
64 and courses at such times as it may deem necessary. It
65 shall accredit such schools and courses as meet the re-
66 quirements of this article and of the board. It shall
67 evaluate and approve courses for affiliation. It shall ex-
68 amine, license and renew the license of duly qualified
69 applicants.

Sec. 7. *Advisory Council to Board of Examiners.*—There
2 is hereby created an advisory council to said board to con-
3 sist of the members of the West Virginia public health
4 council and two members of the West Virginia state hos-
5 pital association. These two representatives shall be
6 chosen by the members of the public health council for a
7 term of two years beginning July first, one thousand
8 nine hundred forty-five, and shall be eligible for re-

9 appointment. The advisory council shall act in an ad-
10 visory capacity to the board herein provided for.

Sec. 8. *Schools of Nursing.*—An institution desiring to
2 be accredited by the board shall file an application there-
3 for with the board, together with the information re-
4 quired and a fee of ten dollars. It shall submit evidence
5 that: (1) It is prepared to give the course of theoretical
6 instruction and practical experience in nursing as pre-
7 scribed in the curriculum adopted by the board. Such
8 instruction and experience may be secured in one or more
9 institutions approved by the board; (2) it is prepared to
10 meet other standards established by this law and by the
11 board.

12 A survey of the institution, or institutions, with which
13 the school is to be affiliated shall be made by the execu-
14 tive secretary of the board. The executive secretary shall
15 submit a written report of the survey to the board. If,
16 in the opinion of the board, the requirements for an ac-
17 credited school of nursing are met, it shall approve the
18 school as an accredited school of nursing. From time to
19 time as deemed necessary by the board, it shall be the
20 duty of the board, through its executive secretary, to
21 survey all schools of nursing in the state. Written reports
22 of such surveys shall be submitted to the board. If the
23 board determines that any accredited school of nursing
24 is not maintaining the standards required by the statutes
25 and by the board, notice thereof in writing specifying the
26 defect or defects shall be immediately given to the school.
27 A school which fails to correct these conditions to the
28 satisfaction of the board within a reasonable time shall be
29 removed from the list of accredited schools of nursing.

Sec. 9. *Administration of Anaesthetics by Registered*
2 *Nurse.*—In any case where it is lawful for a duly licensed
3 physician and surgeon practicing medicine and surgery
4 under the laws of this state to administer anaesthetics,
5 such anaesthetics may lawfully be given and adminis-
6 tered by any nurse who has been duly registered as such
7 under the laws of this state: *Provided*, That such anaes-
8 thetic is administered by the nurse in the presence and
9 under the supervision of such physician or surgeon.

Sec. 10. *Construction of This Article.*—This article shall
2 not be construed as conferring any authority to practice
3 medicine or to undertake the treatment or cure of disease,
4 pain, injury, deformity or physical condition, nor shall it
5 be construed as prohibiting the care of the sick by do-
6 mestic servants, housekeepers, nursemaids, companions
7 or household aides of any type, whether employed regu-
8 larly or because of an emergency illness: *Provided*, That
9 such person does not hold himself or herself out, or accept
10 employment, as an R. N. under the provisions of this ar-
11 ticle, or preventing any person from the domestic admin-
12 istration of family remedies or the furnishing of nursing as-
13 sistance in case of an emergency; nor shall it be construed
14 as including service given by attendants in institutions
15 under the jurisdiction of or subject to the visitation of
16 the West Virginia board of control if adequate medical
17 and nursing supervision is provided; nor shall it be con-
18 strued as prohibiting such practice of nursing by stu-
19 dents enrolled in registered schools as may be incidental
20 to their course of study; nor shall it be construed as pro-
21 hibiting or preventing the practice of nursing in this
22 state by a graduate nurse, whose application for registra-
23 tion by reciprocity is pending; nor shall it be construed
24 as prohibiting or preventing the practice of nursing in
25 this state by any legally qualified nurse of another state
26 or country whose engagement requires him or her to
27 accompany and care for a patient temporarily residing in
28 this state during the period of such engagement: *Provided*,
29 That such person does not represent or hold himself or her-
30 self out as a nurse registered to practice in this state, nor
31 shall it be construed as prohibiting nursing or care of the
32 sick, with or without compensation, or personal profit,
33 when done in connection with the practice of the religious
34 tenets of any church by adherents thereof as long as they
35 do not engage in the practice of nursing as defined in this
36 article. This article shall not affect or apply to gratuitous
37 nursing of the sick by friends or members of the family
38 or to prevent any person, undergraduate nurses, practical
39 nurses or medically trained Waves, Wacs, Spars or
40 Women Marines from nursing the sick or injured for hire
41 who does not in any way assume to be a registered nurse.

42 This article shall not be construed to prohibit the practice
43 of nursing pending the results of licensing examinations
44 by graduates of schools registered by the board while
45 working under the supervision of such schools or by other
46 persons eligible for licensure under this article, whose
47 applications for admission to a licensing examination have
48 been approved by the board: *Provided*, That such candi-
49 date shall enter the first licensing examination scheduled
50 by the board following such graduation or approval and
51 shall enter the two following examinations in turn in case
52 of failure to pass the preceding examination, unless such
53 candidate has presented reasons satisfactory to the board
54 as to inability to enter the first or second examination and
55 has been excused therefrom. Such practice pending li-
56 censing examination shall terminate upon failure to enter
57 the examination hereinbefore required, and in no case
58 shall continue beyond the announcement of the result
59 of the third licensing examination after such graduation
60 or approval.

Sec. 11. *Disciplinary Proceedings; Grounds for Discipline.*—The board shall have power to deny, revoke or
2 suspend any license to practice nursing issued by the
3 board or applied for in accordance with the provisions of
4 this act, or to otherwise discipline a licensee upon proof
5 that the person:
6

- 7 (1) Is guilty of fraud or deceit in procuring or attempt-
8 ing to procure a license to practice nursing; or
- 9 (2) Is convicted of a felony; or
- 10 (3) Is unfit or incompetent by reason of negligence,
11 habits or other causes; or
- 12 (4) Is habitually intemperate or is addicted to the use
13 of habit-forming drugs; or
- 14 (5) Is mentally incompetent; or
- 15 (6) Is guilty of conduct derogatory to the morals or
16 standing of the profession of nursing; or
- 17 (7) Who practices or attempts to practice without li-
18 cense or reregistration, or who wilfully or repeatedly vio-
19 lates any of the provisions of this article.

Sec. 12. *Penalties.*—It shall be a misdemeanor for any

2 person (including any corporation, association or indi-
3 vidual) to:

4 (1) Sell or fraudulently obtain or furnish any nursing
5 diploma, license or record or aid or abet therein; or

6 (2) Practice nursing as defined by this article under
7 cover of any diploma, license or record illegally or fraudu-
8 lently obtained or signed or issued unlawfully or under
9 fraudulent representation; or

10 (3) Practice nursing as defined by this article unless
11 duly licensed to do so under the provisions of this arti-
12 cle; or

13 (4) Use in connection with his or her name any desig-
14 nation tending to imply that he or she is a registered
15 nurse unless duly licensed so to practice under provisions
16 of this article; or

17 (5) Practice nursing during the time his or her li-
18 cense issued under the provisions of this article shall be
19 suspended or revoked; or

20 (6) Otherwise violate any provisions of this article.

21 Upon conviction, such misdemeanor shall be punishable
22 by a fine of not less than twenty-five nor more than two
23 hundred and fifty dollars.

CHAPTER 97

(Senate Bill No. 53—By Mr. Allen)

AN ACT to amend and reenact sections four and eight, article five, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, relating to pharmacists, assistant pharmacists and drug stores.

[Passed March 8, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 5. Pharmacists, Assistant Pharmacists and Drug Stores.

Section

4. Qualifications of applicant for registration as pharmacist; certificates of registration.
8. Annual renewal of registrations and permits.

Be it enacted by the Legislature of West Virginia:

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

Section 4. Qualifications of Applicant for Registration

2 *as Pharmacist; Certificate of Registration.*—In order to be
3 registered as a pharmacist within the meaning of this
4 article, an applicant shall be a citizen of the United States,
5 not less than twenty-one years of age, shall present to the
6 board of pharmacy satisfactory evidence that he is a grad-
7 uate of a recognized school of pharmacy, as defined by
8 the board of pharmacy, and in addition thereto he shall
9 have had at least one year of practical experience in a
10 drug store or in the armed services of the United States
11 under the instruction and supervision of a registered phar-
12 macist, and shall pass a satisfactory examination by or
13 under the direction of the board of pharmacy.

14 Every applicant for registration as a pharmacist shall
15 present to the board of pharmacy satisfactory evidence
16 that he is a person of good moral character and not ad-
17 dicted to drunkenness or the use of narcotic drugs. The
18 board shall issue certificates of registration to all appli-
19 cants who successfully pass the required examination
20 and are otherwise qualified, and to all those whose
21 certificates or licenses the board shall accept in lieu of
22 an examination as provided in the next succeeding section.

Sec. 8. Annual Renewal of Registrations and Permits.—

2 Every registered pharmacist and assistant pharmacist
3 within this state who desires to continue in the practice
4 of his profession, shall, on or before the first day of July
5 following the date on which this takes effect, and annu-
6 ally thereafter, apply to the state board of pharmacy for
7 a renewal of his registration, or permit, and shall trans-
8 mit with his application the fees prescribed by the next
9 succeeding section of this article. If the board shall find
10 that the applicant has been legally registered in this state,
11 and is entitled to a renewal of the certificate or permit,
12 it shall issue to him a renewal certificate attesting to that

13 fact. Notification of the annual renewal shall be given by
14 the board at least thirty days prior to the said first day of
15 July. If any pharmacist or assistant pharmacist shall fail
16 for a period of ninety days after the first day of July to
17 apply to the board for a renewal of his registration, his
18 name shall be erased from the register of registered phar-
19 macists and assistant pharmacists, and such person, in
20 order to again become registered, shall be required to pay
21 the same fee as in the case of examination.

CHAPTER 98

(House Bill No. 12—By Mr. Evans)

AN ACT to amend and reenact section eight, article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the placing in the state department of health of responsibility for the advisory medical supervision of state mental and tuberculosis hospitals.

[Passed March 6, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 1. State Department of Health.

Section

8. Supervision of state tuberculosis and mental hospitals; suppression of tuberculosis; promotion of mental health.

Be it enacted by the Legislature of West Virginia:

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

Section 8. *Supervision of State Tuberculosis and Mental Hospitals; Suppression of Tuberculosis; Promotion of Mental Health.*—The state department of health shall have the advisory medical supervision of the Hopemont, Pinecrest, Denmar and all other state tuberculosis hospitals; the Huntington, Lakin, Weston, Spencer, Barboursville and

7 all other state hospitals for the treatment of mental or
8 nervous diseases; the Welch and Fairmont emergency
9 hospitals; and the state board of control shall have the
10 control of the business and fiscal affairs thereof. The di-
11 rector of the bureau of tuberculosis, under the supervi-
12 sion of the commissioner of health, shall encourage mea-
13 sures for the suppression of tuberculosis, such as clinics,
14 camps, open-air schools, sanatoria, district nursing, anti-
15 tuberculosis societies, diffusion of knowledge, and other
16 means. The commissioner of health may promote mental
17 health by establishing a bureau of mental health, by hav-
18 ing mental hygiene clinics conducted, by utilizing the
19 professional services of the state mental hospitals, by co-
20 operating with the department of education and other
21 school authorities in making the services of psycholo-
22 gists and psychiatrists available to schools, by conducting
23 educational programs, and by other means approved by
24 the public health council.

CHAPTER 99

(House Bill No. 51—By Mr. Evans)

AN ACT to amend and reenact sections two and three, article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment of the commissioner of health and the public health council, their compensation, powers and duties.

[Passed February 16, 1945; in effect from passage. Approved by the Governor.]

Article 1. State Department of Health.

Section

2. Commissioner of health.
3. Public health council; violation of its regulations.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article one, chapter sixteen of

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

Section 2. *Commissioner of Health.*—The commissioner
2 of health shall be appointed by the governor, by and with
3 the advice and consent of the senate, and shall be a phy-
4 sician, a graduate of a reputable medical college, of at
5 least five years' experience in the practice of medicine,
6 skilled in sanitary science and experienced in public health
7 administration. Before making such appointment, the
8 governor shall request the council of the West Virginia
9 state medical association to furnish a full and complete re-
10 port concerning the qualifications and suitability of the
11 proposed appointee for this position. The commissioner of
12 health in office on the date this act takes effect shall,
13 unless sooner removed, continue to serve until his term
14 expires and his successor has been appointed and has
15 qualified. On or before the first day of June, one thou-
16 sand nine hundred thirty-one, and on or before the first
17 day of June on each fourth year thereafter, the governor
18 shall appoint a commissioner of health to serve for a term
19 of four years, commencing on said first day of June, and
20 any commissioner shall be eligible for reappointment.
21 The commissioner of health shall receive an annual salary
22 of six thousand dollars and actual expenses incurred
23 in the performance of official business, which salary shall
24 be in full for all services. He shall be the administrative
25 head of the state department of health and shall be ex
26 officio a member of its public health council. His duties
27 shall be to administer the laws and regulations of the de-
28 partment; to prepare rules and regulations for the con-
29 sideration of the public health council; and, with the
30 approval of said council, to appoint, remove and fix the
31 compensation of the directors of divisions and all other
32 employees, but said compensation shall not exceed the
33 appropriation therefor; to advise with the public health
34 council, keep himself informed as to the efficiency of each
35 local health officer within the state; aid each health offi-
36 cer in the performance of his duties; assist each local
37 health officer in making an annual sanitary survey of the

38 territory within his jurisdiction, and in maintaining there-
39 in a continuous sanitary supervision; adjust questions of
40 jurisdiction arising between local health officers within
41 the state, study the cause of excessive mortality or mor-
42 bidity from any disease in any portion of the state; pro-
43 mote efficient registration of births, deaths and notifiable
44 disease; inspect and report from time to time the sanitary
45 condition of institutions, schools and schoolhouses, pub-
46 lic conveyances, dairies, creameries, slaughterhouses,
47 work shops, factories, labor camps, hotels and places
48 where offensive trades or industries are conducted; in-
49 spect and report the sanitary conditions of streams,
50 sources of water supply and sewerage facilities; endeavor
51 to enlist the cooperation of all physicians and volunteer
52 health organizations in the improvement of public health;
53 promulgate information to the general public in all mat-
54 ters pertaining to the public health. He shall perform all
55 executive and other customary duties incident to his posi-
56 tion as chief executive officer, and shall provide offices
57 and equipment necessary for the transaction of the busi-
58 ness of the state department of health out of funds appro-
59 priated for said department. He shall submit annually to
60 the governor, on or before the first day of November, or
61 as soon thereafter as practicable, a report of the opera-
62 tions of the department, with any recommendations he
63 may have to make, which report shall be printed and
64 distributed as soon as practicable thereafter in the same
65 manner as other public documents of the state. The com-
66 missioner of health may direct any official or employee
67 of the state department of health to assist in the study,
68 control, suppression and prevention of diseases in any
69 part of the state, and necessary expenses shall be paid
70 while in the performance of such duty.

2 *Sec. 3. Public Health Council; Violation of Its Regula-*
3 *tions.*—The public health council shall consist of the com-
4 missioner of health and seven other members, who shall
5 be appointed by the governor, by and with the advice and
6 consent of the senate. The commissioner and six of the
7 members shall be graduates of reputable medical colleges,
7 and shall have had at least five years' experience in the

8 practice of medicine. Before making such appointments,
9 the governor shall request the council of the West Virginia
10 state medical association to furnish a full and complete re-
11 port concerning the qualifications and suitability of the
12 proposed appointee or appointees. The other member shall
13 be a graduate of a reputable dental college, a member of
14 the West Virginia state dental society, and shall have
15 had at least five years' experience in the practice of
16 dentistry. Before making such appointment, the gover-
17 nor shall request the West Virginia state dental society
18 to furnish a complete report concerning the qualifications
19 and suitability of the proposed appointee for such posi-
20 tion. The members in office on the date this section takes
21 effect shall, unless sooner removed, continue to serve
22 until their respective terms expire and until their suc-
23 cessors have been appointed and have qualified. On or
24 before the first day of July, one thousand nine hundred
25 thirty-three, and on or before the first day of July of each
26 alternate year thereafter, the governor shall appoint
27 three medical members of the public health council, other
28 than the commissioner of health, to serve for terms of four
29 years respectively, commencing on said first day of July.
30 On or before the first day of July, one thousand nine
31 hundred thirty-three, and on or before the first day of
32 July of every fourth year thereafter, the governor shall
33 appoint the dental member to serve for a term of four
34 years, commencing on said first day of July, and any
35 member shall be eligible for reappointment.

36 The public health council shall elect one of its mem-
37 bers president, whose term of office shall be two years.
38 The commissioner of health shall be secretary of the
39 council. The public health council shall hold at least
40 two meetings each year, and at such other times as it
41 may prescribe by rule, or upon the request of the com-
42 missioner of health. A quorum of the council shall con-
43 sist of not fewer than four members. Each member of
44 the council, other than the commissioner, shall receive
45 ten dollars for each day actually spent in attending the
46 sessions of the council or of its committees and in neces-
47 sary travel, not to exceed sixty days in any one calendar

48 year, and shall be reimbursed for all actual and neces-
49 sary traveling, incidental and clerical expenses incurred
50 in the discharge of his duties. All authorized compensa-
51 tion and all expenses certified by the council as properly
52 and necessarily incurred in the discharge of its duties shall
53 be paid out of the state treasury, from funds appropriated
54 for that purpose, on the warrant of the state auditor
55 issued on requisitions signed by the president and sec-
56 retary of the council.

57 It shall be the duty of the public health council to pro-
58 mulgate rules and regulations; take evidence in appeals;
59 approve plans and appointments; hold hearings; advise
60 with the commissioner of health; define the qualifications
61 of local health authorities and directors of divisions, and
62 discharge other like duties. The public health council
63 shall have power, by the affirmative vote of a majority
64 of its members, to establish and from time to time amend
65 regulations under the public health laws, the enforcement
66 of which devolves upon the state commissioner of health.
67 Every general regulation adopted by the public health
68 council shall state the day on which it takes effect, and
69 a copy thereof, duly signed by the commissioner of health,
70 shall be filed in the office of the secretary of state, and a
71 copy thereof shall be sent by the commissioner of health
72 to each health officer within the state, and shall be pub-
73 lished in such manner as the public health council may
74 determine. Any violation of the regulations so promul-
75 gated, when said regulations are reasonable and not in-
76 consistent with law, shall be a misdemeanor, punishable
77 by a fine of not less than ten dollars nor more than three
78 hundred dollars, and in the discretion of the court, by im-
79 prisonment in the county jail for not more than thirty
80 days: *Provided, however,* That the dental member of the
81 public health council shall have no duties or authority
82 whatever in connection with the licensing of physicians
83 or the regulation of the practice of medicine in this
84 state.

CHAPTER 100

(House Bill No. 321—By Mr. Evans)

AN ACT to amend article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section fourteen, authorizing the state department of health to cooperate with the federal government in its hospital construction program.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 1. State Department of Health.

Section

14. State department of health authorized to cooperate with federal government in hospital construction program.

Be it enacted by the Legislature of West Virginia:

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

Section 14. *State Department of Health Authorized to Cooperate with Federal Government in Hospital Construction Program.*—The state department of health is hereby designated as the sole state agency to cooperate with the federal government in its hospital construction program; and is hereby authorized to make such an inventory of existing public health centers and public and private hospitals, and the laboratory and other facilities thereof, and to adopt and supervise the administration of such a state-wide plan for the construction of additional hospitals and public health centers as may be necessary to comply with the requirements and conditions of federal law in respect to the granting of federal aid for such purposes.

The authority conferred by this section may be exercised by the department of health only with the joint approval of the commissioner of health and the public

18 health council. The governor shall have authority to ap-
19 point such an advisory council to consult with the de-
20 partment of health as may be necessary under federal
21 law to effectuate the purposes of this section. The mem-
22 bers of any such advisory council shall serve without
23 compensation, but shall be paid the amount of their
24 traveling and other expenses necessarily incurred in the
25 performance of their duties.

CHAPTER 101

(House Bill No. 9—By Mr. Evans)

AN ACT to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be designated article four-a, relating to the discovery and suppression of syphilis by providing a compulsory serologic test for pregnant women.

[Passed March 5, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 4-a. Prenatal Examination.

Section

1. Compulsory serologic test.
2. Attending physician to obtain blood specimen.
3. Identification of specimen; report.
4. Notation on birth certificate.
5. Offenses; penalty.
6. Separability.

Be it enacted by the Legislature of West Virginia:

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

- Section 1. *Compulsory Serologic Test.*—Every pregnant
2 woman, resident in West Virginia, shall have a blood
3 sample taken and submitted to the West Virginia state
4 hygienic laboratory or other laboratory approved by the
5 state department of health where there shall be per-
6 formed thereon a standard serologic test for syphilis.

7 Any standard laboratory test for syphilis approved by the
8 state commissioner of health shall be considered to be
9 such a standard serologic test.

Sec. 2. *Attending Physician to Obtain Blood Specimen.*—Every physician engaging in attendance upon a
2 pregnant woman in West Virginia shall, as soon as he or
3 she is engaged to attend a woman and has reasonable
4 grounds for suspecting that pregnancy exists, acquaint
5 such woman with the provisions of this article and take
6 or cause to be taken a specimen of blood from such
7 woman. This specimen shall be submitted to the state
8 hygienic laboratory or other laboratory approved by the
9 state department of health as required by the preceding
10 section. If the woman is in a stage of gestation or labor at
11 the time that the diagnosis of pregnancy is made, which
12 may make it inadvisable to obtain the specimen, the
13 specimen of blood shall be obtained within ten days fol-
14 lowing delivery.

16 The state hygienic laboratory of the state health de-
17 partment shall perform the serological tests required by
18 law on all blood specimens taken from pregnant women
19 by physicians for examination. These tests shall be per-
20 formed without charge.

21 Upon request, it shall be the duty of county and district
22 health officers to draw blood specimens from pregnant
23 women for performing thereon a serologic test for syphilis.
24 This service shall be performed without charge.

25 In those areas where the services of a district or county
26 health officer are not available, the state health depart-
27 ment shall assume the responsibility of obtaining the re-
28 quired blood specimens without any charge to the preg-
29 nant women.

Sec. 3. *Identification of Specimen; Report.*—Any phy-
2 sician who takes or causes to be taken from a woman
3 in pregnancy or suspected pregnancy a blood test for
4 syphilis shall identify such specimen as being from a
5 pregnant woman, and the laboratory shall provide a re-
6 port in triplicate on forms prepared and furnished by
7 the state department of health showing the results of
8 such tests. The original of each such report shall be

9 sent at once to the physician submitting the specimen, a
10 duplicate shall be forwarded to the bureau of venereal
11 diseases of the state department of health during the week
12 that the test was performed, and the triplicate shall be
13 retained by the laboratory for its files. All laboratory re-
14 ports shall be confidential and shall not be open to public
15 inspection. The laboratory test for syphilis in compliance
16 with this article shall be performed free of charge by the
17 state hygienic laboratory on the application of any mu-
18 nicipal or county health officer or other physician, or
19 any other person permitted by law to secure such speci-
20 mens.

Sec. 4. *Notation on Birth Certificate.*—Every physician
2 required to report births and stillbirths, shall state on
3 each birth certificate or stillbirth certificate, as the case
4 may be, whether a blood test for syphilis was performed
5 during such pregnancy upon a specimen of blood taken
6 from the woman who bore the child for which the birth
7 or stillbirth certificate is filed.

8 If such test was made, the physician shall state on the
9 certificate the name of the test used, the date the test
10 was performed, and the name of the laboratory making
11 the test; if not made, the physician filing the certificate
12 shall state the reason or reasons why such test was not
13 performed. In no event shall the result of the test be
14 stated on the birth or stillbirth certificate.

Sec. 5. *Offenses; Penalty.*—Any physician or representa-
2 tive of a laboratory, making such examinations or tests
3 as are required by this article, or filing such birth or
4 stillbirth certificates, who shall knowingly misrep-
5 sent any of the facts called for in the laboratory reports
6 or birth or stillbirth certificate, or who otherwise know-
7 ingly and wilfully shall violate any provision of this ar-
8 ticle, shall be guilty of a misdemeanor and upon convic-
9 tion thereof shall be subject to a fine of not less than ten
10 dollars nor more than fifty dollars.

Sec. 6. *Separability.*—If any part of this article shall
2 be declared unconstitutional, such declaration shall not
3 affect any other part thereof.

CHAPTER 102

(Com. Sub. for Senate Bill No. 82—Originating in the Senate Committee on Forestry and Conservation)

AN ACT to amend and reenact sections two and fourteen, article eleven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the state water commission and compliance with its orders.

[Passed March 9, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 11. State Water Commission.

Section

2. State water commission, how constituted; reimbursement for expenditures; assistance to by director of division of sanitary engineering and college of engineering at West Virginia university.
14. Extension of time for compliance; penalty for noncompliance.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *State Water Commission, How Constituted; Reimbursement for Expenditures; Assistance to by Director of Division of Sanitary Engineering and College of Engineering at West Virginia University.*—On and after the date this act shall go into effect the state water commission shall consist of the commissioner of health, the chairman of the West Virginia game and fish commission, and their successors in office, and three others to be appointed by the governor with the advice and consent of the senate. The terms of office of the members of the commission to be appointed by the governor shall be for six years, except that the first members to be appointed under the provisions of this act shall take office immediately and their terms shall be for two and four years, respectively, from July first, one thousand nine hundred forty-five. The members of the commission shall receive no salary or remuneration for their services as such commissioners but they shall be reimbursed, out of moneys

19 appropriated for such purposes, all sums which they
20 necessarily shall expend in the discharge of their duties
21 as members of such commission. The director of the
22 division of sanitary engineering in the state health de-
23 partment shall perform such services as said commission
24 may request of him in connection with its duties here-
25 under; he shall be reimbursed, out of moneys appropri-
26 ated for such purposes, all sums which he necessarily shall
27 expend in the performance of such services. Nothing
28 contained in this act, however, shall be construed to limit
29 or interfere with the power of the state health depart-
30 ment to select, employ and direct the direction of the
31 division of sanitary engineering of said department, or
32 any employee thereof who in any way may perform any
33 services for the commission. The college of engineering
34 at West Virginia university, under the direction of the
35 dean thereof, shall, insofar as it can, without interfer-
36 ence with its usual and regular activities, aid and assist
37 the commission in the study and research of questions
38 connected with pollution of waters. The dean of the col-
39 lege of engineering shall be reimbursed out of moneys
40 appropriated for such purposes, any and all sums which
41 he necessarily shall expend in the performance of any
42 services he may render to the commission under the pro-
43 visions hereof.

Sec. 14. *Extension of Time for Compliance; Penalty for*
2 *Noncompliance.*—The state water commission shall have
3 the authority, in its discretion, to extend the time fixed
4 in any final order issued by it, within which any offender
5 is ordered to correct or abate a condition of pollution of
6 any water or waters, upon written petition filed with
7 such commission not less than thirty days prior to the
8 time fixed in such order, when it shall appear that a good
9 faith effort to comply with said order is being made, and
10 that it shall be impossible for such an offender to complete
11 the project of work undertaken within the time so fixed:
12 *Provided, however,* That when it shall appear from such
13 petition aforesaid that due to wartime restrictions with re-
14 spect to labor or material, or both, compliance with any
15 such order would be impossible or place undue burden

16 upon such offender, the commission shall then stay the
17 execution of its order until such time as it may satis-
18 factorily appear that such wartime restrictions no longer
19 exist.

20 Any person, corporation, municipal corporation, part-
21 nership, association or other legal entity, who shall fail
22 or refuse to correct or abate such polluted condition in
23 compliance with such order within the time fixed or
24 within the time additionally granted as herein provided,
25 shall be subject to a penalty of one hundred dollars for
26 each day that such polluted condition continues to exist
27 after the time so fixed, or additionally granted, which may
28 be recovered in a civil suit brought in the name of the
29 state of West Virginia and which penalty shall be in
30 addition to the penalty provided in section thirteen of this
31 act. It shall be the duty of the attorney general to prose-
32 cute all actions for penalties under this section, and all
33 penalties so recovered shall be paid into the common
34 school fund of the state. The penalties accruing for any
35 two or more days under the provisions of this section
36 may be recovered in one complaint and may be joined in
37 one paragraph of said complaint.

CHAPTER 103

(Com. Sub. for Senate Bill No. 64—Originating in the Senate Committee on
Public Libraries)

AN ACT to amend article one, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting sections one to eleven thereof, inclusive, and by adding thereto a new section to be numbered eleven-a, all relating to the establishment of public libraries and their operation.

[Passed March 3, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 1. Public Libraries.**Section**

1. Public library and governing authority defined.
2. Power of governing authority to establish and maintain libraries; levy.
3. Regional library.
4. Contract with existing library.
5. Board of library directors; qualifications; term of office; no compensation.
6. Powers and duties of library directors.
7. Free use of libraries.
8. Annual report of directors.
9. Library board to be a corporation; vesting of title.
10. Injury to library property; penalty.
11. Wilful retention of library property.
- 11-a. Application of article.

Be it enacted by the Legislature of West Virginia:

That article one, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting sections one to eleven thereof, inclusive, and by adding thereto a new section numbered eleven-a, to read as follows:

- Section 1. *Public Library and Governing Authority Defined.*—The term “public library” as used in this article shall be construed to mean a library maintained wholly or in part by any governing authority from funds derived by taxation and the services of which are free to the public. The term shall not, however, include special libraries such as law, medical or other professional libraries, or school libraries which are maintained primarily for school purposes. The term “governing authority” shall be construed to mean county court, county board of education or the governing body of any municipality.

- Sec. 2. *Power of Governing Authority to Establish and Maintain Libraries; Levy.*—A governing authority, either by itself or in cooperation with one or more other such governing authorities, shall have the power to establish, equip and maintain a public library, or to take over, maintain or support any public library already established. Any library established, maintained or supported by a governing authority may be financed either (1) by the appropriation from the general funds of the governing

10 authority of a sum sufficient for the purpose, or (2) by
11 the imposition of an excess levy for library purposes, in
12 accordance with the provisions of section sixteen, article
13 eight, chapter eleven of this code.

Sec. 3. *Regional Library.*—Two or more counties, by
2 action of their governing authorities may join in estab-
3 lishing and maintaining a regional library under the
4 terms of a contract to which all agree. The expenses of
5 the regional library shall be apportioned between or
6 among the counties concerned on such basis as shall be
7 agreed upon in the contract, which shall specify what
8 items of expense shall be paid by each county, and the
9 total amount thereof.

Sec. 4. *Contract with Existing Library.*—The governing
2 authority may in lieu of supporting and maintaining an
3 independent public library, enter into a contract with an
4 existing library and make annual payments of money to
5 such library, whose books shall be available without
6 charge to all persons living within the area represented by
7 such governing authority. Any school board may con-
8 tract for school library service from an existing public
9 library which shall agree to furnish books to a school
10 or schools under the terms of the contract.

11 All money paid to a library under such contract shall
12 be expended solely for the maintenance and support of
13 the library.

Sec. 5. *Board of Library Directors; Qualifications;
2 Term of Office; No Compensation.*—Whenever a public
3 library is established under this article the governing
4 authority shall appoint a board of five directors, chosen
5 from the citizens at large of such governmental division
6 with reference to their fitness for such office. In a re-
7 gional library the directors shall be appointed by the
8 joint action of the governing authorities of the counties
9 concerned. Such directors shall hold office for five years
10 from the first day of July following their appointment,
11 and until their successors are appointed and qualified:
12 *Provided, That* upon their first appointment under this
13 article one member shall be appointed for one year, one

14 for two years, one for three years, one for four years,
15 and one for five years; and thereafter all appointments
16 shall be for terms of five years. Vacancies in the board
17 shall be immediately reported by the board to the govern-
18 ing authority and filled by appointment in like manner,
19 and, if in an unexpired term, for the residue of the term
20 only. The governing authority may remove any director
21 for just cause. No compensation shall be paid or allowed
22 any director.

Sec. 6. *Powers and Duties of Library Directors.*—The
2 board of directors of each public library established
3 under this article shall: (a) Immediately after appoint-
4 ment, meet and organize by electing one member as
5 president, one as secretary, one as treasurer, and such
6 other officers as may be necessary. All officers shall hold
7 office for one year and shall be eligible for reelection.
8 The treasurer before entering upon his duties shall give
9 bond to the governing authority in an amount fixed by
10 the board of directors, conditioned for the faithful dis-
11 charge of his official duties. (b) Adopt such by-laws,
12 rules, and regulations as are necessary for its own guid-
13 ance and for the administration, supervision and protec-
14 tion of the library and all property belonging thereto
15 as may not be inconsistent with the provisions of this
16 article. (c) Supervise the expenditure of all money
17 credited to the library fund. All money appropriated or
18 collected for public library purposes shall be deposited
19 in the treasury of the governing authority to the credit
20 of the library fund, and shall be paid out on the certified
21 requisition of the library board, in the manner provided
22 by law for the disbursement of other funds of such gov-
23 erning authority. (d) Lease or purchase and occupy
24 suitable quarters, or erect upon ground secured through
25 gift or purchase, an appropriate building for the use of
26 such library; and have supervision, care, and custody
27 of the grounds, rooms or building constructed, leased or
28 set apart for library purposes. (e) Employ a head li-
29 brarian, and upon his recommendation employ such other
30 assistants as may be necessary for the efficient operation
31 of the library.

Sec. 7. *Free Use of Libraries.*—Each library established
2 or maintained by any governing authority shall be free
3 for the use of all persons living within the area repre-
4 sented by such governing authority, subject to reasonable
5 rules and regulations adopted by the library board. The
6 board may extend the privilege and use of the library to
7 nonresidents upon such terms and conditions as it may
8 prescribe.

9 The board may exclude from the use of the library
10 under its charge any person who wilfully and persistently
11 violates any rule or regulation prescribed for the use of
12 the library or its facilities.

Sec. 8. *Annual Report of Directors.*—The board of di-
2 rectors shall make an annual report for the fiscal year
3 ending June thirtieth to the governing authority or
4 authorities appointing it, stating the conditions of the li-
5 brary property, the various sums of money received
6 from the library fund, and all other sources, and how
7 such money was expended, the number of books and peri-
8 odicals on hand, the number added during the year, the
9 number lost or missing, the number of books lent, the
10 number of registered users of such library, with such
11 other statistics, information, and suggestions as may be
12 deemed of general interest. A copy of this report shall
13 be sent to the West Virginia library commission.

Sec. 9. *Library Board to Be a Corporation; Vesting*
2 *of Title.*—The board of library directors of each public
3 library shall be a corporation; and as such it may contract
4 and be contracted with, sue and be sued, plead and be
5 impleaded, and shall have and use a common seal.

6 Any person desiring to make bequests or donations of
7 cash or other personal property or real estate for the
8 benefit of such library, shall vest title thereof in the
9 board of library directors to be held in trust and con-
10 trolled by such board according to the terms and for the
11 purposes set forth in the deed, gift, devise, or bequest.

Sec. 10. *Injury to Library Property; Penalty.*—Any
2 person who shall wilfully deface or injure any building
3 or furniture, or deface, injure or destroy any picture,

4 plate, map, engraving, newspaper, magazine, or book, or
5 subject of art, or any other article belonging to a public
6 library shall be guilty of a misdemeanor, and on conviction
7 thereof shall be punished by a fine of not less than
8 ten dollars nor more than fifty dollars, or by imprisonment
9 not exceeding six months.

Sec. 11. *Wilful Retention of Library Property.*—Who-
2 ever wilfully retains any book, newspaper, magazine,
3 pamphlet, manuscript, or other article belonging to any
4 public library for thirty days after notice in writing to re-
5 turn the same, given after the expiration of the time that
6 by the rules and regulations of the library such an article
7 or other property may be kept, shall be liable for dam-
8 ages, to be recovered by said library board by appropri-
9 ate proceedings before a justice of the peace; the re-
10 covery in each case to be paid to the proper office or
11 custodian of the library fund: *Provided, however,* That
12 the notice required hereby shall include a copy of this
13 section.

Sec. 11-a. *Application of Article.*—Nothing in this
2 article shall be construed to abolish or abridge any power
3 or duty conferred upon any public library already es-
4 tablished by virtue of any city or town charter or other
5 special act, or to affect any existing local laws allowing
6 or providing municipal aid to libraries. Any library now
7 operating under any city or town charter or other special
8 act has, however, the privilege of reorganizing under the
9 provisions of this article.

CHAPTER 104

(Senate Bill No. 69—By Mr. Johnston, by request)

AN ACT to amend article nine, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, by adding a new section thereto, to be numbered section nine, relating to public inspection of reports of examination and audits of public offices.

[Passed February 20, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 9. Supervision of Public Offices.

Section

9. Public inspection of reports.

Be it enacted by the Legislature of West Virginia:

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

- Section 9. *Public Inspection of Reports.*—All reports of
- 2 examinations and audits of public offices made in accord-
 - 3 ance with the provisions of section seven of this article,
 - 4 and the copies thereof, when filed in the office of the
 - 5 chief inspector of public offices or in the office of the
 - 6 state tax commissioner, shall be public documents and
 - 7 shall be available for public inspection.

CHAPTER 105

(House Bill No. 66—By Mr. Knight)

AN ACT to amend and reenact article two, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, relating to the establishment and conduct of public recreation and playgrounds.

[Passed March 8, 1945; in effect from passage. Approved by the Governor.]

Article 2. Public Recreation and Playgrounds.

Section

1. Definitions.
2. Authority to establish and conduct public recreation and playgrounds; levy.
3. Joint establishment and administration by two or more governmental divisions.
4. How conducted, delegation of administration; recreation board or commission.
5. Article not to affect powers granted by special acts.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Definitions.*—(a) The term “governing body”
2 as used in this article shall be construed to mean any city
3 council, city commission, county court, or body acting in
4 lieu thereof, or county board of education in the state of
5 West Virginia; (b) the term “governmental division”
6 when hereinafter used in this article shall be construed to
7 mean any city, town, county, or school district in the
8 state of West Virginia; (c) the term “board” when herein-
9 after used in this article shall be construed to mean any
10 board, commission, committee, or council appointed or
11 designated to carry out the provisions of this article.

Sec. 2. *Authority to Establish and Conduct Public Rec-*
2 *reation and Playgrounds; Levy.*—The governing body of
3 any governmental subdivision may provide, establish,
4 maintain, and conduct a system of public recreation, in-
5 cluding recreation centers, parks, swimming pools, play-
6 grounds, and any and all other recreation facilities and
7 activities; may set apart for such use any land or build-
8 ings and other recreational facilities by gift, purchase,
9 lease, condemnation, bond issue, or otherwise, and may
10 improve, maintain, and equip, and conduct the same;
11 may employ a director of recreation and assistants and
12 other personnel as they deem proper; may set up in their
13 respective budgets funds to be spent for such purposes.
14 Any such governing body or governmental division may
15 levy annually for such purposes, in the manner provided
16 by law for other levies: *Provided, however,* That in case
17 sufficient funds cannot be raised by ordinary levies, addi-
18 tional funds may be raised as provided by section sixteen,
19 article eight, chapter eleven of the code.

Sec. 3. *Joint Establishment and Administration by Two*
2 *or More Governmental Divisions.*—Any two or more gov-
3 erning bodies may jointly establish and conduct such a
4 system of recreation, including recreation centers, parks,

5 swimming pools, playgrounds, and any and all other recreation facilities and activities; and may exercise all the powers given by this article. The respective governing bodies operating such a program or programs jointly may provide by agreement among themselves for all matters connected with such programs and determine what items of cost and expense shall be paid by each.

Sec. 4. *How Conducted, Delegation of Administration; Recreation Board or Commission.*—The governing body or bodies establishing such a system may conduct the same through a department or bureau of recreation, or may delegate the administration thereof to a recreation board created by it or in conjunction and cooperation with another governing body or bodies as hereinbefore provided, or to a school board or to any other appropriate existing board. If the governing body or bodies shall decide to delegate the administration to a recreation board, the board shall consist of not fewer than five nor more than nine persons which may include representation from the school board, and shall be appointed by the governing authority or an equal number appointed by each governing body where a system is established jointly by more than one governing body as hereinbefore provided, which members shall serve for a term of not less than three years nor more than five years, or until their successors are appointed, except that the members of such board first appointed shall be appointed for such terms that the terms of not more than two-fifths of the members shall expire annually thereafter. Vacancies in such board occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as original appointments. Members of such board shall serve without pay. Said board shall organize, adopt, and promulgate rules and regulations for the conduct, administration and management of said program: *Provided, however,* That in the case of a joint recreation program sponsored by two or more governing bodies, said rules and regulations shall be made subject to the approval of the respective governing bodies.

Sec. 5. *Article Not to Affect Powers Granted by Special Acts.*—The provisions of this article shall not in any wise repeal, affect or limit the powers and provisions heretofore or hereafter granted to any city, town, district, county, school district or independent school district, under the provisions of any charter or by any special act or acts of the Legislature, to establish, maintain and conduct parks and public recreation and playgrounds.

All laws or parts of laws inconsistent herewith are hereby repealed.

CHAPTER 106

(Senate Bill No. 126—By Mr. Jackson)

AN ACT to amend article two, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be designated section one-a, relating to possession of the surface of land where minerals and appurtenant rights have been or may hereafter be severed.

[Passed February 26, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 2. Limitation of Actions and Suits.

Section

- 1-a. Ownership or possession of surface of lands after severance of minerals not adverse to owner of minerals.

Be it enacted by the Legislature of West Virginia:

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

- Section 1-a. *Ownership or Possession of Surface of Lands After Severance of Minerals Not Adverse to Owner of Minerals.*—Wherever title to any minerals in land and the rights appurtenant thereto have been, or shall

5 hereafter be, severed from title to the surface, the con-
6 tinuity of the possession of such minerals and the rights
7 appurtenant thereto shall not be deemed to have been
8 broken by such severance; and ownership or possession
9 of the surface after severance shall not be adverse to the
10 interests of the owner or owners of such minerals and
11 appurtenant rights.

CHAPTER 107

(House Bill No. 30—By Mr. Davis, by request)

AN ACT to amend and reenact section eleven, article one, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to summary proceedings by petition for sale, lease or mortgage of the estate of a minor, insane person or convict.

[Passed February 8, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 1. Lands of Infants, Insane Persons, or Convicts and Lands Held in Trust.

Section

11. Summary proceedings on petition for sale, lease or mortgage of the estate of minors, insane persons, or convicts.

Be it enacted by the Legislature of West Virginia:

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

- Section 11. *Summary Proceedings on Petition for Sale, Lease or Mortgage of the Estate of Minors, Insane Persons, or Convicts.*—In addition to the proceedings authorized by the second section of this article, the guardian of any minor, or the committee of any insane person or convict, if he deem that the interests of his ward or insane person or convict will be promoted by a sale, lease or

8 mortgage of, or trust deed upon, his estate, or of any
9 estate in which he with others, infants or adults, is inter-
10 ested, whether the estate of the minor, or insane person
11 or convict, or of any of the other persons interested, be
12 absolute or limited, and whether there be or be not lim-
13 ited thereon any other estate, vested or contingent, may
14 apply by petition, in a summary way, to the circuit court,
15 or to the judge thereof in vacation, or to any court of con-
16 current jurisdiction with the circuit court, or to the judge
17 thereof in vacation, of the county in which the estate
18 proposed to be sold, leased or encumbered, or some part
19 thereof may be, describing all the estate, real and per-
20 sonal, belonging to the minor, or insane person or con-
21 vict and setting forth plainly all the facts calculated to
22 show the propriety of the sale, lease, mortgage, or deed of
23 trust. The petition shall be verified by the oath of the
24 plaintiff, and all persons interested shall be made defend-
25 ants, and ten days' notice shall be given to such defend-
26 ants before such petition can be heard.

CHAPTER 108

(Senate Bill No. 61—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact section six-a, article three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the allotment of funds for secondary roads.

[Passed March 10, 1945; in effect July 1, 1945. Approved by the Governor.]

Article 3. State Road Fund.

Section

6-a. Allotment of funds for secondary roads.

Be it enacted by the Legislature of West Virginia:

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

Section 6-a. Allotment of Funds for Secondary Roads.—

2 In making expenditures for the maintenance of secondary
3 roads and for their construction and reconstruction, the
4 state road commissioner shall distribute available funds
5 justly among the several counties in such manner as will
6 best serve the interests of the state and the convenience
7 of its inhabitants; giving equal consideration in the allo-
8 cation of funds to the following three factors:

9 (1) The ratio of the county's rural population to the
10 total rural population of the state;

11 (2) The ratio of the total population of the county to
12 the total population of the state; and

13 (3) The ratio of secondary road mileage in the county
14 to the total secondary road mileage in the state.

15 For the purposes of this section, the words "rural popu-
16 lation" are defined and shall be construed to mean all
17 population outside of municipalities having a population
18 of five thousand or more.

19 Any money heretofore advanced to any county for pay-
20 ment for rights-of-way, and which has not been repaid
21 by such county to the state road commission at the time
22 this act becomes effective, shall be a charge against and
23 shall be deducted from any funds allocated to such county,
24 as herein provided, for construction, reconstruction or
25 maintenance of secondary roads in such county, and not
26 more than eighty per cent annually of such state road
27 funds so allocated shall be paid to such county before or
28 until all such advancements made to such county have
29 been so repaid to the state road commission.

CHAPTER 109

(House Bill No. 116—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section twenty-seven, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the control of connecting parts of the state road system within municipalities.

[Passed February 20, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 4. State Road System; Primary and Secondary Roads.

Section

27. Control of connecting parts of state road system within municipalities.

Be it enacted by the Legislature of West Virginia:

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

Section 27. *Control of Connecting Parts of State Road System within Municipalities.*—The state road commissioner shall exercise the same control over connecting parts of the state road system in municipalities, except the regulation of traffic, that he exercises over such system generally, but he shall assume no greater duty or obligation in the construction, reconstruction and maintenance of streets as primary and secondary roads than he is required to assume in the case of state roads outside of municipalities. In order, however, to promote the safe and efficient utilization of such streets, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any municipality on any highway or street hereafter constructed with state or federal aid shall be subject to the approval of the state road commissioner.

CHAPTER 110

(House Bill No. 289—By Mr. Hansbarger)

AN ACT to authorize the state road commission of West Virginia to include existing intrastate toll bridges in the system of state roads and highways provided for by the constitution, and to authorize such commission to expend not to exceed one million five hundred thousand dollars from the proceeds of the sale of any state road bonds for the

purpose of discharging outstanding bonds or obligations on any such bridge which becomes the property of the state road commission when such bonds or obligations are discharged, and for the purpose of acquiring by eminent domain proceedings any or all existing privately-owned toll bridges which may be included in the state road system.

[Passed February 28, 1945; in effect thirty days from passage. Approved by the Governor.]

Section

1. State road commission authorized to include existing intrastate toll bridges in system of state roads and highways.

Be it enacted by the Legislature of West Virginia:

Section 1. *State Road Commission Authorized to Include Existing Intrastate Toll Bridges in System of State Roads and Highways.*—The state road commission is hereby authorized to include any or all existing intrastate toll bridges within the system of state roads and highways provided for by the constitution, and is further authorized to expend out of the proceeds of any sales of West Virginia state road bonds, authorized by the Legislature and the "Good Roads Amendment of 1920", not to exceed one million five hundred thousand dollars, for the purpose of discharging outstanding bonds or obligations upon any of such intrastate toll bridges which become the property of the state road commission when such bonds or obligations are discharged, and for the purpose of acquiring by eminent domain proceedings any or all of the existing privately-owned intrastate toll bridges for inclusion in such system of roads and highways.

CHAPTER 111

(House Bill No. 117—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section twenty-six, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the

construction and maintenance by the state of bridges which are a part of the state road system.

[Passed February 20, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 4. State Road System; Primary and Secondary Roads.

Section

26. Bridges as part of state road system; maintenance by state.

Be it enacted by the Legislature of West Virginia:

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

Section 26. *Bridges as Part of State Road System; Maintenance by State.*—The state road commissioner, with the consent of the governing body of any municipality, may at any time relocate and redesignate as a connecting part of a primary or secondary road any bridge or street within a municipal corporation. The commissioner may, whenever requested to do so by the proper county court, construct, reconstruct, improve and maintain the designated connecting part at the cost and expense of the state.

Any existing free bridge forming a connecting link between two counties or two state routes, is hereby adopted as part of the state road system and shall hereafter be maintained by the state, and any existing free bridge forming a connecting link between this and another state is hereby adopted as part of such system, and shall, as to that part of the bridge within the boundary of this state, be maintained by the state.

CHAPTER 112

(House Bill No. 57—By Mr. Stealey, of Wood, and Mr. Davis, by request)

AN ACT to amend article nineteen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be

designated section thirteen-b, pertaining to the dumping of trash along the right-of-way of public highways.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 19. General Criminal Provisions.

Section

13-b. Unlawful dumping of trash, etc., upon right-of-way of, or along, public highway; penalty.

Be it enacted by the Legislature of West Virginia:

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

Section 13-b. *Unlawful Dumping of Trash, etc., Upon Right-of-Way of, Or Along, Public Highway; Penalty.*—
It shall be unlawful for any person to dump, unload or place upon the berm or right-of-way of any public highway, or upon the property adjacent thereto and within three hundred feet thereof, without the written consent of the owner, any trash, tin cans, garbage, or any other type of waste products or refuse.
Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five nor more than fifty dollars.

CHAPTER 113

(Senate Bill No. 222—By Mr. Morrison, by request)

AN ACT to amend and reenact section three, article one, chapter thirty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to securities not included under the act regulating and supervising the sale of securities, one thousand nine hundred thirty-five.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 1. Securities; Definitions; Registration; Unlawful Acts; Penalties; Liabilities.

Section

3. Securities not included.

Be it enacted by the Legislature of West Virginia:

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

Section 3. *Securities Not Included.*—Except as herein-
2 after expressly provided, the provisions of this chapter
3 shall not apply to any of the following classes of securi-
4 ties:

5 (a) Any security issued or guaranteed by the United
6 States or any territory or insular possession thereof, or
7 by the District of Columbia, or by any state or political
8 subdivision or agency thereof;

9 (b) Any security issued by a national bank or by any
10 federal land bank or by a corporation created or acting
11 as an instrumentality of the government of the United
12 States pursuant to authority granted by the congress of
13 the United States, or any security issued by provisions of
14 the federal laws: *Provided*, That such corporation is
15 subject to supervision or regulation by the government
16 of the United States;

17 (c) Any security issued or guaranteed either as to
18 principal, interest or dividend by a corporation owning
19 or operating a railroad engaged in interstate commerce
20 and under supervision of the interstate commerce com-
21 mission;

22 (d) Any security issued by a person organized and
23 operated exclusively for educational, benevolent, fra-
24 ternal, charitable or reformatory purposes and not for
25 pecuniary profit, and no part of the net earnings of which
26 inures to the benefit of any person, private stockholder or
27 individual;

28 (e) Any security which has been regularly and continu-
29 ously listed on the New York stock exchange, the New

30 York curb exchange or the Chicago stock exchange for a
31 period of not less than two years: *Provided*, That the
32 commissioner shall have power and authority at any time
33 to withdraw such exemption for any security or group of
34 securities so listed, pending an investigation and hearing
35 on securities included in such order. A date for hearing
36 shall be set by the commissioner not more than twenty-
37 days after such withdrawal order. The commissioner, by
38 ruling, may grant this same exemption to securities listed
39 on any other exchange following an application from such
40 exchange and after an investigation and examination has
41 been made by him. The expense of all hearings, investi-
42 gations and examinations shall be paid by the exchange
43 making application or receiving a hearing;

44 (f) Any security issued by a state bank, trust company,
45 building and loan association or savings institution, in-
46 corporated under the laws of and subject to the exami-
47 nation, supervision and control of any state or territory
48 of the United States or any insular possession thereof;

49 (g) Any insurance or endowment policy or annuity
50 contract or optional annuity contract, issued by a person
51 licensed and supervised by the insurance commissioner
52 of this state;

53 (h) Any security other than common stock outstanding
54 and in the hands of the public for a period of not less than
55 three years upon which no default in payment of princi-
56 pal, interest or dividend exists and upon which no such
57 default has occurred for a continuous immediately pre-
58 ceding period of three years: *Provided*, That the issuer
59 of such securities has continued such payments of princi-
60 pal, interest or dividends as provided at the time of
61 original issue: *Provided further*, That no plan or pro-
62 posal of recapitalization, reorganization, rearrangement of
63 capitalization, or other form of readjustment of issuer's
64 finances, has been made or a petition of voluntary or
65 involuntary bankruptcy has been filed in any court by
66 or for such issuer within the preceding period of three
67 years;

68 (i) Any securities bought or sold upon customers'
69 orders: *Provided*, That such securities are bought or sold

70 on an exchange which, at the time of such transaction, is
71 registered as a national exchange by the securities and
72 exchange commission: *Provided further*, That no solici-
73 tation is made of the orders so executed;

74 (j) Any note, draft, bill of exchange or bankers accept-
75 tance which arises out of a current transaction or the pro-
76 ceeds of which have been or are to be used for a current
77 transaction, is not the subject of a public offering, has at
78 the time of issuance a definite maturity (after all days of
79 grace, if any) of not exceeding one year, is payable in
80 cash only, and is not convertible into and does not carry
81 an option or right to receive payment or any bonus in
82 any other security.

CHAPTER 114

(Senate Bill No. 223—By Mr. Morrison, by request)

AN ACT to amend and reenact section four, article one, chapter thirty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to add two new subsections thereto, designated subsections (h) and (i), relating to transactions not included under the act regulating and supervising the sale of securities, one thousand nine hundred thirty-five.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 1. Securities; Definitions; Registration; Unlawful Acts; Penalties; Liabilities.

Section

4. Transactions not included.

Be it enacted by the Legislature of West Virginia:

That section four, article one, chapter thirty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that two new subsections be added thereto, designated subsections (h) and (i), to read as follows:

Section 4. *Transactions Not Included.*—The provisions of this chapter shall not apply to any of the following transactions:

(a) Any judicial, sheriff's, constable's, executor's, administrator's, guardian's or conservator's sale or any sale by a receiver or trustee in insolvency or bankruptcy, or the sale by a pledgee, in good faith and in the ordinary course of business and not for the purpose of evading any provision of this chapter, of a security pledged for a bona fide debt;

(b) An isolated transaction in which any security is sold, offered for sale, subscription or delivery by the owner thereof, such sale or offer for sale, subscription or delivery not being made in the course of repeated and successive transactions of a like character by such owner;

(c) A sale upon a customer's order of any security, if sale is made to a person outside this state: *Provided*, That such sale in another state is not a violation of the securities laws of that state;

(d) The distribution by a corporation actively engaged in the business authorized by its charter, of capital stock, bonds or other securities to its stockholders or its other security-holders as a stock dividend or other distribution out of earnings or surplus;

(e) The sale, transfer or delivery to any broker or dealer: *Provided*, That such broker or dealer is actually engaged in buying and selling securities as a business;

(f) Bonds or notes, or other obligations secured by mortgage, deed of trust, or other lien upon property, where the entire lien, together with all the bonds or notes secured thereby, is sold to a single purchaser at a single sale, or where the lien is given or incurred to secure the payment of unpaid purchase money;

(g) The issue and delivery of any security in exchange for any other security of the same issuer pursuant to a right or conversion entitling the holder of the security surrendered in exchange to make such conversion: *Provided*, That the security so surrendered has been registered under the provisions of this chapter or was, when sold, exempt through the provisions of said chapter;

41 (h) The sale by a domestic corporation of its securities
42 if the aggregate number of holders of all its securities,
43 after the securities to be issued are sold, does not exceed
44 fifteen, and no commission, profit or other compensation
45 is or has been paid for the sale of any securities of such
46 corporation, and the total organization and promotion
47 expense in connection with the issue of all securities of
48 such corporation, exclusive of statutory fees, does not
49 exceed three per cent of the aggregate sale price of all
50 such securities or two hundred fifty dollars, whichever
51 is greater;

52 (i) The transfer or exchange by one corporation to
53 another corporation of its own securities in connection
54 with a consolidation or merger of such corporations.

CHAPTER 115

(House Bill No. 271—By Mr. Davis, 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, and as last amended by chapter seventy-seven, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to assistant attorneys general.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 3. Attorney General.

Section

3. Assistants to attorney general.

Be it enacted by the Legislature of West Virginia:

That section three, article three, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter eighty-five, acts of the Legislature, regu-

lar session, one thousand nine hundred thirty-seven, and as last amended by chapter seventy-seven, acts of the Legislature, regular session, one thousand nine hundred forty-one, 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 five thousand one 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 twenty-five dollars per month.

CHAPTER 116

(Senate Bill No. 32—By Mr. Allen, by request)

AN ACT to amend section thirteen-a, article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the salary deductions allowed by the auditor.

[Passed February 13, 1945; in effect from passage. Approved by the Governor.]

Article 3. Appropriations and Expenditures.

Section

13-a. State auditor authorized to make deductions from salaries of state officials and employees to purchase United States government bonds.

Be it enacted by the Legislature of West Virginia:

That section thirteen-a, article three, chapter twelve of the

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

Section 13-a. *State Auditor Authorized to Make Deductions from Salaries of State Officials and Employees to Purchase United States Government Bonds.*—The auditor of the state of West Virginia is authorized to deduct and withhold sums from the salaries or other compensation of state officials and employees, to purchase United States government bonds and other United States government obligations, or to pay taxes as may be required by an act or acts of the congress of the United States of America.

The auditor of the state of West Virginia shall, upon the written request or order of any state official or employee, deduct and withhold sums from the salaries or compensation of state officials and employees to make voluntary purchases of United States government bonds or other United States government obligations for such officials or employees.

The auditor shall keep an account of the accumulated deductions of each state official and employee and shall issue receipts to state officials and employees for all sums deducted and withheld as herein provided. The sums, when deducted, shall be transferred by the auditor to a special fund in the state treasury, and, as soon as reasonably convenient, transmitted to the treasurer of the state of West Virginia, as an issuing agent of federal securities, or such other official or agent of the United States government designated by the secretary of the treasury of the United States of America, from time to time.

Should any official or employee leave the employ of the state at a time when there is not sufficient accumulation of deductions from his salary or compensation to purchase a United States government bond, then the auditor shall either purchase United States government savings stamps in the amount of the accumulation or refund to the official or employee the accumulation as an erroneous payment into the special fund herein created.

The auditor shall be responsible for the delivery of United States government bonds or obligations purchased

39 with the deductions from the salaries or compensation of
40 state officials and employees only when the United States
41 government bonds or obligations are presented to him by
42 the official or agent of the United States government for
43 delivery to the state officials or employees.

44 To promote efficiency and economy in making such
45 deductions as provided herein, the auditor is authorized
46 to promulgate rules and regulations and to designate the
47 time for the presentment of the payroll requisitions for
48 state officials and employees and requisitions for other
49 claims against the state: *Provided*, That all officials and
50 employees shall be paid at least once every thirty-one
51 days. All officials and employees of the state shall comply
52 with the rules and regulations promulgated by the auditor
53 under this section.

CHAPTER 117

(Com. Sub. for House Bill No. 101—Originating in the House Committee on
Taxation and Finance)

AN ACT to amend and reenact section one, article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the state board of control.

[Passed March 9, 1945; in effect ninety days from passage. Approved by the Governor.]

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

Section

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

Be it enacted by the Legislature of West Virginia:

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

Section 1. State Board of Control; Appointment of

2 *Members; Term of Office; Salaries; Secretary and As-*
3 *sistants; Oath and Bond of Members.*—There shall be a
4 state board of control, known as the “West Virginia Board
5 of Control”, which shall be a corporation, and as such may
6 contract and be contracted with, and shall have a com-
7 mon seal. The board shall consist of three members, not
8 more than two of whom shall at any one time belong to
9 the same political party, who shall be appointed by the
10 governor by and with the advice and consent of the sen-
11 ate. The members in office on the date this code takes
12 effect shall, unless sooner removed, continue to serve un-
13 til their respective terms expire and until their successors
14 have been appointed and have qualified. Beginning on the
15 first day of July, one thousand nine hundred thirty-one,
16 and on the first day of July of each alternate year there-
17 after, a member shall be appointed to serve for a term of
18 six years, and any member shall be eligible for reappoint-
19 ment.

20 The salary of each member shall be five thousand nine
21 hundred ninety-nine dollars and ninety-nine cents per an-
22 num, to be paid monthly; and each member shall be paid
23 his actual traveling and other necessary expenses while ab-
24 sent from the state capitol on official business. The board
25 shall be provided with offices at the state capitol and with
26 necessary furniture. The members of the board shall give
27 their entire time to the discharge of the duties of their of-
28 fice. The board shall elect one of its members as president
29 and another as treasurer, and shall appoint a competent
30 secretary and such clerical and other assistants as may be
31 necessary to the proper conduct of its business. The offi-
32 ces of treasurer and secretary may be held by the same
33 member of the board. The salaries or compensation of the
34 employees of the board shall be fixed by it, but no salary
35 or compensation shall be increased to exceed the amount
36 appropriated by the Legislature to pay the same.

37 Before entering upon the duties of his office, each
38 member of the board shall take and subscribe the oath of
39 office prescribed by section five, article four of the con-
40 stitution of this state, the certificate whereof shall be
41 filed in the office of the secretary of state, and he shall

42 give bond in the penalty of ten thousand dollars, con-
 43 ditioned as required by law; but the bond of the member
 44 elected treasurer shall be in the penalty of fifty thousand
 45 dollars, which shall cover his liability both as a member
 46 and as treasurer. The board may require the surety in any
 47 of such bonds to be a surety or bonding company author-
 48 ized to do business in this state, and may pay the premiums
 49 thereon out of its current or contingent expense fund.
 50 All such bonds shall be approved by the attorney general
 51 as to form, and by the governor as to sufficiency, and,
 52 when so approved, shall be filed and recorded in the office
 53 of the secretary of state. In the absence of the president
 54 or the treasurer from the state capitol, or in case of the
 55 disability of either, the duties of his office may be per-
 56 formed by another member of the board.

CHAPTER 118

(House Bill No. 50—By Mr. Evans)

AN ACT to amend and reenact section eleven, article one, chap-
 ter twenty-five of the code of West Virginia, one thousand
 nine hundred thirty-one, relating to the appointment of the
 officers and employees of certain state institutions and to
 their compensation, powers and duties.

[Passed February 20, 1945; in effect from passage. Approved by the Governor.]

Article 1. Organization; General Powers and Duties; Super- vision of State Institutions.

Section

11. Officers and employees of certain state institutions.

Be it enacted by the Legislature of West Virginia:

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

Section 11. *Officers and Employees of Certain State In-
 2 stitutions.*—The governor shall, by and with the advice and

3 consent of the senate, appoint a superintendent for the
4 West Virginia children's home, a superintendent for the
5 West Virginia colored children's home, a superintendent
6 for the West Virginia home for aged and infirm colored
7 men and women, a superintendent for Hopemont sani-
8 tarium, a superintendent for Denmar sanitarium, a super-
9 intendent for Pinecrest sanitarium, a superintendent for
10 Berkeley Springs sanitarium, a superintendent for Welch
11 emergency hospital, a superintendent for Fairmont em-
12 ergency hospital, a superintendent for Huntington state
13 hospital, a superintendent for Spencer state hospital, a
14 superintendent for Weston state hospital, a superintendent
15 for Lakin state hospital, a superintendent for West Virginia
16 training school, a superintendent for the West Virginia in-
17 dustrial school for boys, a superintendent for the West Vir-
18 ginia industrial school for colored boys, a superintendent
19 for the West Virginia industrial home for girls, a superin-
20 tendent for the West Virginia industrial home for colored
21 girls, and a warden for the West Virginia penitentiary:
22 *Provided, however,* That, as to the institutions named in
23 this section which are maintained solely for members of
24 the Negro race, the person appointed as superintendent or
25 other chief executive officer of such institutions, respec-
26 tively, shall be a member of such race. In the case of a hos-
27 pital or sanitarium, or of any institution the superintend-
28 ent of which is required by law to be a physician, the gov-
29 ernor, before making such appointment, shall request the
30 public health council to furnish a full and complete re-
31 port concerning the qualifications and suitability of the
32 proposed appointee for this position, and it shall be the
33 duty of the public health council to furnish such report.

34 The warden of the penitentiary and the superintendent
35 of each institution named in this section shall have the
36 power to appoint all assistants and employees required
37 for the management of the institution in his charge; but
38 the number of such assistants and employees, and their
39 compensation, shall first be fixed by the state board of con-
40 trol. The warden of the penitentiary and the superintend-
41 ent of any institution may, at his pleasure, discharge any
42 person therein employed. It shall be the duty of the

43 board of control to investigate any complaint made against
44 the chief executive officer of any institution, and also
45 against any other officer or employee thereof, if the
46 same has not been investigated. The board shall have the
47 power to recommend to the governor the removal of any
48 such chief executive officer, or other officer, or employee,
49 setting forth in such recommendation the reasons for the
50 same.

51 The board shall fix the salaries or compensation of the
52 officers and employees of the institutions named in sec-
53 tion three of this article. The salaries or compensation of
54 all officers and employees of the several institutions
55 named in sections three and four of this article shall be
56 paid monthly, to include the last day of each month. The
57 chief officer of each of the institutions named in section
58 three shall be furnished living quarters, household furni-
59 ture, board, fuel and light for himself and his family.
60 Living quarters, household furniture, board, fuel and light
61 shall be furnished to such other officers as is made neces-
62 sary by the character of their service, and the board of
63 control shall designate those who shall receive the fore-
64 going in addition to their salary.

CHAPTER 119

(Senate Bill No. 197—By Mr. Burgess)

AN ACT to amend and reenact section five, article one, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers of the state board of control.

[Passed March 7, 1945; in effect July 1, 1945. Approved by the Governor.]

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

Section

5. Rules and regulations.

Be it enacted by the Legislature of West Virginia:

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

Section 5. *Rules and Regulations.*—The state board of control is authorized to make rules for the proper execution of its duties and powers. It shall also have the power to adopt rules and regulations for the government of the institutions named or referred to in section three of this article and for the administration of the financial and business affairs of the institutions named or referred to in section four of this article, and shall therein prescribe, consistent with the provisions of this article, the duties of the persons connected with the management of such institutions. When any of the guards, attendants, or other employees in the institutions mentioned in this section are uniformed, the state board of control shall prescribe the design, or designs, of the uniforms, which designs shall be dissimilar to the design of the uniform worn by the members of the department of public safety; and, when the institution is located in, or in close proximity to, a municipality, no such guard, attendant or other employee shall wear the cap or caps designed by the board as part of the uniform, when not actually on duty connected with his employment, nor shall such municipality adopt for its police officers or other employees a uniform which is similar in design to the uniform adopted by the board.

Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than ten dollars, or by imprisonment for ten days, or both.

CHAPTER 120

(Senate Bill No. 114—By Mr. Burchett, by request)

AN ACT to amend and reenact section two, article one, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the qualifications, appointment, term of office and salary of the state commissioner of labor.

[Passed March 8, 1945; in effect July 1, 1945. Approved by the Governor.]

Article 1. State Department of Labor.

Section

2. Commissioner of labor; qualifications; appointment; term of office; salary.

Be it enacted by the Legislature of West Virginia:

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

Section 2. *Commissioner of Labor; Qualifications; Appointment; Term of Office; Salary.*—The state commissioner of labor shall be appointed by the governor, by and with the advice and consent of the senate. He shall be a competent person, who is identified with the labor interests of the state. The commissioner of labor in office on the effective date of this act shall, unless sooner removed, continue to serve until his term expires and his successor has been appointed and has qualified. On or before the first day of April, one thousand nine hundred forty-one, and on or before the first day of April of each fourth year thereafter, the governor shall appoint a commissioner of labor to serve for a term of four years, commencing on said first day of April. The salary of the commissioner of labor shall be six thousand dollars per annum.

CHAPTER 121

(House Bill No 132—By Mr. Hudson and Mr. Adkins, by request)

AN ACT to amend and reenact section seven, article three, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to operation of steam boilers.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 3. Safety and Welfare of Employees.

Section

7. Regulation for operation of steam boilers; penalty.

Be it enacted by the Legislature of West Virginia:

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

Section 7. *Regulation for Operation of Steam Boilers;*

2 *Penalty.*—Any person owning or operating a steam boiler
3 carrying more than fifteen pounds pressure per square
4 inch (except boilers on railroad locomotives subject to
5 inspection under federal laws; portable boilers used for
6 agricultural purposes, boilers on automobiles, boilers of
7 steam fire engines brought into the state for temporary use
8 in times of emergency for the purpose of checking con-
9 flagrations, boilers used in private residences which are
10 used solely for residential purposes, any sectional boilers,
11 small portable boilers commonly used in the oil and gas
12 industry about their wells and tool houses, and boilers
13 under the jurisdiction of the United States) in this state
14 shall first obtain a permit to operate a steam boiler from
15 the commissioner of labor, or from an inspector working
16 under his jurisdiction.

17 Applications for permits to operate a steam boiler must
18 be accompanied by a sworn statement made by the owner
19 or operator of such boiler, setting forth the condition of
20 the boiler and its appurtenances, at which time, if the facts

21 disclosed by such statement meet the safety requirements
22 established under this article, the commissioner of labor
23 shall issue a temporary permit, which shall be valid until
24 such boiler has been inspected by a boiler inspector author-
25 ized by the state commissioner of labor; thereupon, if the
26 boiler meets the safety requirements established under
27 this article, the commissioner of labor shall issue an annual
28 permit to operate such steam boiler: *Provided, however,*
29 That boilers which are insured by an insurance company
30 operating in this state and which are inspected by such
31 insurance company's boiler inspector shall not be subject
32 to inspection by the state department of labor, during any
33 twelve months' period during which an inspection is made
34 by the insurance company's boiler inspector.

35 The commissioner of labor or state boiler inspector
36 shall have the authority to inspect steam boilers in this
37 state. To carry out the provisions of this section, the
38 commissioner of labor shall prescribe rules and regula-
39 tions under which boilers may be constructed and oper-
40 ated, according to their class. The commissioner of labor
41 shall be authorized to revoke any permit to operate a
42 steam boiler if the rules prescribed by the commissioner
43 of labor, or his authorized representative, are violated,
44 or if a condition shall prevail which is hazardous to the
45 life and health of persons operating or employed at or
46 around the boiler. Any persons or corporation who shall
47 operate a steam boiler for which a permit is necessary
48 under the provisions of this section, without first obtaining
49 such permit to operate a steam boiler, shall be guilty of a
50 misdemeanor, and upon conviction thereof shall be fined
51 not less than one hundred dollars nor more than five
52 hundred dollars. Every day a steam boiler requiring a
53 permit to operate is operated without such permit shall
54 be considered a separate offense.

CHAPTER 122

(House Bill No. 25—By Mr. Hansbarger and Mr. Davis)

AN ACT to amend and reenact sections five, twenty-seven and twenty-eight, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter twenty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, and by chapter ninety-one, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, and by chapters thirty-four and thirty-five, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, and by chapter ninety-three, acts of the Legislature, regular session, one thousand nine hundred forty-one, and by chapter seventy, acts of the Legislature, regular session, one thousand nine hundred forty-three, relating to qualifications, appointment, initial grade and promotions of members of the department of public safety, and to a death, disability and retirement fund for members and retired members of said department and dependent members of their families, and relating to retirement awards for retired or disabled members or former members of said department and dependent members of their families, and to a retirement board to control and disburse such fund.

[Passed March 2, 1945; in effect June 1, 1945. Approved by the Governor.]

Article 2. Department of Public Safety.

Section

5. Qualifications; appointment, initial grade and promotions of members.
27. Death, disability and retirement fund; retirement board.
28. Retirement; death, disability and retirement awards and benefits.

Be it enacted by the Legislature of West Virginia:

That sections five, twenty-seven and twenty-eight, 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 5. *Qualifications, Appointment, Initial Grade and Promotions of Members.*—Preference in making appointments shall be given wherever possible to honorably discharged soldiers, sailors and marines of the United States army and navy. Each applicant for appointment shall be a person not less than twenty-one nor more than thirty years of age, of sound constitution, of good moral character, and shall be required to pass such mental and physical examinations as may be provided for by the rules and regulations promulgated by the retirement board provided for under section twenty-seven of this act: *Provided*, That a former member to whom, at or after termination of his previous service, there were not refunded moneys contributed by him to the retirement fund, may, at discretion of the superintendent, be again enlisted if upon subtracting the period of his former service from the age of such former member when he shall present himself to the superintendent to be again enlisted shall leave a remainder not exceeding thirty. The superintendent is authorized to pay at public expense all reasonable fees and costs incurred in the making of such examinations of applicants. No person shall be barred from becoming a member of the department of public safety because of his religious or political convictions.

No person shall be appointed or enlisted to membership in said department at a grade or rank above the grade of trooper and no trooper shall be promoted to any other grade or rank until he shall have served at least two years as a member of said department at the grade of trooper.

Sec. 27. *Death, Disability and Retirement Fund; Retirement Board.*—There is hereby created a death, disability and retirement fund for the benefit of members of the department of public safety, and any dependent of a retired or deceased member thereof. Into such fund shall be paid such amounts as have heretofore been collected by the superintendent of the department of public safety on account of fees for arrest, court attendance and mileage, seizures, rewards, or from any other source permitted by law. There shall be paid into such fund

11 such amounts arising in the future from the above named
12 or any other sources permitted by law, designated by the
13 superintendent of the department of public safety, except
14 that no part of any fine shall be paid thereinto.

15 There shall be deducted from the monthly payroll of
16 each member of the department of public safety and
17 paid into such fund six per cent of the amount of his
18 salary, and an additional twelve per cent of the monthly
19 salary of each member of said department shall be paid
20 by the state of West Virginia monthly into such fund out
21 of the biennial appropriation for said department. All
22 moneys payable into such fund shall be deposited in the
23 state treasury, and the treasurer and auditor shall keep
24 a separate account thereof on their respective books.

25 The death, disability and retirement fund shall be
26 administered by a retirement board which shall consist
27 of the attorney general, state treasurer, the superin-
28 tendent and two members in active service of the depart-
29 ment of public safety: *Provided*, That members of said
30 retirement board shall not be entitled to receive any
31 compensation in addition to the salary of their respective
32 offices for any service rendered as a member of said re-
33 tirement board: *Provided further*, That the superintendent
34 may pay out of funds appropriated for operation of said
35 department the reasonable expenses of members of said
36 board necessarily incurred in connection with dispatch
37 of any business properly before such board. The two
38 members of said department shall be elected to mem-
39 bership on the retirement board by vote of the members
40 of the department of public safety; such election to be
41 held on the first Tuesday in June next following the
42 passage of this act and on the first Tuesday in June
43 each two years thereafter. The attorney general, state
44 treasurer and the superintendent of the department of
45 public safety shall promulgate any and all necessary
46 rules and regulations for holding in a fair and impartial
47 manner the election on the first Tuesday in June next
48 following the passage of this act, and thereafter the re-
49 tirement board consisting of the attorney general, state
50 treasurer, superintendent and the two duly elected mem-
51 bers of said department shall have authority to promul-

52 gate and, from time to time, revise rules and regulations
53 for holding all subsequent elections in a fair and impartial
54 manner. All elections shall be held under the direction
55 of the superintendent of said department in accordance
56 with said rules and regulations. The members of the
57 department chosen to serve on said retirement board
58 shall hold office for a period of two years commencing
59 on the first day of July next following the date of such
60 election. When any member elected to the retirement
61 board shall die, resign from the board, resign or be dis-
62 charged from service in the department, make applica-
63 tion for retirement, be retired, or become disabled, the
64 office of such member of the retirement board shall be
65 declared vacant by the superintendent of said depart-
66 ment, and said superintendent, to supply such vacancy,
67 shall appoint the member in active service of said depart-
68 ment who as an unsuccessful candidate at the preceding
69 election of members to said retirement board received
70 the greatest number of votes. No member of the retire-
71 ment board shall participate in any hearing at which his
72 own petition for retirement or the petition of any member
73 of said department who is related to him by blood or
74 marriage shall be presented for consideration.

75 At its first meeting following each election of members
76 to the retirement board, said board shall elect one of its
77 members to serve as chairman and a second member to
78 serve as secretary thereof. The retirement board shall
79 have the power to make rules and regulations, not in-
80 consistent with the provisions hereof, governing proce-
81 dure and order and manner of business by and before
82 such board. The retirement board shall have the power
83 to make awards and to revise and terminate awards pre-
84 viously made for such times and under such terms and
85 conditions as are hereinafter provided. The votes of a
86 majority of the five members of the board shall be neces-
87 sary to decision of any matter by the board. Decisions
88 made by the board shall be supreme and final and there
89 shall be no appeal therefrom.

90 It shall be the duty of the retirement board on or be-
91 fore the first day of July of each year to cause all future
92 awards from such fund to be valued and, to the extent

93 that moneys shall be available, reserves based on sound
94 actuarial principles for payment thereof to be carried
95 on the funds account as a liability against the reserve
96 fund. The board shall have authority to employ an actu-
97 ary for such purpose. The board shall cause a system of
98 accounting to be installed and maintained to reflect cur-
99 rently and truly all transactions or developments per-
100 taining to age of members and eligible dependents sur-
101 viving deceased members, periods of service and aggre-
102 gate earnings of all members eligible to participate in said
103 fund and any other matter relating to maintenance of
104 said fund or administration thereof, and each year to
105 cause to be made and submitted to each member of said
106 department a statement of the condition of said fund.
107 Costs and expenses incurred in making actuarial studies,
108 audits and installations and maintenance of such account-
109 ing system shall be paid by the superintendent from funds
110 appropriated for operation of the department of public
111 safety.

112 All moneys paid into and accumulated in said death,
113 disability and retirement fund, except such amounts as
114 shall be designated or set aside by the retirement board
115 for payments of death, disability and retirement bene-
116 fits and awards, shall be invested by the state board of
117 public works in bonds of the government of the United
118 States, the state of West Virginia, or any political sub-
119 division thereof selected or approved by the retirement
120 board.

Sec. 28. *Retirement; Death, Disability and Retirement*

2 *Awards and Benefits.*—(a) The retirement board shall re-
3 tire any member of the department of public safety when
4 such member

5 (1) Shall have attained the age of fifty-five years and
6 shall have completed twenty-five years of service as a
7 member of said department, or

8 (2) Has completed twenty-five years of service as a
9 member of said department and shall have attained the
10 age of fifty-five years, or

11 (3) Has attained the age of fifty-five years, and shall
12 have completed twenty-five years of service as a mem-

13 ber of said department.

14 (b) The retirement board shall retire any member of
15 said department of public safety when such member shall
16 have lodged with the secretary of the retirement board the
17 voluntary petition in writing of such member for re-
18 tirement, and

19 (1) Has or shall have completed not less than twenty-
20 five years of service as a member of said department,
21 or

22 (2) Has or shall have attained the age of fifty years and
23 has or shall have completed not less than twenty years
24 of service as a member of said department, or

25 (3) Being under the age of fifty years has or shall have
26 completed twenty years of service as a member of said
27 department.

28 (c) When the retirement board shall retire any mem-
29 ber under any of the foregoing provisions of this section,
30 said board shall, by order in writing, make an award
31 directing that such member shall be entitled to receive
32 annually and that there shall be paid to such member from
33 the death, disability and retirement fund in equal monthly
34 installments during the natural lifetime of such member
35 while in status of retirement one or the other of two
36 amounts, whichever shall be the greater, namely:

37 (1) Either an amount equal to three per cent of the
38 aggregate of salary paid to such member during the whole
39 period of service of such member as a member of the de-
40 partment of public safety; or

41 (2) When such period of service has or shall have been
42 more than

43 (a) Twenty years but less than twenty-one years, the
44 sum of nine hundred sixty dollars;

45 (b) Twenty-one years but less than twenty-two years,
46 the sum of one thousand eight dollars;

47 (c) Twenty-two years but less than twenty-three years,
48 the sum of one thousand fifty-six dollars;

49 (d) Twenty-three years but less than twenty-four years,
50 the sum of one thousand one hundred four dollars;

51 (e) Twenty-four years but less than twenty-five years,
52 the sum of one thousand one hundred fifty-two dollars;

53 (f) Twenty-five years, the sum of one thousand two
54 hundred dollars.

55 It is provided, however, that when a member has or
56 shall have served twenty years or longer but less than
57 twenty-five years as a member of said department and
58 shall be retired under any of the foregoing provisions
59 before he shall have attained the age of fifty years, pay-
60 ment of monthly installments of the amount of retire-
61 ment award to such member shall commence on the date
62 such member shall attain the age of fifty years.

63 (d) Any member of the department of public safety
64 who has been or shall be commissioned, enlisted or in-
65 ducted into the armed forces of the United States or, being
66 a member of the reserve officers' corps, has been or shall
67 be called to active duty in said armed forces since the
68 first day of September, one thousand nine hundred forty,
69 and prior to the close of hostilities in the wars now being
70 waged by the United States, shall be entitled to and re-
71 ceive credit on the minimum period of service required
72 by law for retirement on retirement pay from the service
73 of the department of public safety for a period equal to
74 the full time he shall, pursuant to such commission, en-
75 listment, induction or call, have served with said armed
76 forces: *Provided*, That such member shall (1) be honor-
77 ably discharged from said armed forces, and (2) within
78 ninety days after honorable discharge from said armed
79 forces present himself to the superintendent and offer to
80 resume service as an active member of the department:
81 *Provided further*, That no such member shall be entitled to
82 any credit, privilege or benefit under the provisions of this
83 paragraph who shall by any voluntary act on his part,
84 whether by reenlistment, waiver of discharge, acceptance
85 of commission or otherwise, extend or participate in ex-
86 tension of the period of service of such member with such
87 armed forces beyond the period of service therewith for
88 which such member was originally commissioned, en-
89 listed, inducted or called: *And provided further*, That the
90 amount of retirement pay to which any such member shall
91 be entitled shall be calculated and determined as if such
92 member had continued in the active service of the depart-

93 ment at the rank or grade to him appertaining at the
94 time of such commission, induction, enlistment or call,
95 during a period coextensive with the time such member
96 shall have served with said armed forces pursuant to
97 such commission, induction, enlistment or call. The
98 superintendent of said department is authorized to trans-
99 fer and pay over each month into said death, disability
100 and retirement fund from moneys that shall be appropri-
101 ated for said department a sum equal to eighteen per
102 cent of the aggregate of salary which all said members
103 would have been entitled to receive had they continued
104 in the active service of said department during a period
105 coextensive with the time such members shall have served
106 with said armed forces pursuant to said commission, in-
107 duction, enlistment or call. If any member on leave of
108 absence and while serving with the armed forces of the
109 United States pursuant to commission, enlistment, induc-
110 tion or call as aforesaid shall die as a result of illness or
111 injury from any cause while a member of such armed
112 forces of the United States, all moneys which shall have
113 been deducted from his salary as a member of the de-
114 partment and deposited in the death, disability and re-
115 tirement fund created by section twenty-seven of this
116 article shall, if such member was not at the time of his
117 death eligible for retirement benefits under any of the pro-
118 visions of this act, be withdrawn from said fund and paid
119 over to the widow of such member, if any, and if none, to
120 the children of such member, and if there be no widow or
121 children, to the dependent parent or parents, and if there
122 be no widow or children or dependent parent or parents,
123 then the same shall remain in the fund.

124 (e) Any member of said department who has been or
125 shall become physically or mentally permanently disabled
126 by injury, illness or disease resulting from any occupa-
127 tional risk or hazard inherent in or peculiar to the services
128 required of members of said department and incurred pur-
129 suant to or while such member was or shall be engaged in
130 the performance of his duties as a member of said depart-
131 ment shall, if, in the opinion of the retirement board, he be
132 by reason of such cause unable to perform adequately the

133 duties required of him as a member of said department, be
134 retired from active service by the retirement board and
135 thereafter such member shall be entitled to receive annu-
136 ally and there shall be paid to such member from the death,
137 disability and retirement fund in equal monthly install-
138 ments during the natural lifetime of such member or until
139 such disability shall sooner terminate, an amount equal to
140 four per cent of the total salary which would have been
141 earned by him during twenty-five years of service in said
142 department based on his average earnings while employed
143 as a member of said department. If such disability shall be
144 total and permanent to the extent that such member is or
145 shall be incapacitated ever to engage in any gainful em-
146 ployment, such member shall be entitled to receive annu-
147 ally and there shall be paid to such member from the death,
148 disability and retirement fund in equal monthly install-
149 ments during the natural lifetime of such member or until
150 such disability shall sooner terminate, an amount equal to
151 five per cent of the total salary which would have been
152 earned by him during twenty-five years of service in said
153 department based on his average earnings while employed
154 as a member of said department.

155 The superintendent is authorized to expend moneys from
156 funds appropriated for the department of public safety in
157 payment of medical, surgical, laboratory, x-ray, hospital,
158 ambulance and dental expenses and fees, and reasonable
159 costs and expenses incurred in purchase of artificial limbs
160 and other approved appliances which may be reasonably
161 necessary for any member of said department who has or
162 shall become temporarily, permanently or totally disabled
163 by injury, illness or disease resulting from any occupational
164 risk or hazard inherent in or peculiar to the service required
165 of members of said department and incurred pursuant to
166 or while such member was or shall be engaged in the per-
167 formance of his duties as a member of said department.
168 Whenever the superintendent shall determine that any
169 disabled member is ineligible to receive any of the afore-
170 said benefits at public expense the superintendent shall,
171 at the request of such disabled member, refer such matter
172 to the retirement board for hearing and final decision.

173 (f) If any member while in active service of said depart-
174 ment has or shall become permanently disabled from any
175 cause other than those set forth in the next preceding sec-
176 tion not due to vicious habits, intemperance or wilful mis-
177 conduct on his part, such member shall, if he be not eligible
178 for retirement under the other provisions of this article, be
179 retired by the retirement board and shall be entitled to re-
180 ceive annually and there shall be paid to such member from
181 the death, disability and retirement fund in equal monthly
182 installments during a period equal to one-half the time such
183 member has served as a member of said department, a sum
184 equal to three per cent of the total salary which would
185 have been earned by him during twenty-five years of
186 service in said department based on his average earnings
187 while employed as a member of said department.

188 (g) The superintendent may require any member who
189 has been or who shall be retired with compensation on
190 account of disability to submit to a physical and/or men-
191 tal examination by a physician or physicians selected or
192 approved by the retirement board and cause all costs in-
193 cident to such examination including hospital, laboratory,
194 x-ray, medical and physician fees to be paid out of funds
195 appropriated to defray the current expense of said depart-
196 ment, and a report of the findings of such physician or
197 physicians shall be submitted in writing to the retire-
198 ment board for its consideration. If from such report
199 or from such report and hearing thereon the retirement
200 board shall be of opinion and find that such disabled
201 member shall have recovered from such disability to the
202 extent that he is able to perform adequately the duties
203 of a member of said department, the superintendent shall
204 order such member to reassume active duty as a member
205 of said department and thereupon all payments from the
206 death, disability and retirement fund shall be termi-
207 nated.

208 (h) A member who has been or shall be retired shall
209 not while in retirement status exercise any of the powers
210 conferred upon active members by section eleven of this
211 article; but shall be entitled to receive free of cost to
212 such member and retain as his separate property one

213 complete standard uniform prescribed by section nine of
214 this article: *Provided*, That such uniform may be worn
215 by a member in retirement status only on such occasions
216 as shall be prescribed by the superintendent. The super-
217 intendent is authorized to maintain at public expense for
218 the benefit of all members in retirement status that group
219 life insurance mentioned in section nine of this article.
220 The superintendent, when he shall be of opinion that the
221 public safety shall require, may recall to active duty
222 during such period as the superintendent shall determine
223 any member who shall be retired under the provisions of
224 subsections (a), (b) or (c) of this section: *Provided*, That
225 the consent of such member to reassume duties of active
226 membership shall first be had and obtained. When any
227 member in retirement shall reassume status of active
228 membership such member, during the period he shall
229 remain in active status, shall not be entitled to receive
230 retirement pay or benefits but in lieu thereof shall be
231 entitled to receive that rate of salary and allowance
232 pertinent to the rank or grade held by such member
233 when retired. When such member shall be released
234 from active duty he shall reassume the status of retire-
235 ment and shall thereupon be entitled to receive appro-
236 priate benefits as provided by this act: *Provided*, That the
237 amount of such benefits shall in no event be less than the
238 amount determined by the order of the retirement board
239 previously made in his behalf.

240 (i) The widow or the children under the age of eighteen
241 years or dependent parent or parents of any member
242 who has lost or shall lose his life by reason of injury,
243 illness or disease resulting from any occupational risk or
244 hazard inherent in or peculiar to the service required of
245 members while such member was or shall be engaged in
246 the performance of his duties as a member of said de-
247 partment, or if said member shall die from such causes
248 after being retired on disability, shall be entitled to re-
249 ceive and shall be paid from the death, disability and
250 retirement fund benefits as follows: To the widow annu-
251 ally, in equal monthly installments during her lifetime
252 or until her remarriage, an amount equal to two per cent

253 of the total salary which would have been earned by said
254 deceased member during twenty-five years of service in
255 said department based on his average earnings while
256 employed as a member of said department. In addition
257 thereto such widow shall be entitled to receive and there
258 shall be paid to her five dollars monthly for each child
259 until such child shall attain the age of eighteen years.
260 If such widow shall die or remarry or if there be no
261 widow there shall be paid monthly to such child or chil-
262 dren from said death, disability and retirement fund the
263 sum of fifteen dollars each until such child or children
264 shall respectively attain the age of eighteen years. If
265 there be no widow and no child or children, there shall
266 be paid annually in equal monthly installments from said
267 death, disability and retirement fund to the dependent
268 parents of said deceased member during their joint life-
269 times a sum equal to the amount which a widow, without
270 children, would have received: *Provided*, That when there
271 shall be but one dependent parent surviving, such parent
272 shall be entitled to receive during his or her lifetime one-
273 half the amount which both parents, if living, would have
274 been entitled to receive.

275 (j) In any case where a member while in active service
276 of said department, before becoming eligible for retire-
277 ment under the provisions of subsections (a), (b) or (c)
278 of this section, has died or shall die from any other cause
279 not due to vicious habits, intemperance or wilful mis-
280 conduct on his part, there shall be paid annually in
281 equal monthly installments from said death, disability
282 and retirement fund to the widow of such member during
283 a period equal to one-half the time such member served
284 as a member of said department, or until the time during
285 such period said widow shall remarry, a sum equal to
286 one and one-half per cent of the total salary which
287 would have been earned by him during twenty-five years
288 of service in said department based on his average earn-
289 ings while employed as a member of said department.
290 If there be no widow or during the period aforesaid such
291 widow shall remarry there shall be paid from said fund
292 to each child of said deceased member the sum of fifteen

293 dollars monthly until such child or children respectively
294 shall attain the age of eighteen years. If there be no
295 widow and no child or children there shall be paid annu-
296 ally in equal monthly installments from said fund to the
297 dependent parents of said deceased member during their
298 joint lifetimes a sum equal to the amount which a widow
299 would have been entitled to receive: *Provided*, That when
300 there shall be but one dependent parent surviving then
301 such dependent parent shall be entitled to receive during
302 his or her lifetime one-half the amount which both parents,
303 if living, would have been entitled to receive.

304 (k) When a member of said department shall die after
305 having been retired by the retirement board under the
306 provisions of subsections (a), (b) or (c) of this section,
307 there shall be paid annually in equal monthly install-
308 ments from said fund to the widow of said member,
309 during her lifetime or until her remarriage, an amount
310 equal to one-half the retirement benefits said deceased
311 member was receiving or was entitled to receive at the
312 time of his death; and in addition thereto said widow
313 shall be entitled to and there shall be paid to her from
314 said fund the sum of five dollars monthly for each child
315 under the age of eighteen years until such child or chil-
316 dren respectively shall attain the age of eighteen years:
317 *Provided*, That no widow of any member who shall die
318 after having been retired by the retirement board shall
319 be entitled to receive any benefits under the terms of
320 this paragraph unless such widow shall have been married
321 to such member during at least one full year prior to the
322 date such member shall have been retired by the retire-
323 ment board: *Provided further*, That a child born to
324 said dependent wife after such member was placed on re-
325 tirement shall not be entitled to any benefits nor shall
326 such dependent wife be entitled to receive benefits for
327 such child. If such widow shall not be entitled to benefits
328 or shall die or remarry, or if there be no widow there
329 shall be paid monthly from said fund to each child under
330 the age of eighteen years of said deceased member the
331 sum of fifteen dollars until such child or children re-
332 spectively attain the age of eighteen years. If there be

333 no widow or no widow eligible to receive benefits and no
334 child or children there shall be paid annually in equal
335 monthly installments from said fund to the dependent par-
336 ents of said deceased member during their joint lifetimes a
337 sum equal to the amount which a widow without children
338 would have been entitled to receive: *Provided*, That when
339 there shall be but one dependent parent surviving, such
340 parent shall be entitled to receive during his or her life-
341 time one-half the amount which both parents, if living,
342 would have been entitled to receive.

343 (l) When any widow of a member shall die or remarry
344 while receiving or being entitled to receive any benefits
345 under this act, such widow shall not from the date of such
346 remarriage, nor shall her estate from the date of her
347 death, be entitled to receive any benefits hereunder what-
348 soever: *Provided*, That in any case where under the
349 terms of this act benefits are provided for a child or
350 children surviving the death or remarriage of such widow,
351 payment of such benefits to such child or children shall
352 be calculated for payment from the date such widow shall
353 die or remarry.

354 (m) Any member who shall be discharged by order of
355 the superintendent after such member has or shall have
356 served two full years or more as a member of said depart-
357 ment shall, at request of such member, be entitled to
358 receive from said fund a sum equal to the aggregate of
359 the principal amount of moneys deducted from his
360 salary and paid into said death, disability and retirement
361 fund as provided and required by section twenty-seven
362 of this article: *Provided*, That the superintendent shall
363 forthwith refund to any member that has or shall have
364 served more than two but less than twenty years as a
365 member of said department and has resigned or shall
366 resign or that has been or shall be discharged from the
367 service for cause in accordance with recommendation of
368 a majority of a board of five officers of the department,
369 a sum equal to the aggregate of the principal amount of
370 all moneys deducted from the salary of such member and
371 paid into said fund as aforesaid: *Provided further*, That if
372 any such refund shall be made to any member such mem-

ber shall not be entitled to any benefits provided by this act, and should any such member thereafter be again enlisted as a member of said department no credit on any period of service required of a member as a condition of retirement shall be allowed to such member on account of such former service: *And provided further*, That when any member has or shall have served as a member of said department during twenty years or longer and shall, in the opinion of the superintendent, become unfit for any reason for further active service such member shall, in lieu of being discharged, be retired by the retirement board under the provision or provisions of this act most favorable to such member.

(n) If any member while in active status shall die after having served two full years or longer as a member of said department and the retirement board shall be of opinion after hearing thereon that the dependent or dependents of said member are ineligible under the provisions of this article to receive any of the benefits provided herein, the superintendent shall refund to the widow, if surviving, but if not surviving, to the children of such member, and if there be no widow or children, to the dependent parent or parents, a sum equal to the aggregate of the principal amount of all moneys deducted from the salary of such member and paid into said funds as aforesaid, and if there be no widow or children or dependent parent or parents, then the same shall remain in the fund. Whenever any such refund shall be made the widow or other dependents of such deceased member shall not be entitled to any other rights or benefits on account of said fund under the provisions of this act.

CHAPTER 123

(Senate Bill No. 163—By Mr. Johnston, by request)

AN ACT to amend article two, chapter twenty-five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding a new section numbered eleven, relating to the department of purchases.

[Passed March 7, 1945; in effect from passage. Approved by the Governor.]

Article 2. Sales, Purchases or Contracts.

Section

11. Purchase from federal government.

Be it enacted by the Legislature of West Virginia:

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

Section 11. *Purchase From Federal Government.*—Notwithstanding any other provision of this article, the director may, upon the recommendation of a state department, purchase from the government of the United States, commodities or equipment, by tendering bids therefor.

CHAPTER 124

(House Bill No. 36—By Mr. Davis)

AN ACT to amend and reenact chapter forty-two, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-nine, relating to the West Virginia publicity commission, by changing the name, composition, authority and duties of the commission and by providing that such chapter, as hereby amended, shall be designated article nine, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

[Passed February 12, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 9. Industrial and Publicity Commission.**Section**

1. West Virginia industrial and publicity commission; members; meetings.
2. Executive director.
3. General powers and duties of commission.
4. Cooperation of other state agencies and departments.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *West Virginia Industrial and Publicity Commission; Members; Meetings.*—The West Virginia publicity commission, heretofore created, shall be continued and shall hereafter be designated the West Virginia industrial and publicity commission. The commission shall be a corporation and as such may contract and be contracted with, and shall have a corporate seal.

The commission shall be composed of seven members, five of whom shall be members ex officio, and two of whom shall be appointed by the governor, by and with the advice and consent of the senate, to serve at his will and pleasure. The members shall be the governor, who shall be chairman of the commission, the attorney general, the commissioner of agriculture, the conservation commissioner and the commissioner of labor. The two appointive members shall be chosen from among those citizens of the state best qualified by training and experience to represent commerce and industry.

The commission shall have its principal office in the state capitol at Charleston and shall meet there at least once each month, and at such other times and places as may be designated by the chairman. All members shall serve without compensation, but shall be allowed such reasonable expenses as may be incurred in the immediate discharge of their duties as members of the com-

26 mission. Such expenses shall be met out of any funds
27 available for the purpose, and shall be paid upon certifi-
28 cation of the chairman, in such manner as the expenses of
29 other state officials are paid.

Sec. 2. *Executive Director.*—The commission shall em-
2 ploy an executive director, and fix his salary at an amount
3 not to exceed six thousand dollars per annum. The execu-
4 tive director shall be the chief administrative officer of
5 the commission and, subject to its control, shall direct all
6 the activities of the commission.

7 The director shall have authority to employ and fix
8 the compensation of such technical and clerical assist-
9 ants as may be necessary to carry out the purposes of this
10 article.

11 The salary and expenses of the director and of the
12 technical and clerical assistants shall be met out of any
13 funds available for the purpose, and shall be paid upon
14 certification of the director, in such manner as the ex-
15 penses of other state employees are paid.

Sec. 3. *General Powers and Duties of Commission.*—
2 The commission shall have the authority and, within the
3 limits of available funds, it shall be its duty to:

4 (1) Investigate, study and undertake ways and means
5 of promoting and encouraging the prosperous develop-
6 ment and protection of the legitimate interests and wel-
7 fare of West Virginia business, industry and commerce,
8 within and outside the state.

9 (2) Serve as a clearing house for industrial problems
10 of the state.

11 (3) Promote and encourage the expansion and de-
12 velopment of markets for West Virginia products.

13 (4) Promote and encourage the location and develop-
14 ment of new business in the state and the maintenance and
15 expansion of existing business.

16 (5) Investigate and study conditions affecting West
17 Virginia business, industry and commerce; collect and
18 disseminate information, and engage in technical studies,
19 scientific investigations, statistical research and educa-

20 tional activities necessary or useful for the proper execu-
21 tion of the powers and duties of the commission.

22 (6) Plan and develop an effective business informa-
23 tion service that will directly assist West Virginia in-
24 dustry, and also encourage industries outside the state to
25 use business facilities within the state.

26 (7) Compile, collect and periodically make available
27 scientific indices and other information relating to cur-
28 rent business conditions.

29 (8) Encourage and develop commerce with other states
30 and devise methods of removing trade barriers that
31 hamper the free flow of commerce between this and other
32 states, and for these purposes cooperate with interstate
33 commissions engaged in formulating and promoting the
34 adoption of interstate compacts and agreements helpful
35 to business, industry and commerce.

36 (9) Conduct or encourage research designed to further
37 new and more extensive uses of the natural and other
38 resources of the state, with a view to the development of
39 new products and industrial processes.

40 (10) Compile periodically a census of business and
41 industry in the state, in cooperation with other agencies,
42 and analyze and publish the information in such form as
43 to be most valuable to business and industry.

44 (11) Study long-range trends and developments in
45 the industries of the state and analyze the reasons under-
46 lying such trends; study costs and other factors affecting
47 successful operation of businesses within the state; and
48 make to the governor and to the Legislature, from time
49 to time, recommendations for the improvement of any
50 conditions, and for the elimination of any restrictions or
51 burdens imposed by law, or otherwise existing, which ad-
52 versely affect or retard legitimate development and ex-
53 pansion of business, industry and commerce.

54 (12) Advertise and publicize the material, economic
55 and other advantages of the state which render it a de-
56 sirable place for business and residence.

57 (13) Collect, compile and distribute information and
58 literature concerning the advantages and attractions of

59 the state, its historic and scenic points of interest, and the
60 highway, transportation and other facilities of the state.

61 (14) Plan and carry out a program of information and
62 publicity designed to attract to West Virginia tourists,
63 visitors and other interested persons from outside the
64 state.

65 (15) Encourage and cooperate with other public and
66 private organizations or groups in their efforts to publi-
67 cize the attractions and industrial advantages of the
68 state.

69 (16) Accept and expend, without the necessity of ap-
70 propriation by the Legislature, any gift or grant of money
71 made to the commission for any or all of the purposes
72 specified in this section.

2 *Sec. 4. Cooperation of Other State Agencies and De-*
3 *partments.*—It shall be the duty of any officer, agent or
4 employee of the state to give to the commission such as-
5 sistance, information and advice as may be requested by
6 the governor. The head of any state agency or depart-
7 ment may, upon the request of the governor, temporarily
8 assign to the commission experts and employees of his
9 department. Any person temporarily assigned to the
10 commission shall remain on the payroll of the agency or
department in which he is regularly employed.

CHAPTER 125

(House Bill No. 113—By Mr. Hansbarger)

AN ACT to amend section eleven, article three, chapter twelve
of the code of West Virginia, one thousand nine hundred
thirty-one, relating to the payment of traveling expenses
of state officers and employees, auditing by the state board
of traveling expenses, and payment of dues to voluntary
organizations.

[Passed March 8, 1945; in effect ninety days from passage. Approved by the
Governor.]

Article 3. Appropriations and Expenditures.**Section**

11. Traveling expenses; audit by state board; dues to voluntary organizations.

Be it enacted by the Legislature of West Virginia:

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

Section 11. *Traveling Expenses; Audit by State Board; Dues to Voluntary Organizations.*—The board known as the state auditing board of traveling expenses shall continue as heretofore by law created. The governor, attorney general and the secretary of state shall be ex officio members of and constitute said board. The governor shall be president, and the secretary of state shall be secretary. A minute record shall be kept by said board in which shall be entered a record of all its proceedings. It shall be unlawful for the auditor to issue his warrant in payment of any claim presented by a state officer or employee for expenses incurred while traveling without the state, unless the trip is authorized and the claim is approved by the state auditing board of traveling expenses: *Provided, however,* That the auditor is authorized to issue his warrant in payment of claims of state officers or employees without the approval hereinbefore required for expenses incurred while traveling without the state where the state officer or employee is required to be present in a proceeding before a court on official state business. Payment for dues or membership in annual or other voluntary organizations shall be made from the proper item of appropriation only after an itemized schedule of such organizations, together with the amount of such dues or membership, has been submitted to the budget director and approved by the board of public works. A requisition for items of such schedule authorized by the board of public works for payment shall be approved by the director of the budget and honored for payment by the state auditor. All accounts of expenses incurred by state officers or employees, whether traveling within or without

32 the state, shall be verified by affidavit of the person in-
33 curring the expense, shall be itemized in detail, and no
34 item shall be designated as "miscellaneous", "sundry", or
35 by any term of like general nature. If the account is for
36 traveling without the state, it shall be made out in tripli-
37 cate, one copy retained in the office of the officer or em-
38 ployee incurring the expense, one copy filed with the state
39 auditing board of traveling expenses, and the other copy
40 filed with the auditor. If the account is for traveling
41 within the state, it shall be made out in duplicate, one
42 copy retained in the office of the officer or employee in-
43 curring the expense and the other copy filed with the
44 auditor.

CHAPTER 126

(Com. Sub. for Senate Bill No. 193—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section five, article two, and section three, article three, chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the issuance of certificates and permits to motor carriers by the public service commission of West Virginia.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Article

2. Common Carriers by Motor Vehicle.
3. Contract Carriers by Motor Vehicle.

Be it enacted by the Legislature of West Virginia:

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

Article 2. Common Carriers by Motor Vehicle.**Section**

5. Certificates of convenience and necessity; hearing on application; transfer; revocation.

Section 5. *Certificates of Convenience and Necessity; Hearing on Application; Transfer; Revocation.*—(a) It shall be unlawful for any common carrier by motor vehicle to operate within this state without first having obtained from the commission a certificate of convenience and necessity. Upon the filing of an application for such certificate and after hearing thereon, if the commission finds from the evidence that the public convenience and necessity require the proposed service or any part thereof, it shall issue the certificate as prayed for, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the right granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may require, and if the commission shall be of the opinion that the service rendered by any common carrier holding a certificate of convenience and necessity over any route or routes in this state is in any respect inadequate or insufficient to meet the public needs, such certificate holder shall be given reasonable time and opportunity to remedy such inadequacy or insufficiency before any certificate shall be granted to an applicant proposing to operate over such route or routes as a common carrier. Before granting a certificate to a common carrier by motor vehicle the commission shall take into consideration existing transportation facilities in the territory for which a certificate is sought, and in case it finds from the evidence that the service furnished by existing transportation facilities is reasonably efficient and adequate, the commission shall not grant such certificate.

(b) The commission shall prescribe such rules and regulations as it may deem proper for the enforcement of the provisions of this section, and in establishing that public convenience and necessity do exist the burden of proof shall be upon the applicant. The commission may designate any of its employees to take evidence at the hearing of any application for a certificate and submit

38 findings of fact as a part of a report or reports to be made
39 to the commission.

40 (c) No certificate issued in accordance with the terms
41 of this chapter shall be construed to be either a franchise or
42 irrevocable or to confer any proprietary or property rights
43 in the use of the public highways. No certificate issued
44 under this act shall be assigned or otherwise transferred
45 without the approval of the commission. Upon the death
46 of a person holding a certificate, his personal representa-
47 tive or representatives may operate under such certificate
48 while the same remains in force and effect and, with the
49 consent of the commission, may transfer such certificate.

50 (d) The commission may at any time, for good cause,
51 suspend and, upon not less than fifteen days' notice to the
52 grantee of any certificate and an opportunity to be heard,
53 revoke or amend any certificate.

Article 3. Contract Carriers by Motor Vehicle.

Section

3. Permit; hearing on application; transfer; revocation.

Section 3. *Permit; Hearing on Application; Transfer;*
2 *Revocation.*—(a) It shall be unlawful for any contract
3 carrier by motor vehicle to operate within this state with-
4 out first having obtained from the commission a permit.
5 Upon the filing of an application for such permit, the
6 commission shall fix a time and place for hearing thereon
7 and after hearing shall grant or deny the permit prayed
8 for or grant it for the partial exercise only of the privilege
9 sought, and may attach to the exercise of the privilege
10 granted by such permit such terms and conditions as in
11 its judgment are proper and will carry out the purpose
12 of this chapter. No permit shall be granted unless the
13 applicant has established to the satisfaction of the com-
14 mission that the privilege sought will not endanger the
15 safety of the public or unduly interfere with the use of the
16 highways or impair unduly the condition or unduly in-
17 crease the maintenance cost of such highways, directly or
18 indirectly, or impair the efficient public service of any
19 authorized common carrier or common carriers adequate-
20 ly serving the same territory.

21 (b) The commission shall prescribe such rules and

22 regulations as it may deem proper for the enforcement of
23 the provisions of this section and may designate any of its
24 employees to take evidence at the hearing on any appli-
25 cation for a permit and submit findings of fact as a part
26 of report or reports to be made to the commission.

27 (c) No permit issued in accordance with the terms
28 of this act shall be construed to be either a franchise or
29 irrevocable or to confer any proprietary or property rights
30 in the use of the public highways. No permit issued un-
31 der this act shall be assigned or otherwise transferred
32 without the approval of the commission. Upon the death
33 of a person holding a permit, his personal representative
34 or representatives may operate under such permit while
35 the same remains in force and effect and, with the con-
36 sent of the commission, may transfer such permit.

37 (d) The commission may at any time, for good cause,
38 suspend and, upon not less than fifteen days' notice to
39 the grantee of any permit and an opportunity to be heard,
40 revoke or amend any permit.

41 (e) Every contract carrier by motor vehicle who shall
42 cease operation or abandon his rights under a permit is-
43 sued shall notify the commission within thirty days of
44 such cessation or abandonment.

CHAPTER 127

(Senate Bill No. 192—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact section one, article two, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers of the public service commission.

[Passed March 9, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 2. Powers and Duties of Public Service Commission.

Section

1. Jurisdiction of commission.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Jurisdiction of Commission.*—The jurisdiction of the commission shall extend to all public utilities in this state, and shall include any utility engaged in any of the following public services:

Common carriage of passengers or goods, whether by railroad, street railroad, motor or otherwise, by express or otherwise, by land, water or air, whether wholly or partly by land, water or air; transportation of oil, gas or water by pipe line; sleeping car or parlor car services; transmission of messages by telephone, telegraph or radio; generation and transmission of electrical energy by hydro-electric or other utilities for service to the public, whether directly or through a distributing utility; supplying water, gas or electricity, by municipalities or others; sewer systems servicing twenty-five or more persons or firms other than the owner of the sewer systems; toll bridges, wharves, ferries; and any other public service.

CHAPTER 128

(Senate Bill No. 203—By Mr. Vickers, Mr. President)

AN ACT to establish a capitol salvage committee, with authority to supervise the salvaging, processing and sale of waste material discarded in and around the capitol building and grounds.

(Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.)

Section

1. Capitol salvage committee; disposition of collections.

Be it enacted by the Legislature of West Virginia:

Section 1. *Capitol Salvage Committee; Disposition of*

2 *Collections.*—There is hereby created a capitol salvage
3 committee to be composed of the director of the budget,
4 the director of purchases and the superintendent of
5 building and grounds, which shall have authority to super-
6 vise and direct the salvaging, processing and disposition
7 of waste paper and other waste materials discarded in
8 and around the capitol building and grounds. The pro-
9 ceeds of the sale of any such salvage shall be deposited
10 in a special revenue account and may be expended upon
11 the approval of the capitol salvage committee for minor
12 repairs on buildings and grounds, for the purchase of
13 equipment, and for the cleaning and painting of the
14 capitol building.

CHAPTER 129

(Senate Bill No. 216—By Mr. Johnston, by request)

AN ACT to amend and reenact chapter seventy-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-three, entitled "An Act authorizing the state road commission to release to the federal government the state's claim for damages to roads and highways caused by construction of the Tygart River Reservoir, and permitting sale of adjacent land by state agency."

[Passed March 10, 1945; in effect from passage. Approved by the Governor.]

Section

1. Release of state's claims for damages caused by construction, operation and maintenance of Tygart river reservoir; sale of lands.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Release of State's Claims for Damages Caused by Construction, Operation and Maintenance of Tygart River Reservoir; Sale of Lands.*—The state road commission is authorized, in consideration of the conveyance by the federal government to the state conservation commission of approximately one thousand seven hundred thirty-two acres of land adjacent to the Tygart River Reservoir, to release all claims of the state of West Virginia for damage to roads and highways caused by the construction, operation and maintenance of such reservoir: *Provided, however,* That the conservation commission, state road commission or any other commission, agent or person holding title to said land, is hereby given authority to sell and convey by proper deed of conveyance for a price to be agreed upon, to any former owner of said land or other person, any part thereof not to exceed in the aggregate one thousand acres.

CHAPTER 130

(Senate Bill No. 182—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact section three, article one; section seventeen, article two; sections seven, ten, ten-a, ten-b, sixteen, seventeen, eighteen and nineteen, article five; sections one, four, ten, eleven and twenty-one, article six; section eleven, article seven; sections one, five and seven, article eight; section eleven, article ten; to add section one-a to article six; to add section five-a to article nine, all of 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, as amended, relating to unemployment compensation.

[Passed March 8, 1945; to effect April 1, 1945. Approved by the Governor.]

Article

1. Department of Unemployment Compensation.
2. Director of Unemployment Compensation.
5. Employer Coverage and Responsibility.
6. Employee Eligibility; Benefits.
7. Claim Procedure.
8. Unemployment Compensation Fund.
9. Unemployment Compensation Administration Funds.
10. General Provisions.

Be it enacted by the Legislature of West Virginia:

That section three, article one; section seventeen, article two; sections seven, ten, ten-a, ten-b, sixteen, seventeen, eighteen and nineteen, article five; sections one, four, ten, eleven and twenty-one, article six; section eleven, article seven; sections one, five and seven, article eight; section eleven, article ten; to add section one-a to article six; to add section five-a to article nine, all of 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, as amended, be amended and reenacted to read as follows:

Article 1. Department of Unemployment Compensation.**Section****3. Definitions.**

- Section 3. *Definitions.*—As used in this chapter, unless the context clearly requires otherwise:
- “Administration fund” means the unemployment compensation administration fund, from which the administrative expenses under this chapter shall be paid.
- “Annual payroll” means the total amount of wages for employment paid by an employer during one year.
- “Average annual payroll” means the average of the annual payrolls of an employer for the last three years.
- The “base period” for an individual who files an initial claim for benefits between April first and September thirtieth (both dates inclusive) of any year shall be the preceding calendar year; the base period for an individual who files an initial claim for benefits between October first and the next following March thirty-first (both dates inclusive) shall be the twelve consecutive month period ending on the preceding June thirtieth.

18 "Base period employer" means any employer who in the
19 base period for any benefit year paid wages to an indi-
20 vidual who filed claim for unemployment compensation
21 within such benefit year.

22 "Base period wages" means wages paid to an individual
23 during the base period by all his base period employers.

24 "Benefit year" with respect to an individual means the
25 fifty-two consecutive weeks period beginning with the
26 day on which he filed a valid claim for benefits, and there-
27 after the fifty-two consecutive weeks period beginning
28 with the day on which such individual next files a valid
29 claim for benefits after the termination of his last pre-
30 ceding benefit year. An initial claim for benefits filed in
31 accordance with the provisions of this chapter shall be
32 deemed to be a valid claim within the purposes of this
33 definition if the individual has been paid wages in his
34 base period sufficient to make him eligible for benefits
35 under the provisions of this chapter.

36 "Benefits" means the money payable to an individual
37 with respect to his unemployment.

38 "Board" means board of review.

39 "Calendar quarter" means the period of three consecu-
40 tive calendar months ending on March thirty-one, June
41 thirty, September thirty, or December thirty-one, or the
42 equivalent thereof as the director may by regulation
43 prescribe.

44 "Director" means the unemployment compensation
45 director.

46 "Employing unit" means an individual, or type of or-
47 ganization, including any partnership, association, trust,
48 estate, joint stock company, insurance company, corpora-
49 tion (domestic or foreign), or the receiver, trustee in
50 bankruptcy, trustee or successor thereof, or the legal
51 representative of a deceased person, which has on Janu-
52 ary first, one thousand nine hundred thirty-five, or subse-
53 quent thereto, had in its employ one or more individuals
54 performing service within this state.

55 "Employer" means an employing unit which for some
56 portion of a day, not necessarily simultaneously, in each of
57 twenty different calendar weeks, which weeks need not be
58 consecutive, within either the current calendar year, or the

59 preceding calendar year, has had in employment eight or
60 more individuals irrespective of whether the same individ-
61 uals were or were not employed on each of such days, or
62 who or which is or becomes a liable employer under any
63 federal unemployment tax act.

64 "Employment", subject to the other provisions of this
65 subsection, means:

66 (1) Service, including service in interstate commerce,
67 performed for wages or under any contract of hire, writ-
68 ten or oral, express or implied.

69 (2) The term "employment" shall include an individual's
70 entire service, performed within or both within and with-
71 out this state if: (a) The service is localized in this state;
72 or (b) the service is not localized in any state but some of
73 the service is performed in this state and (i) the base of
74 operations, or, if there is no base of operations, then the
75 place from which such service is directed or controlled, is
76 in this state; or (ii) the base of operations or place from
77 which such service is directed or controlled is not in any
78 state in which some part of the service is performed but the
79 individual's residence is in this state.

80 (3) Service not covered under paragraph (2) of this sub-
81 section and performed entirely without this state, with re-
82 spect to no part of which contributions are required and
83 paid under an unemployment compensation law of any
84 other state or of the federal government, shall be deemed
85 to be employment subject to this act if the individual per-
86 forming such services is a resident of this state and the di-
87 rector approves the election of the employing unit for
88 whom such services are performed that the entire service
89 of such individual shall be deemed to be employment sub-
90 ject to this act.

91 (4) Service shall be deemed to be localized within a
92 state, if: (a) The service is performed entirely within
93 such state; or (b) the service is performed both within
94 and without such state, but the service performed without
95 such state is incidental to the individual's service within
96 this state. For example, is temporary or transitory in na-
97 ture or consists of isolated transactions.

98 (5) Services performed by an individual for wages shall

99 be deemed to be employment subject to this act unless and
100 until it is shown to the satisfaction of the director that:
101 (a) Such individual has been and will continue to be free
102 from control or direction over the performance of such
103 services, both under his contract of service and in fact;
104 and (b) such service is either outside the usual course of
105 the business for which such service is performed or that
106 such service is performed outside of all the places of busi-
107 ness of the enterprise for which such service is performed;
108 and (c) such individual is customarily engaged in an in-
109 dependently established trade, occupation, profession,
110 or business.

111 The term "employment" shall not include:

112 (1) Services performed in the employ of this state or
113 any political subdivision thereof, or any instrumentality
114 of this state or its subdivisions.

115 (2) Service performed directly in the employ of an-
116 other state, or its political subdivisions.

117 (3) Service performed in the employ of the United States
118 or an instrumentality of the United States exempt under
119 the constitution of the United States from the payments
120 imposed by this law, except that to the extent that the con-
121 gress of the United States shall permit states to require any
122 instrumentalities of the United States to make payments
123 into an unemployment fund under a state unemployment
124 compensation law, all of the provisions of this law shall be
125 applicable to such instrumentalities, and to service per-
126 formed for such instrumentalities, in the same manner, to
127 the same extent and on the same terms as to all other em-
128 ployers, employing units, individuals, and services: *Pro-*
129 *vided*, That if this state shall not be certified for any year
130 by the social security board under section one thousand
131 six hundred three (c) of the Federal Internal Revenue
132 Code, the payments required of such instrumentalities
133 with respect to such year shall be refunded by the director
134 from the fund in the same manner and within the same
135 period as is provided in section nineteen of article five of
136 this law with respect to payments erroneously collected.

137 (4) Service performed after June thirty, one thousand
138 nine hundred thirty-nine, with respect to which unem-

139 ployment compensation is payable under the Railroad Un-
140 employment Insurance Act (fifty-two Stat. one thousand
141 ninety-four), and service with respect to which unemploy-
142 ment benefits are payable under an unemployment com-
143 pensation system for maritime employees established by
144 an act of congress. The director may enter into agreements
145 with the proper agency established under such an act of
146 congress to provide reciprocal treatment to individuals
147 who, after acquiring potential rights to unemployment
148 compensation under an act of congress, or who have, after
149 acquiring potential rights to unemployment compensation
150 under an act of congress, acquired rights to benefits under
151 this chapter. Such agreements shall become effective ten
152 days after such publication as complies with the general
153 rules of the department.

154 (5) Agricultural labor.

155 (6) Domestic service in a private home.

156 (7) Service performed by an individual in the employ
157 of his son, daughter, or spouse.

158 (8) Service performed by a child under the age of
159 twenty-one years in the employ of his father or mother.

160 (9) Service performed in the employ of an employing
161 unit organized and operated exclusively for religious, char-
162 itable, scientific, literary, or educational purposes or for
163 prevention of cruelty to children or animals, no part of
164 the net earnings of which inure to the benefit of any pri-
165 vate shareholder or individual.

166 Notwithstanding the foregoing exclusions from the defi-
167 nition of "employment", services shall be deemed to be in
168 employment if with respect to such services a tax is re-
169 quired to be paid under any federal law imposing a tax
170 against which credit may be taken for contributions re-
171 quired to be paid into a state unemployment compensation
172 fund.

173 "Employment office" means a free employment office or
174 branch thereof, operated by this state, or any free public
175 employment office maintained as a part of a state con-
176 trolled system of public employment offices in any other
177 state.

178 "Fund" means the unemployment compensation fund
179 established by this chapter.

180 "Payments" means the money required to be paid into
181 the state unemployment compensation fund as provided
182 by article five of this chapter.

183 "State" includes, in addition to the states of the United
184 States, Alaska, Hawaii, and the District of Columbia.

185 "Total and partial unemployment":

186 (1) An individual shall be deemed to be totally unem-
187 ployed in any week during which he performs no services
188 and with respect to which no wages are payable to him.

189 (2) An individual shall be deemed to be partially unem-
190 ployed in any week of less than full time work if wages
191 payable to him with respect to such week are less than his
192 weekly benefit amount.

193 "Wages" means all remuneration for personal service,
194 including commissions and bonuses and the cash value
195 of all remuneration in any medium other than cash; pro-
196 vided that the term "wages" shall not include:

197 (1) That part of the remuneration which, after remuner-
198 ation equal to three thousand dollars has been paid to an
199 individual by an employer with respect to employment
200 during any calendar year beginning with the calendar year
201 one thousand nine hundred forty, is paid to such individual
202 by such employer with respect to employment during such
203 calendar year.

204 (2) The amount of any payment made to, or on behalf of,
205 an individual in its employ (without deduction from the
206 remuneration of the individual in its employ), under a plan
207 or system established by an employer which makes pro-
208 vision for individuals in its employ generally or for a class
209 or classes of such individuals (including any amount paid
210 by an employer for insurance or annuities, or into a fund,
211 to provide for any such payment), on account of (A) re-
212 tirement, or (B) sickness or accident disability, or (C)
213 medical and hospitalization expenses in connection with
214 sickness or accident disability, or (D) death: *Provided*,
215 That the individual in its employ (i) has not the option to
216 receive, instead of provision for such death benefit, any
217 part of such payment or, if such death benefit is insured,

218 any part of the premiums (or contributions to premiums)
219 paid by his employer, and (ii) has not the right, under the
220 provisions of the plan or system or policy of insurance pro-
221 viding for such death benefit, to assign such benefit, or to
222 receive such consideration in lieu of such benefit either up-
223 on his withdrawal from the plan or system providing for
224 such benefit or upon termination of such plan or system
225 or policy or of insurance of his services with such em-
226 ployer.

227 (3) The payment by an employer (without deduction
228 from the remuneration of the individual in its employ)
229 of the tax imposed upon an individual in its employed
230 under section one thousand four hundred of the Federal
231 Internal Revenue Code; or

232 (4) Payments, not required under any contract of hire,
233 made to an individual with respect to his period of train-
234 ing or service in the armed forces of the United States by
235 any employer by which such individual was formerly
236 employed.

237 Gratuities customarily received by an individual in
238 the course of his employment from persons other than his
239 employing unit shall be treated as wages paid by his
240 employing unit, if accounted for and reported to such
241 employing unit.

242 The reasonable cash value of remuneration in any me-
243 dium other than cash shall be estimated and determined
244 in accordance with rules prescribed by the director.

245 "Week" means a calendar week, ending at midnight
246 Saturday, or the equivalent thereof, as determined in
247 accordance with the regulations prescribed by the director.

248 "Weekly benefit rate" means the maximum amount of
249 benefit an eligible individual will receive for one week
250 of total unemployment.

251 "Year" means a calendar year or the equivalent thereof,
252 as determined by the director.

Article 2. The Director of Unemployment Compensation.

Section

17. Federal-state cooperation.

Section 17. Federal-State Cooperation.—The director

2 shall have all powers and duties necessary to secure to
3 the state the benefits of congressional action for the pro-
4 motion and maintenance of a system of public employ-
5 ment offices. To this end the provisions of the act re-
6 ferred to in the preceding section and such additional
7 congressional action consistent with the above act are
8 accepted by the state and the state pledges its observance
9 and compliance therewith.

10 The department of unemployment compensation is
11 designated the agent of this state for the purpose of
12 compliance with the act of congress entitled "An act to
13 provide for the establishment of a national employment
14 system and for cooperation with states in the promotion of
15 such systems, and for other purposes", approved June
16 six, one thousand nine hundred thirty-three, as amended.

17 The director is also authorized, with the approval of
18 the advisory council, to apply for an advance to the un-
19 employment compensation fund in accordance with the
20 conditions specified in title twelve of the social security
21 act, as amended, in order to secure to this state and its
22 citizens the advantages available under the provisions
23 of that title.

Article 5. Employer Coverage and Responsibility.

Section

- 7. Separate accounts.
- 10. Experience ratings; decreased rates.
- 10-a. Suspension of decreased rates.
- 10-b. Transfer of business.
- 16. Collection of payments.
- 17. Interest on past-due payments.
- 18. Priorities.
- 19. Refunds.

Section 7. *Separate Accounts.*—(1) The director shall
2 maintain a separate account for each employer, and shall
3 credit his account with all contributions heretofore and
4 hereafter paid by him. Nothing in this act shall be con-
5 strued to grant any employer or individual in his service
6 prior claims or rights to the amounts paid by him into the
7 fund, either on his own behalf or on behalf of such individ-
8 uals. The account of any employer which has been in-
9 active for a period of four consecutive calendar years
10 shall be terminated for all purposes.

11 (2) Benefits paid to an eligible individual shall be
12 charged against the accounts of his base period employers.
13 The amount of benefits so chargeable against each base
14 period employer's account shall bear the same ratio to
15 the total benefits paid to an individual as the base period
16 wages paid to such individual by such employer bear to
17 the total amount of base period wages paid to such indi-
18 vidual by all his base period employers.

19 (3) The director shall, for the year one thousand nine
20 hundred forty-one, and for each calendar year there-
21 after, classify employers in accordance with their actual
22 experience in the payment of contributions on their own
23 behalf and with respect to benefits charged against their
24 accounts, with a view of fixing such contribution rates
25 as will reflect such experience. For the purpose of fixing
26 such contribution rates for each calendar year the books
27 of the department shall be closed on January thirty-one
28 of such year, and any contributions thereafter paid with
29 respect to wages paid for employment during preceding
30 calendar years, as well as benefits thereafter paid with
31 respect to compensable weeks ending on or before Decem-
32 ber thirty-one of the preceding year, shall not be taken
33 into account until the time for fixing contribution rates
34 for the succeeding calendar year: *Provided, however,*
35 *That any payment made on or before the termination*
36 *of an extension of time for such payment granted pur-*
37 *suant to a regulation of the director authorizing such*
38 *extension, shall be taken in to account for the purpose of*
39 *fixing contribution rates: Provided further, That when-*
40 *ever through mistake or inadvertence erroneous credits*
41 *or charges are found to have been made to or against*
42 *the reserve account of any employer, the rate shall be*
43 *adjusted as of January one of the calendar year in which*
44 *such mistake or inadvertence is discovered; but pay-*
45 *ments made under any rate assigned prior to January*
46 *one of such year shall not be deemed to be erroneously*
47 *collected.*

2 Sec. 10. *Experience Ratings; Decreased Rates.*—On and
3 after January one, one thousand nine hundred forty-five,
after the requirements of section nine have been complied

4 with, an employer's payment shall remain two and seven-
5 tenths per cent (2.7%), until: (1) There have elapsed
6 three consecutive years immediately preceding the com-
7 putation date throughout which an employer's account
8 was chargeable with benefits.

9 (2) His payments credited to his account for all past
10 years exceed the benefits charged to his account by an
11 amount equal to at least five and one-half per cent (5.5%)
12 of his average annual pay roll, in which case his rate
13 shall be two and four-tenths per cent (2.4%).

14 (3) His payments credited to his account for all past
15 years exceed the benefits charged to his account by an
16 amount equal to at least six and one half per cent (6.5%)
17 of his average annual pay roll, in which case his rate
18 shall be two and one-tenth per cent (2.1%).

19 (4) His payments credited to his account for all past
20 years exceed the benefits charged to his account by an
21 amount equal to at least seven and one-half per cent
22 (7.5%) of his average annual pay roll, in which case his
23 rate shall be one and eight-tenths per cent (.1.8%).

24 (5) His payments credited to his account for all past
25 years exceed the benefits charged to his account by an
26 amount equal to at least eight and one-half per cent (8.5%)
27 of his average annual pay roll, in which case his rate
28 shall be one and four-tenths per cent (1.4%).

29 (6) His payments credited to his account for all past
30 years exceed the benefits charged to his account by an
31 amount equal to at least nine per cent (9%) of his average
32 annual pay roll, in which case his rate shall be one and
33 two-tenths per cent (1.2%).

34 (7) His payments credited to his account for all past
35 years exceed the benefits charged to his account by an
36 amount equal to at least ten per cent (10%) of his average
37 annual pay roll, in which case his rate shall be nine-tenths
38 of one per cent (0.9%).

39 (8) His payments credited to his account for all past
40 years exceed the benefits charged to his account by an
41 amount equal to at least eleven per cent (11%) of his
42 average annual pay roll, in which case his rate shall be
43 seven-tenths of one per cent (0.7%).

44 (9) His payments credited to his account for all past
45 years exceed the benefits charged to his account by an
46 amount equal to at least twelve per cent (12%) of his
47 average annual pay roll, in which case his rate shall be
48 five-tenths of one per cent (0.5%).

49 The director shall determine an employer's compliance
50 with these requirements.

Sec. 10-a. *Suspension of Decreased Rates.*—(1) If at any
2 time or times the unemployment compensation fund, in-
3 cluding the trust fund, clearing account, and benefit ac-
4 count, and excluding therefrom the amount required to
5 pay the maximum benefit amount as determined on all
6 claims allowed, shall fall below the sum of thirty-five
7 million dollars, the director shall suspend the decreased
8 rates as provided in this chapter, and all contributions
9 of employers which are due and payable upon the next
10 due date following such suspension shall be paid at the
11 rate of two and seven-tenths per cent.

12 (2) As of January first next following the calendar year
13 in which the unemployment compensation fund, includ-
14 ing the trust fund, clearing account, and benefit account,
15 and excluding therefrom the amount required to pay the
16 maximum benefit amount as determined on all claims
17 allowed, reaches the sum of forty million dollars, the
18 director shall supersede such suspension. New rates shall
19 thereupon be computed as provided in this chapter.

Sec. 10-b. *Transfer of Business.*—If a subject employer
2 shall transfer his entire organization, trade or business,
3 or substantially all the assets thereof, to another em-
4 ployer, the director shall combine the contribution records
5 and the benefit experience records of the transferring
6 and acquiring employers. The acquiring employer's
7 contribution rate for the remainder of the calendar year
8 shall not be affected by the transfer but such rate shall
9 apply to the whole of his business, including the portion
10 acquired by the transfer, through the following Decem-
11 ber thirty-first. If a subject employer shall make such
12 transfer to an employing unit which is not an employer
13 on the date of the transfer, such subject employer's rate

14 shall continue as the rate of the acquiring employing unit
15 until the next computation date: *Provided, however,*
16 That in case the transferring employer is delinquent in
17 the payment of contributions or interest thereon the
18 acquiring employer shall not be entitled to any benefit
19 of the contribution record of the transferring employer
20 unless payment of such delinquent contributions and in-
21 terest thereon is assumed by the acquiring employer.
22 The director shall upon joint request of the transferor and
23 transferee, before the transfer, furnish the transferee a
24 statement of the amount of any contribution and interest
25 due from and unpaid by the transferor, and shall, upon
26 such transfer, furnish such statement to the transferee
27 upon the transferee's request. A statement so furnished
28 shall be controlling for the purposes of the foregoing
29 proviso.

Sec. 16. *Collection of Payments.*—(1) The director in the
2 name of the state shall commence a civil action against
3 an employer who, after due notice, defaults in any pay-
4 ment or interest thereon. If judgment is against the
5 employer he shall pay the costs of the action. Civil
6 actions under this section shall be given preference on
7 the calendar of the court over all other civil actions ex-
8 cept petitions for judicial review under article seven of
9 this chapter and cases arising under the Workmen's
10 Compensation Law.

11 (2) A payment and interest thereon due and unpaid
12 under this chapter shall be a debt due the state in favor
13 of the director. It shall be a personal obligation of the
14 employer and shall, in addition thereto, be a lien, en-
15 forceable by suit in equity, upon all the property of the
16 employer: *Provided, however,* That no such lien shall be
17 enforceable as against a purchaser (including lien credit-
18 or) of real estate or personal property for a valuable
19 consideration, without notice, unless docketed as provided
20 in chapter ninety-nine, of the acts of the Legislature,
21 regular session, one thousand nine hundred forty-three.

22 (3) In addition to all other civil remedies prescribed
23 herein the director may in the name of the state distrain

24 upon any personal property, including intangibles, of
25 any employer delinquent for any payment and interest
26 thereon. If the director has good reason to believe that
27 such property or a substantial portion thereof is about
28 to be removed from the county in which it is situated
29 he may likewise distrain in the name of the state before
30 such delinquency occurs. For such purpose the director
31 may require the services of a sheriff of any county in
32 the state in levying such distress in the county in which
33 such sheriff is an officer and in which such personal
34 property is situated. A sheriff so collecting any payments
35 and interest thereon shall be entitled to such compensa-
36 tion as is provided by law for his services in the levy
37 and enforcement of executions.

38 (4) In case a business subject to the payments and
39 interest thereon imposed under this chapter shall be
40 operated in connection with a receivership or insolvency
41 proceeding in any state court in this state, the court under
42 whose direction such business is operated shall, by the
43 entry of a proper order or decree in the cause, make pro-
44 vision, so far as the assets in administration will permit,
45 for the regular payment of such payments as the same
46 become due.

47 (5) The secretary of state of this state shall withhold
48 the issuance of any certificate of dissolution or with-
49 drawal in the case of any corporation organized under
50 the laws of this state, or organized under the laws of an-
51 other state and admitted to do business in this state,
52 until notified by the director that all payments and in-
53 terest thereon against any such corporation which is an
54 employer under this chapter have been paid or that
55 provision satisfactory to the director has been made for
56 payment.

Sec. 17. *Interest on Past-due Payments.*—Payments un-
2 paid on the date on which due and payable, as pre-
3 scribed by the director, shall bear interest at the rate
4 of one per cent per month until payment plus accrued
5 interest is received by the director.

6 Interest collected pursuant to this section shall be

7 paid into the unemployment compensation special ad-
8 ministration fund.

Sec. 18. *Priorities.*—(1) In the event of any distribution
2 of an employer's assets pursuant to an order of the
3 court under a law of this state, payments then or there-
4 after due and interest allowable thereon shall be paid in
5 full prior to all other claims except taxes and claims
6 for wages. Wage claims in excess of two hundred fifty
7 dollars per claimant or earned more than six months
8 before the commencement of the proceeding, shall not
9 be entitled to priority.

10 (2) In the event of an employer's adjudication in
11 bankruptcy, judicially confirmed extension proposal, or
12 composition, under the Federal Bankruptcy Act of one
13 thousand eight hundred ninety-eight, as amended, claims
14 for payments then or thereafter due and interest thereon,
15 which have not been reduced to lien, shall be entitled to
16 such priority as is provided in said bankruptcy act for
17 taxes due any state of the United States.

Sec. 19. *Refunds.*—Within two years after the date on
2 which payment of contribution, or interest thereon, is
3 made, an employer, who has paid such payment or in-
4 terest, may make application for:

5 (1) An adjustment thereof in connection with subse-
6 quent 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 adjustment,
10 without interest, in connection with subsequent payments
11 of the employer, or if such adjustment cannot be made,
12 refund the amount of the payments erroneously collected,
13 without interest, from the clearing account of the un-
14 employment compensation fund, and the amount of the
15 interest erroneously collected, from the unemployment
16 compensation special administration fund.

17 For like cause and within the same period the director,
18 on his own initiative, may make an adjustment or refund:
19 *Provided*, That nothing in this chapter shall be construed
20 as permitting a cash refund of any contribution required

- 21 under the law in effect when such contribution became
22 due.

Article 6. Employee Eligibility; Benefits.

Section

1. Eligibility qualifications.
- 1-a. Seasonal employment.
4. Disqualification for benefits.
10. Benefit rate; total unemployment.
11. Benefit rate; partial unemployment.
21. Persons in military service.

Section 1. *Eligibility Qualifications.*—An unemployed individual shall be eligible to receive benefits only if the director finds that:

(1) He has registered for work at and thereafter continues to report at an employment office in accordance with the regulations of the director.

(2) He has made a claim for benefits in accordance with the provisions of article seven of this chapter.

(3) He is able to work and is available for full time work for which he is fitted by prior training or experience.

(4) He has been totally unemployed during his benefit year for a waiting period of one week prior to the week for which he claims benefits for total unemployment.

(5) He has within his base period earned wages for employment equal to not less than three hundred dollars.

Sec. 1-a. *Seasonal Employment.*—An individual working less than one hundred days during his base period in an industry recognized as seasonal, such as food processing and canning, shall not be eligible for benefits unless he has earned wages during his base period in other covered employment equal to not less than one hundred dollars.

Sec. 4. *Disqualification for Benefits.*—Upon the determination of the facts by the director, an individual shall be disqualified for benefits:

(1) For the week in which he left his most recent work voluntarily without good cause involving fault on the part of the employer and the six weeks immediately following such week. Such disqualification shall carry a reduction in the maximum benefit amount equal to six times the indi-

9 vidual's weekly benefit rate. However, if the claimant re-
10 turns to work in covered employment during his benefit
11 year the maximum benefit amount shall be increased by the
12 amount of the decrease imposed under the disqualification.

13 (2) For the week in which he was discharged by his
14 last employing unit for misconduct and the six weeks im-
15 mediately following such week. Such disqualification
16 shall carry a reduction in the maximum benefit amount
17 equal to six times the individual's weekly benefit rate.
18 However, if the claimant returns to work in covered em-
19 ployment during his benefit year the maximum benefit
20 amount shall be increased by the amount of the decrease
21 imposed under the disqualification.

22 (3) For the week in which he failed without good cause,
23 to apply for available suitable work, accept suitable work
24 when offered, or return to his customary self-employ-
25 ment when directed to do so by the director, and for the
26 four weeks which immediately follow and for such addi-
27 tional period as any offer of suitable work shall continue
28 open for his acceptance, and his maximum benefit amount
29 shall be reduced by an amount equal to his weekly bene-
30 fit rate times the number of weeks of disqualification.
31 However, if the claimant returns to work in covered em-
32 ployment during his benefit year the maximum benefit
33 amount shall be increased by the amount of the decrease
34 imposed under the disqualification.

35 (4) For a week in which his total or partial unemploy-
36 ment is due to a stoppage of work which exists because of
37 a labor dispute at the factory, establishment, or other
38 premises at which he was last employed, unless the di-
39 rector is satisfied that he was not (one) participating,
40 financing, or directly interested in such dispute, and
41 (two) did not belong to a grade or class of workers who
42 were participating, financing, or directly interested in the
43 labor dispute which resulted in the stoppage of work. No
44 disqualification under this subsection shall be imposed if
45 the employees are required to accept wages, hours or con-
46 ditions of employment substantially less favorable than
47 those prevailing for similar work in the locality, or if em-
48 ployees are denied the right of collective bargaining un-

49 der generally prevailing conditions, or if an employer
50 shuts down his plant or operation or dismisses his em-
51 ployees in order to force wage reduction, changes in
52 hours or working conditions.

53 (5) For a week with respect to which he is receiving
54 or has received:

55 (a) Wages in lieu of notice or payments under any
56 form of a separation wage plan.

57 (b) Compensation for temporary partial disability un-
58 der the workmen's compensation law of any state or un-
59 der a similar law of the United States.

60 (c) Remuneration in the form of a primary insurance
61 benefit under title two of the social security act, as
62 amended, or similar payments under any act of congress.

63 (d) Unemployment compensation benefits under the
64 laws of the United States or any other state.

65 (6) For the week in which an individual is not em-
66 ployed because of pregnancy, or has voluntarily quit em-
67 ployment to marry or to perform any marital, parental,
68 or family duty, or to attend to his or her personal busi-
69 ness or affairs, and until the individual returns to covered
70 employment and has been employed in covered employ-
71 ment at least thirty working days.

72 (7) For each week in which an individual is unem-
73 ployed because, having voluntarily left employment to
74 attend a school, college, university, or other educational
75 institution, he is attending such school, college, university,
76 or other educational institution, or is awaiting entrance
77 thereto or is awaiting the starting of a new term or ses-
78 sion thereof.

79 (8) For the purposes of this section an employer's ac-
80 count shall not be charged under any of the following con-
81 ditions: (1) When benefits are paid without any disquali-
82 fication to an individual who has left work voluntarily for
83 good cause not attributable to the employer. (2) When
84 benefits are paid for unemployment immediately after the
85 expiration of a period of disqualification for (a) leaving
86 work voluntarily without good cause, (b) discharge for
87 misconduct, (c) failing without good cause to apply for

88 suitable work, accept suitable work when offered, or re-
 89 turn to his customary self-employment when directed to
 90 do so by the director.

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 in this
 5 paragraph, on the line on which in column (A) there is in-
 6 dicated the employee's wage class, except as otherwise pro-
 7 vided under the term "total and partial unemployment"
 8 in section three, article one of this chapter. The em-
 9 ployee's wage class shall be determined by his base period
 10 wages as shown in column (B) in table A. The right of
 11 an employee to receive benefits shall not be prejudiced
 12 nor the amount thereof be diminished by reason of failure
 13 by an employer to pay either the wages earned by the em-
 14 ployee or the contribution due on such wages.

15

TABLE A

16	Wage	Wages in	Weekly	Maximum Benefit in Benefit Year for Total and/or Partial Unemployment
17	Class	Base Period	Benefit Rate	
18	(Col. A)	(Col. B)	(Col. C)	(Col. D)
19		Under-\$ 300.00	Ineligible	Amount
20	1	\$ 300.00-\$ 399.00	\$ 8.00	\$168.00
21	2	400.00- 499.00	9.00	189.00
22	3	500.00- 599.00	10.00	210.00
23	4	600.00- 699.00	11.00	231.00
24	5	700.00- 799.00	12.00	252.00
25	6	800.00- 899.00	13.00	273.00
26	7	900.00- 999.00	14.00	294.00
27	8	1000.00- 1099.00	15.00	315.00
28	9	1100.00- 1199.00	16.00	336.00
29	10	1200.00- 1299.00	17.00	357.00
30	11	1300.00- 1399.00	17.50	367.50
31	12	1400.00- 1499.00	18.00	378.00
32	13	1500.00- 1599.00	18.50	388.50
33	14	1600.00- 1699.00	19.00	399.00
34	15	1700.00- 1799.00	19.50	409.50
35	16	1800.00 and over	20.00	420.00

Sec. 11. *Benefit Rate; Partial Unemployment.*—An eligible individual who is partially unemployed in any week 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 equal to his weekly benefit rate, as determined in accordance with section ten of this article, less that part of wages from any source payable to him with respect to such week which is in excess of three dollars: *Provided*, That such amount of benefits if not a multiple of one dollar shall be computed to the next higher multiple of one dollar. Such partial benefits shall be paid without regard to the current employment status of such individual, and without regard to the provisions of subsections one, three and four, of section one, of this article, at the time he files his claim.

Sec. 21. *Persons in Military Service.*—Benefits shall be payable, in accordance with general rules to be prescribed by the director, to otherwise eligible individuals who have entered the armed forces of the United States of America since June thirty, one thousand nine hundred forty, on the basis of their insured work prior to such entrance. Such rules with respect to such individuals shall supersede any inconsistent provisions of this chapter, but so far as practicable shall secure results reasonably similar to those provided in the analogous provisions of this chapter: *Provided, however*, (1) That such individual has been discharged or released from the armed forces under conditions other than dishonorable and files a claim for benefits pursuant hereto prior to April first, one thousand nine hundred forty-seven; (2) that "military service" as used herein means service in the land, air, and naval forces of the United States, or any other service in the armed forces of the United States under any act of congress; and (3) that benefit rights under this section shall not be payable until after the benefit rights have been utilized under any act of congress providing a national system in regard to payments to unemployed veterans.

Article 7. Claim Procedure.**Section****11. Benefits pending appeal.**

Section 11. *Benefits Pending Appeal.*—If an appeal is
2 filed, benefits for the period prior to final determination of
3 the board shall be paid only after such determination. If
4 benefits are allowed by the decision of the board on ap-
5 peal from the decision of the appeal tribunal the benefits
6 shall be paid whether such decision reverses or affirms the
7 decision of the appeal tribunal and regardless of any fur-
8 ther appeal: *Provided*, That such decision does not relate
9 to a disqualification under subsection (4) of section four
10 of article six; but if the decision of the board is re-
11 versed on appeal an employer's account shall not be
12 charged with the benefits so paid.

Article 8. Unemployment Compensation Fund.**Section**

1. Establishment.
5. Clearing account.
7. Deposit with federal government.

Section 1. *Establishment.*—There is hereby established
2 as a special fund, separate and apart from all public
3 moneys or funds of the state, an unemployment com-
4 pensation fund. The fund shall consist of:

- 5 (1) All payments collected under this chapter.
- 6 (2) Interest earned upon money in the fund.
- 7 (3) Property or securities acquired through the use of
8 the fund.
- 9 (4) Earnings of such property or securities.
- 10 (5) Amounts transferred from the unemployment
11 compensation special administration fund.
- 12 (6) Any moneys received from the federal unemploy-
13 ment account in the unemployment trust fund in ac-
14 cordance with title twelve of the social security act, as
15 amended.
- 16 All money in the fund shall be mingled and undivided.

Sec. 5. *Clearing Account.*—Upon the receipt of pay-
2 ments and other moneys payable into the fund under this

3 chapter, the director shall immediately deposit them in
4 the clearing account. Refunds payable under section
5 nineteen, article five, of payments erroneously collected,
6 shall be made from the clearing account. Such refunds
7 shall be made upon warrants issued by the director.
8 Interest collected on delinquent payments shall be paid
9 out of the clearing account, upon warrants issued by the
10 director, into the state treasury to be credited to the
11 unemployment compensation special administration fund.

Sec. 7. *Deposit with Federal Government.*—Except as
2 otherwise provided in section five of this article, after
3 clearance, moneys in the clearing account shall be de-
4 posited immediately with the secretary of the treasury
5 of the United States to the credit of the account of this
6 state in the unemployment trust fund, established under
7 section nine hundred four of the social security act. The
8 deposit of these funds shall not be conditioned by the
9 requirements imposed upon public funds of this state.

Article 9. Unemployment Compensation Administration Funds.

Section

5-a. Special administration fund.

Section 5-a. *Special Administration Fund.*—There is
2 hereby created in the state treasury a fund to be known
3 as the unemployment compensation special administra-
4 tion fund, which shall consist of interest collected on
5 delinquent payments pursuant to section seventeen of
6 article five of this chapter. The moneys deposited with
7 this fund are hereby appropriated and made available
8 to the order of the director for the purpose of (a) replace-
9 ments in the unemployment compensation administration
10 fund as provided in section eight of this article, (b) to
11 meet special, extraordinary, and contingent expenses not
12 provided for in the unemployment compensation adminis-
13 tration fund, and (c) refunds pursuant to section nine-
14 teen of article five, of interest erroneously collected. This
15 fund shall be administered and disbursed in the same
16 manner and under the same conditions as other special
17 funds of the state treasury. Balances to the credit of
18 the special administration fund shall not lapse at any

19 time but shall be continuously available to the director
20 for expenditures consistent with this chapter: *Provided*,
21 (1) That not more than twelve thousand five hundred
22 dollars shall be expended from said fund in any fiscal
23 year for purposes (a) and (b); (2) that at the beginning
24 of each calendar quarter the director shall estimate the
25 amount that may be required in that quarter for refunds
26 of interest erroneously collected; (3) that thereupon the
27 excess, if any, over the amounts provided to be expended
28 under this section shall be paid into the unemployment
29 compensation trust fund.

Article 10. General Provisions.

Section

11. Information.

Section 11. *Information.*—The director may require an
2 employing unit to provide sworn or unsworn reports
3 concerning:

- 4 (1) The number of individuals in its employ.
- 5 (2) Individually their hours of labor.
- 6 (3) Individually the rate and amount of wages.
- 7 (4) Such other information as is reasonably connected
8 with the administration of this chapter.

9 Information thus obtained shall not be published or be
10 open to public inspection so as to reveal the identity of
11 the employing unit or the individual. A claimant of
12 benefit, however, shall be supplied with information from
13 such records to the extent necessary for the proper
14 presentation of his claim. Such information may be made
15 available to any agency of this or any other state, or any
16 federal agency, charged with the administration of an
17 unemployment compensation law or the maintenance of
18 a system of public employment offices.

19 A person who violates the provisions of this section
20 shall be guilty of a misdemeanor, and upon conviction
21 shall be fined not less than twenty dollars nor more than
22 two hundred dollars, or imprisoned not longer than ninety
23 days, or both.

24 No action for slander or libel, either criminal or civil,
25 shall be predicated upon information furnished by any

26 employer or any employee to the director in connection
27 with the administration of any of the provisions of this
28 chapter.

CHAPTER 131

(Senate Bill No. 183—By Mr. Vickers, Mr. President)

AN ACT to repeal article six, except as hereinafter provided; to amend and reenact sections one, two, twelve and sixteen, article one; to amend and reenact sections one, three, four, eight and nine, article two; to amend and reenact section one, article three, and to amend article three by adding thereto a new section, to be designated section one-a; to amend and reenact sections one, two, three, four, six, eight, nine-b, ten, thirteen, fourteen, fifteen, fifteen-a, sixteen and twenty, article four, and to amend article four by adding thereto five new sections, to be designated sections six-a, eight-a, eight-b, eight-c, and fifteen-b; to amend and reenact sections two, three, four and five, article five, and to amend article five by adding thereto new sections to be designated sections four-a and four-b, all of chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and all relating to workmen's compensation and its administration.

[Passed March 7, 1945; in effect ninety days from passage. Approved by the Governor.]

Article

1. General Administrative Provisions.
2. Employers and Employees Subject to Chapter; Premiums.
3. Workmen's Compensation Fund.
4. Disability and Death Benefits.
5. Review.

Be it enacted by the Legislature of West Virginia:

That article six, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended,

be repealed, except as hereinafter provided; that sections one, two, twelve and sixteen, article one, be amended and reenacted; that sections one, three, four, eight and nine, article two, be amended and reenacted; that section one, article three, be amended and reenacted, and that a new section, to be designated section one-a, be added to article three; that sections one, two, three, four, six, eight, nine-b, ten, thirteen, fourteen, fifteen, fifteen-a, sixteen and twenty, article four, be amended and reenacted, and that five new sections, to be designated sections six-a, eight-a, eight-b, eight-c and fifteen-b, be added to article four; that sections two, three, four and five, article five, be amended and reenacted, and that two new sections, to be designated sections four-a and four-b, be added to article five; all of chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and all to read as follows:

Article 1. General Administrative Provisions.

Section

1. Compensation commissioner; appointment; legal services by attorney general.
2. Expense of administration.
12. Copies of proceedings as evidence.
16. Omission to perform duty required by commissioner; perjury.

Section 1. *Compensation Commissioner; Appointment; Legal Services by Attorney General.*—There shall be a state compensation commissioner who shall be a citizen of this state entitled to vote and shall be appointed by the governor by and with the advice and consent of the senate. The compensation commissioner in office on the date this code takes effect shall, unless sooner removed, continue to serve until his term expires and his successor has been appointed and has qualified. On or before the first day of June, one thousand nine hundred thirty-five, and on or before the first day of June of each sixth year thereafter, the governor shall appoint a compensation commissioner to serve for a term of six years commencing on the first day of June. An appointment may be made to fill a vacancy or otherwise when the senate is not in session, but shall be acted upon at the next session thereof. The person so appointed shall take the oath or affirmation prescribed by section five of article four of the

19 constitution, and such oath shall be certified by the per-
20 son who administers the same and shall be filed in the of-
21 fice of the secretary of state. He shall give bond in the
22 penalty of twenty-five thousand dollars conditioned for
23 the faithful performance of the duties of his office, which
24 bond shall be approved by the attorney general as to form,
25 and by the governor as to sufficiency. The surety of
26 such bond may be a bonding or surety company, in
27 which case the premiums shall be paid out of the appro-
28 priation made for the administration of this chapter. The
29 commissioner shall hold no position of trust or profit, or
30 engage in any occupation or business; interfering or in-
31 consistent with his duties as such commissioner. The
32 commissioner shall receive an annual salary of six thou-
33 sand dollars, payable in the same manner as the salaries
34 of other state officers are paid and charged to the appro-
35 priations which shall be made from time to time here-
36 after by the state for the administration of this chapter.
37 The commissioner shall have an official seal for the au-
38 thentication of his orders and proceedings, upon which
39 seal shall be engraved the words, "West Virginia Com-
40 pensation Commissioner", and such other design as the
41 commissioner may prescribe. The courts in this state
42 shall take judicial notice of the seal of the commissioner,
43 and in all cases copies of orders, proceedings or records
44 in the office of the West Virginia compensation commis-
45 sioner, certified by the secretary of the commissioner un-
46 der his seal, shall be equal to the original in evidence.

47 The attorney general shall perform all legal services
48 required by the commissioner under the provisions of
49 this chapter: *Provided, however,* That in any case in
50 which an application for review is prosecuted from any
51 final decision of the workmen's compensation appeal
52 board to the supreme court of appeals, as provided by
53 section four, article five of this chapter, or in any court
54 proceeding, including a proceeding before the workmen's
55 compensation appeal board, in which such representation
56 shall appear to the commissioner to be desirable, he may
57 designate a regular employee of his office, qualified to
58 practice before such court, to represent him upon such
59 appeal or proceeding, and in no case shall the person

60 so appearing for the commissioner before the court re-
61 ceive remuneration therefor other than his regular salary.

Sec. 2. *Expense of Administration.*—All expenses pecu-
2 liar to the administration of this chapter, and, when on
3 official business, the traveling and incidental expenses
4 of the commissioner and salaries or other compensation,
5 traveling and other expenses of all officers or employees
6 of the commissioner, and all expenses for furniture, books,
7 maps, stationery, appliances, property of all kinds and
8 dues for membership in all organizations pertaining to
9 workmen's compensation or safety in which the commis-
10 sioner deems it advisable to maintain membership, shall
11 be paid out of the workmen's compensation fund.

Sec. 12. *Copies of Proceedings as Evidence.*—A tran-
2 scribed copy of the evidence and proceedings, or any
3 specific part thereof, on any investigation or hearing,
4 taken by a stenographer appointed by the commissioner
5 and certified and sworn to by such stenographer to be a
6 true and correct transcript of the testimony in the in-
7 vestigation or hearing, or of a particular witness, or of a
8 specific part thereof, or to be a correct transcript of the
9 proceedings had on such investigation or hearing so pur-
10 porting to be taken and subscribed, may be received in
11 evidence by the commissioner with the same effect as if
12 such stenographer were present and testified to the facts
13 certified. A copy of such transcript shall be furnished on
14 demand to any party upon payment of the fee prescribed
15 therefor in the rules and regulations of the commissioner,
16 such fee not to exceed that prescribed for transcripts in
17 the circuit court.

Sec. 16. *Omission to Perform Duty Required by Com-
2 missioner; Perjury.*—Any person, firm or corporation
3 knowingly failing to make any report or perform any
4 duty required by the commissioner within the time speci-
5 fied shall be guilty of a misdemeanor, and, upon conviction
6 thereof, shall be fined not more than twenty-five hun-
7 dred dollars. Any person or firm, or the officer of any
8 corporation, who knowingly makes a false report or state-
9 ment under oath, affidavit or certification respecting any

10 information required by the commissioner, or who shall
11 knowingly testify falsely in any proceeding before the
12 commissioner, shall be deemed guilty of perjury, and,
13 upon conviction thereof, shall be punished as provided
14 by law.

Article 2. Employers and Employees Subject to Chapter; Premiums.

Section

1. Employers and employees, including state, its agencies and political subdivisions, subject to chapter.
3. Report blanks and other forms for use of employers.
4. Classification of industries; accounts by commissioner; rate of premiums.
8. Election not to pay or default in payment of premiums; defenses prohibited.
9. Election of employer to provide own system of compensation.

Section 1. *Employers and Employees, Including State, Its Agencies and Political Subdivisions, Subject to Chapter.*—The state of West Virginia and all governmental agencies or departments created by it are hereby required to subscribe to, and pay premiums into, the workmen's compensation fund for the protection of their employees, and shall be subject to all requirements of this chapter, and all rules and regulations prescribed by the commissioner with reference to rates, classifications, and premium payments.

All persons, firms, associations and corporations regularly employing other persons for the purpose of carrying on any form of industry or business in this state, including county courts, boards of education, municipalities and other political subdivisions of the state, are employers within the meaning of this chapter and subject to its provisions: *Provided, however,* That the provisions of section eight, article two of this chapter shall not apply to such county courts, boards of education, municipalities, or other political subdivisions of the state: *And provided further,* That the failure of such county courts, boards of education, municipalities or other political subdivisions of the state to elect to subscribe to, and to pay premiums into, the workmen's compensation fund, shall not impose any liability upon them, or either of them, other than such liability as would exist notwithstanding the pro-

visions of this chapter. All persons in the service of employers as herein defined, and employed by them for the purpose of carrying on the industry, business or work in which they are engaged, including persons regularly employed in the state whose duties necessitate employment of a temporary or transitory nature by the same employer without the state, and check-weighmen employed according to law, and all members of rescue teams assisting in mine accidents with the consent of the owner who, in such case, shall be deemed the employer, or at the direction of the chief of the department of mines, are employees within the meaning of this chapter and subject to its provisions: *Provided, however,* That this chapter shall not apply to employers of employees in domestic service or persons whose employment is prohibited by law, nor to employees of an employer while employed without the state, except in case of temporary employment without the state as hereinbefore provided; nor shall a member of a firm of employers, or any official of an association or of a corporation employer, including managers, or any elective or appointive official of the state, county, county court, board of education, municipality or other political subdivision of the state, whose term of office is definitely fixed by law, be deemed an employee within the meaning of this chapter: *And provided further,* That employers of not more than three employees for a period of not more than one month, who shall be called herein "casual employers" and employers of employees in agricultural service, may voluntarily elect to subscribe to, and pay premiums into, the workmen's compensation fund for the protection of their employees, and in such case shall be subject to all requirements of this chapter and all rules and regulations prescribed by the commissioner with reference to rates, classifications and premium payments; but such casual employers and employers of employees in agricultural service shall not be required to subscribe to the workmen's compensation fund and their failure to subscribe to such fund shall not impose any liability upon them other than such liability as would exist notwithstanding the provisions of this chapter; nor shall the provisions

67 of section eight of this article apply to casual employers
68 or to employers of employees in agricultural service.

69 The premium and actual expenses in connection with
70 governmental agencies and departments of the state of
71 West Virginia, shall be paid out of the state treasury
72 from appropriations made for such agencies and depart-
73 ments, in the same manner as other disbursements are
74 made by such agencies and departments.

75 County courts, boards of education, municipalities and
76 other political subdivisions of the state which shall elect
77 to become subscribers to the workmen's compensation
78 fund shall provide for the funds to pay their prescribed
79 premiums into the fund, and such premiums, and pre-
80 miums of state agencies and departments, shall be paid
81 into the fund in the same manner as herein provided for
82 other employers subject to this chapter.

83 Any employer whose employment in this state is to
84 be for a definite or limited period, which could not be con-
85 sidered "regularly employing" within the meaning of this
86 section, may elect to pay into the workmen's compensa-
87 tion fund the premiums herein provided for, and at the
88 time of making application to the commissioner such em-
89 ployer shall furnish a statement under oath showing the
90 probable length of time the employment will continue
91 in this state, the character of the work, an estimate of the
92 monthly payroll, and any other information which may
93 be required by the commissioner. At the time of making
94 application such employer shall deposit with the state
95 compensation commissioner to the credit of the work-
96 men's compensation fund the amount required by section
97 five of this article, which amount shall be returned to
98 such employer, if his application be rejected by the com-
99 missioner. Upon notice to such employer of the accept-
100 ance of his application by the commissioner, he shall be
101 an employer within the meaning of this chapter and sub-
102 ject to all of its provisions.

103 Any foreign corporation employer electing to comply
104 with the provisions of this chapter and to receive the
105 benefits hereunder, shall, at the time of making applica-
106 tion to the commissioner, in addition to other require-

107 ments of this chapter, furnish such commissioner with
108 a certificate from the secretary of state showing that it
109 has complied with all the requirements necessary to en-
110 able it legally to do business in this state, and no appli-
111 cation of such foreign corporation employer shall be ac-
112 cepted by the commissioner until such certificate is filed.

113 For the purpose of this chapter, a mine shall be ad-
114 judged within this state when the main opening, drift,
115 shaft or slope is located wholly within this state.

116 Any employee within the meaning of this chapter
117 whose employment necessitates his temporary absence
118 from this state in connection with such employment, and
119 such absence is directly incidental to carrying on an in-
120 dustry in this state, who shall have received injury during
121 such absence in the course of and resulting from his em-
122 ployment, shall not be denied the right to participate in
123 the workmen's compensation fund.

Sec. 3. *Report Blanks and Other Forms for Use of Em-*
2 *ployers.*—The commissioner shall prepare report blanks
3 for the use of, and furnish the same to, employers subject
4 to this chapter. Every employer receiving from the com-
5 missioner any blank or blanks with direction for filling
6 out and returning the same shall return the same, within
7 the period fixed by the commissioner, filled out so as to
8 answer fully and correctly all pertinent questions therein
9 propounded, and if unable to do so, shall give good and
10 sufficient reasons for such failure. Every employer sub-
11 ject to the provisions of this chapter, who may hereafter
12 elect to pay the premiums as provided herein, and to re-
13 ceive the benefits hereunder, shall make application on
14 the forms prescribed by the commissioner for such pur-
15 pose; and all employers who desire to discontinue the
16 payment of the premiums required under this chapter
17 shall so notify the commissioner on forms to be furnished
18 by the commissioner for the purpose.

Sec. 4. *Classification of Industries; Accounts by Com-*
2 *missioner; Rate of Premiums.*—The commissioner shall
3 distribute into groups or classes the industries subject to
4 this chapter, in accordance with the nature of the busi-

5 ness and the degree of hazard incident thereto. And the
6 commissioner shall have power, in like manner, to re-
7 classify such industries into groups or classes at any time,
8 and to create additional groups or classes. The commis-
9 sioner may make necessary expenditures to obtain statisti-
10 cal and other information to establish the classes pro-
11 vided for in this section.

12 The commissioner shall keep an accurate account of all
13 money or moneys paid or credited to the compensation
14 fund, and of the liability incurred and disbursements
15 made against same; and an accurate account of all money
16 or moneys received from each individual subscriber, and
17 of the liability incurred and disbursements made on ac-
18 count of injuries and death of the employees of each sub-
19 scriber, and of the receipts and incurred liability of
20 each group or class.

21 In fatal and total permanent disability cases, the
22 amount charged against the employer's account shall be
23 such sum as is estimated to be the average cost of such
24 cases to the fund; provided the commissioner decides
25 that the injury or injuries causing death or permanent
26 disability were received in the course of and resulted from
27 the employee's employment.

28 It shall be the duty of the commissioner to fix and
29 maintain the lowest possible rates of premiums consistent
30 with the maintenance of a solvent workmen's compensa-
31 tion fund and the creation and maintenance of a reason-
32 able surplus in each group after providing for the pay-
33 ment to maturity of all liability incurred by reason of in-
34 jury or death to employees entitled to benefits under
35 the provisions of this chapter. A readjustment of rates
36 shall be made yearly on the first day of July, or at any
37 time the same may be necessary. The determination of
38 the lowest possible rates of premiums within the mean-
39 ing hereof and of the existence of any surplus or deficit
40 in the fund, shall be predicated solely upon the experience
41 and statistical data compiled from the records and files
42 in the commissioner's office under this and prior work-
43 men's compensation laws of this state for the period from
44 the first day of June, one thousand nine hundred thirteen,

45 to the nearest practicable date prior to such adjustment:
46 *Provided, however,* That any expected future return, in
47 the nature of interest or income from invested funds shall
48 be predicated upon the average realization from invest-
49 ments to the credit of the compensation fund for the two
50 years next preceding. Any reserves set up for future lia-
51 bilities and any commutation of benefits shall likewise be
52 predicated solely upon prior experience under this and
53 preceding workmen's compensation laws and upon ex-
54 pected realization from investments determined by the re-
55 spective past periods, as aforesaid.

56 The commissioner may fix a rate of premiums applica-
57 ble alike to all subscribers forming a group or class, and
58 such rates shall be determined from the record of such
59 group or class shown upon the books of the commissioner:
60 *Provided, however,* That if any group has a sufficient
61 number of employers with considerable difference in their
62 degrees of hazard, the commissioner may fix a rate for
63 each subscriber of such group, such rate to be based upon
64 the subscriber's record on the books of the commissioner
65 for the twelve months last ending June thirtieth of the
66 year in which the rate is to become effective; and the
67 liability part of such record shall include such cases as
68 have been acted upon by the commissioner during such
69 twelve months' period, irrespective of the date the in-
70 jury was received; and any subscriber in a group so rated,
71 whose record for such twelve months' period cannot be
72 obtained, shall be given a rate based upon his record for
73 any part of such period as may be deemed just and
74 equitable by the commissioner; and the commissioner
75 shall have authority to fix a reasonable minimum and
76 maximum for any group to which this individual
77 method of rating is applied, and to add to the rate de-
78 termined from the subscriber's record such amount as is
79 necessary to liquidate any deficit in the schedule or to
80 create a reasonable surplus.

81 It shall be the duty of the commissioner, whenever he
82 changes any rate, to notify every employer affected there-
83 by of that fact and of the new rate and when the same
84 takes effect. It shall also be his duty to furnish to each

85 employer yearly, or oftener if requested by the employer,
86 a statement giving the name of each of his employees
87 who were paid for injury and the amounts so paid during
88 the period covered by the statement.

Sec. 8. *Election Not to Pay or Default in Payment of*
2 *Premiums; Defenses Prohibited.*—All employers subject
3 to this chapter, except the state of West Virginia and the
4 governmental agencies or departments created by it, who
5 shall not have elected to pay into the workmen's com-
6 pensation fund the premiums provided by this chapter
7 and have not elected to pay individually and directly or
8 from benefit funds compensation and expenses to injured
9 employees or fatally injured employees' dependents un-
10 der the provisions of section nine of this article, or having
11 so elected, shall be in default in the payment of the same,
12 or not having otherwise fully complied with the pro-
13 visions of section five or section nine of this article, shall
14 be liable to their employees (within the meaning of this
15 article) for all damages suffered by reason of personal
16 injuries sustained in the course of employment caused
17 by the wrongful act, neglect or default of the employer
18 or any of the employer's officers, agents or employees
19 while acting within the scope of their employment and in
20 the course of their employment and also to the personal
21 representatives of such employees where death results
22 from such personal injuries, and in any action by any such
23 employee or personal representative thereof, such defend-
24 ant shall not avail himself of the following common law
25 defenses: The defense of the fellow-servant rule; the de-
26 fense of the assumption of risk; or the defense of contribu-
27 tory negligence; and further shall not avail himself of any
28 defense that the negligence in question was that of some
29 one whose duties are prescribed by statute: *Provided,*
30 *however,* That such provision depriving a defendant em-
31 ployer of certain common law defenses under the circum-
32 stances therein set forth shall not apply to an action
33 brought against a county court, board of education,
34 municipality, or other political subdivision of the state or
35 against a casual employer or an employer of employees
36 in agricultural service.

Sec. 9. Election of Employer to Provide Own System of Compensation.—Notwithstanding anything contained in this chapter, employers subject to this chapter who are of sufficient financial responsibility to insure the payment of compensation to injured employees and the dependents of fatally injured employees, whether in the form of pecuniary compensation or medical attention, funeral expenses or otherwise as herein provided, of the value at least equal to the compensation provided in this chapter, or employers of such financial responsibility who maintain their own benefit funds, or system of compensation, to which their employees are not required or permitted to contribute, or such employers as shall furnish bond or other security to insure such payments, may, upon a finding of such facts by the compensation commissioner, elect to pay individually and directly, or from such benefit funds, department or association, such compensation and expenses to injured employees or fatally injured employees' dependents. The compensation commissioner shall require security or bond from such employer, to be approved by him, and of such amount as is by him considered adequate and sufficient to compel or secure to such employees, or their dependents, payment of the compensation and expenses herein provided for, which shall in no event be less than the compensation paid or furnished out of the state workmen's compensation fund in similar cases to injured employees or the dependents of fatally injured employees whose employers contribute to such fund. Any employer electing under this section shall on or before the twenty-fifth day of each month, for the preceding month, file with the commissioner a sworn statement of the total earnings of all his employees subject to this chapter for such preceding month, and shall pay into the workmen's compensation fund a sum sufficient to pay his proper proportion of the expenses of the administration of this chapter, as may be determined by the commissioner. The commissioner shall make and publish rules and regulations governing the mode and manner of making application, and the nature and extent of the proof required to justify the finding of facts by the commissioner, to consider and pass upon such elec-

tion by employers subject to this chapter, which rules and regulations shall be general in their application. Any employer subject to this chapter who shall elect to carry his own risk and who has complied with the requirements of this section and the rules of the compensation commissioner shall not be liable to respond in damages at common law or by statute for the injury or death of any employee, however occurring, after such election and during the period that he is allowed by the commissioner to carry his own risk; provided the injured employee has remained in his service with notice given, as provided for in section seven of this article, that his employer has elected to carry his own risk as herein provided. The continuation in the service of such employer with such notice shall be deemed a waiver by the employee and by the parents of any minor employee of the right of action, as aforesaid, which the employee or his or her parents would otherwise have.

Any employer whose record upon the books of the compensation commissioner shows a liability against the workmen's compensation fund, incurred on account of injury to or death of any of his employees, in excess of premiums paid by such employer, shall not be granted the right, individually and directly or from such benefit funds, department or association, to compensate his injured employees and the dependents of his fatally injured employees until he has paid into the workmen's compensation fund the amount of such excess of liability over premiums paid, including his proper proportion of the liability incurred on account of explosions or catastrophes occurring within the state and charged against such fund.

All employers who have heretofore elected, or shall hereafter elect, to pay compensation and expenses directly, as provided in this section, shall, unless they give the catastrophe security or bond hereinafter provided for, pay into the surplus fund referred to in section one, article three of this chapter upon the same basis and in the same percentages, subject to the limitations herein set forth, as funds are set aside for the maintenance of the surplus fund out of payments made by premium-paying subscribers, such payments to be made at the same time

83 as hereinbefore provided with respect to payment of
84 proportion of expenses of administration. In case there
85 be a catastrophe, as defined in section one, article three
86 of this chapter, to the employees of any employer making
87 such payments, the employer shall not be liable to pay
88 compensation or expenses arising from or necessitated by
89 the catastrophe, and such compensation and expenses
90 shall not be charged against such employer, but such
91 compensation and expenses shall be paid from the surplus
92 fund in the same manner and to the same extent as in
93 the case of premium-paying subscribers.

94 If an employer elect to make payments into the sur-
95 plus fund as aforesaid, then the bond or other security
96 required by this section shall be of such amount as the
97 commissioner considers adequate and sufficient to com-
98 pel or secure to the employees or their dependents pay-
99 ment of compensation and expenses, except any com-
100 pensation and expenses that may arise from, or be
101 necessitated by, any catastrophe, as defined in section
102 one, article three of this chapter, which last are secured
103 by and shall be paid from the surplus fund, as herein-
104 before provided.

105 If an employer elect not to make payments into the
106 surplus fund, as hereinbefore provided, then, in addition
107 to bond or security in the amount hereinbefore set forth,
108 such employer shall furnish catastrophe security or bond,
109 approved by the commissioner, in such additional amount
110 as the commissioner shall consider adequate and sufficient
111 to compel or secure payment of all compensation and ex-
112 penses arising from, or necessitated by, any catastrophe
113 that might thereafter ensue.

114 All employers hereafter making application to carry
115 their own risk under the provisions of this section, shall
116 with such application, make a written statement as to
117 whether such employer elects to make payments as afore-
118 said into the surplus fund, or not to make such payments
119 and to give the catastrophe security or bond hereinbefore
120 in such case provided for.

121 All employers who have heretofore elected to carry
122 their own risk under the provisions of this section shall

123 be deemed to have elected to make payments into the
124 surplus fund unless, within thirty days after the effective
125 date of this act, they notify the commissioner in writing
126 to the contrary: *Provided, however,* That such employers,
127 as have heretofore elected, under the rules heretofore
128 promulgated by the commissioner, not to make payments
129 into the surplus fund, shall be deemed to have elected
130 to give the catastrophe security or bond hereinbefore pro-
131 vided for and not to make payments into the surplus
132 fund. Any catastrophe security or bond heretofore given
133 under rules and regulations promulgated by the com-
134 missioner and approved by him shall be valid under this
135 section, and any election heretofore made under rules
136 and regulations of the commissioner to make payments
137 into the surplus fund shall be valid and protective to
138 the person so electing from and after the date of such
139 election.

140 In any case under the provisions of this section that
141 shall require the payment of compensation or benefits by
142 an employer in periodical payments, and the nature of
143 the case makes it possible to compute the present value
144 of all future payments, the commissioner may, in his dis-
145 cretion, at any time compute and permit or require to be
146 paid into the workmen's compensation fund an amount
147 equal to the present value of all unpaid compensation for
148 which liability exists, in trust; and thereupon such em-
149 ployer shall be discharged from any further liability upon
150 such award, and payment of the same shall be assumed
151 by the workmen's compensation fund.

Article 3. Workmen's Compensation Fund.

Section

1. Compensation fund; surplus fund; catastrophe and catastrophe payment defined; compensation by employers.
- 1-a. Transfer of silicosis fund to workmen's compensation fund; claims under former article six.

Section 1. *Compensation Fund; Surplus Fund; Catastrophe and Catastrophe Payment Defined; Compensation by Employers.*—The commissioner shall establish a workmen's compensation fund from the premiums and other funds paid thereto by employers, as herein provided, for the benefit of employees of employers who have paid the

7 premiums applicable to such employers and have other-
8 wise complied fully with the provisions of section five,
9 article two of this chapter, and for the benefit, to the
10 extent elsewhere in this chapter set out, of employees
11 of employers who have elected, under section nine, article
12 two of this chapter, to make payments into the surplus
13 fund hereinafter provided for, and for the benefit of the
14 dependents of all such employees, and for the payment of
15 the administration expenses of this chapter, and shall
16 adopt rules and regulations with respect to the collection,
17 maintenance and disbursement of such funds not in con-
18 flict with the provisions of this chapter.

19 Ten per cent of all that shall hereafter be paid into the
20 workmen's compensation fund by subscribers not elect-
21 ing to carry their own risk under section nine, article
22 two of this chapter, shall be set aside for the creation of
23 a surplus fund until such surplus shall amount to the
24 sum of five hundred thousand dollars, after which time
25 the sum of five per cent of all the money paid into such
26 fund shall be credited to such surplus fund, until such
27 time as in the judgment of the commissioner, such sur-
28 plus fund shall be sufficiently large to cover the catastro-
29 phe hazard and all losses not otherwise specifically pro-
30 vided for in this chapter.

31 A catastrophe is hereby defined as an accident in
32 which three or more employees are killed or receive
33 injuries, which, in the case of one individual, consist of:
34 Loss of both eyes or the sight thereof; or loss of both
35 hands or the use thereof; or loss of both feet or the use
36 thereof; or loss of one hand and one foot or the use
37 thereof. The aggregate of all medical and hospital bills
38 and other costs, and all benefits payable on account of a
39 catastrophe is hereby defined as "catastrophe payment".
40 In case of a catastrophe to the employees of an employer
41 who is an ordinary premium-paying subscriber to the
42 fund, or to the employees of an employer who, having
43 elected to carry his own risk under section nine, article
44 two of this chapter, has heretofore elected, or may here-
45 after elect, to pay into the surplus fund under the pro-
46 visions of that section, then the catastrophe payment
47 arising from such catastrophe shall not be charged against,

48 or paid by, such employer but shall be paid from the
49 surplus fund.

50 Employers electing, as herein provided, to compensate
51 individually and directly their injured employees and
52 their fatally injured employees' dependents shall do so in
53 the manner prescribed by the commissioner, and shall
54 make all reports and execute all blanks, forms and papers
55 as directed by the commissioner, and as provided in this
56 chapter.

Sec. 1-a. *Transfer of Silicosis Fund to Workmen's
2 Compensation Fund; Claims Under Former Article Six.*—
3 Ten per cent of the funds collected and held as the work-
4 men's compensation silicosis fund under the provisions
5 of former article six of this chapter, which article is by
6 this act repealed, shall be transferred to and made a part
7 of the workmen's compensation fund provided for in
8 the preceding section, and the balance thereof shall be
9 refunded to the subscribers thereto in proportion to their
10 contributions to the same under the provisions of said
11 former article six; and all awards heretofore made under
12 the provisions of article six shall be paid from the work-
13 men's compensation fund, or directly by the employer,
14 under order of the commissioner, if the employer has
15 elected to carry his own risk under the provisions of sec-
16 tion nine, article two of this chapter; *Provided, however,*
17 *That notwithstanding the repeal of said article six, the pro-*
18 *visions thereof shall be applicable in all cases of the*
19 *disease or death, because of silicosis, or an employee*
20 *whose last exposure to silicon dioxide dust has occurred*
21 *prior to the effective date of this act, whose claim or*
22 *application for compensation benefits for silicosis, or that*
23 *of his dependent, has not been filed prior to said date, and*
24 *whose employer, at the time of such exposure, was sub-*
25 *ject to the provisions of said article six.*

Article 4. Disability and Death Benefits.

Section

1. To whom compensation fund disbursed; silicosis included in "injury" and "personal injury"; definition of silicosis.
2. Disbursement where injury is self-inflicted or intentionally caused by employer; rules and safety appliances; "wilful self-exposure" defined.

3. Disbursements for medicine, hospital treatment, artificial limbs and other appliances; contract by employer with hospital prohibited.
4. Funeral expenses.
6. Classification of disability benefits.
- 6-a. Stages of silicosis; benefits and mode of payment to employees and dependents.
8. Physical examination of claimant; expenses.
- 8-a. Silicosis medical board created; qualifications; term of office; duties; remuneration.
- 8-b. Silicosis medical board; procedure; autopsy.
- 8-c. Silicosis medical board; reports and distribution thereof; findings required by board; objection to findings; procedure thereon.
- 9-b. Effect of pre-existing physical impairment; limited compensation.
10. Classification of death benefits; "dependent" defined.
13. Widow or widower living separate from employee.
14. Computation of benefits.
15. Application for benefits; nonresident aliens.
- 15-a. Nonresident alien beneficiaries.
- 15-b. Nonmedical questions determined by commissioner on hearing of silicosis claim.
16. Commissioner's jurisdiction over case continuous; modification of finding or order; time limitations on awards.
20. Post-mortem examinations.

Section 1. To Whom Compensation Fund Disbursed;

2 *Silicosis Included in "Injury" and "Personal Injury";*
3 *Definition of Silicosis.*—Subject to the provisions and
4 limitations elsewhere in this chapter set forth, the com-
5 missioner shall disburse the workmen's compensation fund
6 to the employees of such employers as are not delinquent
7 in the payment of premiums for the month in which the
8 injury occurs, and in case of catastrophe, in addition to
9 the employees next above described, to the employees of
10 employers who have elected, under section nine, article
11 two of this chapter to make payments into the surplus
12 fund as provided in that section, and which employees
13 shall have received personal injuries in the course of and
14 resulting from their employment in this state, or in tem-
15 porary employment without the state as provided in sec-
16 tion one, article two of this chapter, or to the dependents,
17 if any, of such employees in case death has ensued, ac-
18 cording to the provisions hereinafter made; and also for
19 the expenses of the administration of this chapter, as
20 provided in section two, article one of this chapter.

21 For the purpose of this chapter the terms "injury" and
22 "personal injury" shall be extended to include silicosis,
23 and the commissioner shall likewise disburse the work-
24 men's compensation fund to the employees of such em-

25 ployers as are not delinquent in the payment of premiums
26 for the last month in which such employees have been
27 exposed to silicon dioxide dust in harmful quantities,
28 and which employees shall have contracted silicosis
29 in this state in the course of and resulting from
30 their employment, or to the dependents, if any, of such
31 employees, in case death has ensued, according to the
32 provisions hereinafter made: *Provided, however,* That
33 compensation shall not be payable for the disease of
34 silicosis, or death resulting therefrom, unless the em-
35 ployee has been exposed to the inhalation of silicon diox-
36 ide dust in harmful quantities over a period of not less
37 than two years in the state of West Virginia. An applica-
38 tion for benefits on account of silicosis shall set forth
39 the name of the employer or employers and the time
40 worked for each, and the commissioner may allocate to
41 and divide any charges on account of such claim among
42 the employers for whom the claimant was employed dur-
43 ing a period of two years immediately preceding the filing
44 of the application. The allocation shall be based upon the
45 time and degree of exposure with each employer.

46 For the purpose of this chapter silicosis is defined as
47 an insidious fibrotic disease of the lung or lungs due to the
48 prolonged inhalation and accumulation, sustained in the
49 course of and resulting from his employment, of minute
50 particles of dust containing silicon dioxide (SiO_2) over
51 such a period of time and in such amounts as result in
52 the substitution of fibrous tissues for normal lung tissues;
53 and the term "silicosis" as used herein shall also include
54 silicosis accompanied by tuberculosis of the lungs.

Sec. 2. *Disbursement Where Injury is Self-Inflicted or*
2 *Intentionally Caused by Employer; Rules and Safety*
3 *Appliances; "Wilful Self-Exposure" Defined.*—Not-
4 withstanding anything hereinbefore or hereinafter con-
5 tained, no employee or dependent of any employee
6 shall be entitled to receive any sum from the work-
7 men's compensation fund, or to direct compensation
8 from any employer making the election and receiving
9 the permission mentioned in section nine, article two
10 of this chapter, or otherwise under the provisions of

11 this chapter, on account of any personal injury to or
12 death of any employee caused by a self-inflicted in-
13 jury, wilful misconduct, wilful disobedience to such
14 rules and regulations as may be adopted by the employer
15 and approved by the commissioner, and which rules and
16 regulations have been and are kept posted in conspicu-
17 ous places in and about the work, wilful self-exposure in
18 case of silicosis, as defined herein, or the intoxication of
19 such employee, or the failure of such employee to use
20 or make use of any protective or safety appliance or
21 appliances prescribed by the commissioner and furnished
22 by the employer for the use of or applicable to such em-
23 ployee. For the purpose of this chapter, the commissioner
24 may cooperate with the state department of mines and
25 the state department of labor in promoting general safety
26 programs and in formulating rules and regulations to
27 govern hazardous employments. If injury or death result
28 to any employee from the deliberate intention of his
29 employer to produce such injury or death, the employee,
30 the widow, widower, child or dependent of the employee
31 shall have the privilege to take under this chapter, and
32 shall also have cause of action against the employer, as if
33 this chapter had not been enacted, for any excess of dam-
34 ages over the amount received or receivable under this
35 chapter.

36 As used in this section, the term "wilful self-exposure"
37 causing the contraction of the disease of silicosis, shall
38 include: (1) Failure or omission on the part of an em-
39 ployee truthfully to state to the best of his knowledge,
40 in answer to inquiry made by the employer, the place,
41 duration and nature of previous employment; (2) Failure
42 or omission on the part of an employee truthfully to
43 furnish, to the best of his knowledge, in answer to an
44 inquiry made by the employer, full information as to
45 the previous state of his health, as to exposure to lung
46 diseases, and as to any special medical attention that he
47 may have previously received in connection with a dis-
48 eased condition of his lungs.

Sec. 3. *Disbursements for Medicine, Hospital Treatment,*
2 *Artificial Limbs and Other Appliances; Contract by Em-*

3 *ployer with Hospital Prohibited.*—Except in case of sili-
4 cosis, the commissioner shall disburse and pay from the
5 fund for such personal injuries to such employees as may
6 be entitled thereto hereunder as follows:

7 (a) Such sums for medicine, medical, surgical, dental
8 and hospital treatment, crutches, artificial limbs and such
9 other and additional approved mechanical appliances and
10 devices as may be reasonably required; not, however, in
11 any case to exceed the sum of eight hundred dollars:
12 *Provided, however,* That in exceptional cases where the
13 treatment required, in the opinion of competent medical
14 authority, is such as to necessitate an expenditure in
15 excess of such amount, the commissioner may, with the
16 approval of the employer, pay such sum as may be neces-
17 sary, not, however, in any such special case to exceed
18 an additional sum of eight hundred dollars or a total
19 sum of sixteen hundred dollars.

20 (b) Payment for such medicine, medical, surgical, den-
21 tal and hospital treatment, crutches, artificial limbs and
22 such other and additional approved mechanical appli-
23 ances and devices authorized under subdivision (a)
24 hereof may be made to the injured employee, or to the
25 person or persons who have furnished such service, or
26 who have advanced payment for same, as the commis-
27 sioner may deem proper, but no such payments or dis-
28 bursements shall be made or awarded by him unless
29 duly verified statements on forms prescribed by the
30 commissioner shall be filed with the commissioner within
31 three months after the cessation of such treatment or
32 the delivery of such appliances.

33 (c) No employer shall enter into any contracts with
34 any hospital, its physicians, officers, agents or employees,
35 to render medical, dental or hospital service or to give
36 medical or surgical attention therein to any employee for
37 accidental injury compensable within the purview of this
38 act, and no employer shall permit or require any employee
39 to contribute, directly or indirectly, to any fund for the
40 payment of such medical, surgical, dental or hospital
41 service within such hospital for such accidental com-
42 pensable injury. Any employer violating this section
43 shall be liable in damages to his or its employee, and shall

44 not avail himself of any of the common law defenses
45 mentioned in section eight, article two of this chapter,
46 and any employer or hospital or agent or employee
47 thereof violating the provisions of this section shall be
48 guilty of a misdemeanor and upon conviction thereof
49 shall be sentenced to pay a fine not exceeding one thou-
50 sand dollars or to undergo imprisonment not exceeding
51 one year, or both.

Sec. 4. *Funeral Expenses.*—In case the personal injury
2 causes death, and disability is continuous from the date of
3 such injury to date of death, reasonable funeral expenses,
4 not to exceed one hundred and fifty dollars, shall be paid
5 from the fund, payment to be made to the persons who
6 have furnished the service and supplies, or to the persons
7 who have advanced payment for same, as the commis-
8 sioner may deem proper, in addition to such award as
9 may be made to the employee's dependents.

Sec. 6. *Classification of Disability Benefits.*—Where
2 compensation is due an employee under the provisions of
3 this chapter for a personal injury other than silicosis, such
4 compensation shall be as provided in the following
5 schedule:

6 (a) If the injury causes temporary total disability, the
7 employee shall receive during the continuance thereof
8 sixty-six and two-thirds per cent of his average weekly
9 earnings, not to exceed a maximum of eighteen dollars a
10 week nor to be less than a minimum of ten dollars a week.

11 (b) Subdivision (a) shall be limited as follows: Ag-
12 gregate award for a single injury causing temporary
13 disability shall be for a period not exceeding fifty-two
14 weeks: *Provided, however,* That in case an injured em-
15 ployee, by reason of having an ununited fracture or hav-
16 ing undergone a surgical operation to correct a vicious
17 union following a fracture, or for the repair of an un-
18 united fracture, or having suffered an injury to the spine
19 or pelvic bones which is of a temporary nature, or for
20 any ankylose joint, is disabled for a longer period than
21 fifty-two weeks, the period during which compensation
22 shall be paid may be seventy-eight weeks: *Provided*
23 *further,* That if at the end of such period of fifty-two or

24 seventy-eight weeks the temporary disability continues
25 but does not warrant a finding of permanent disability, the
26 commissioner may grant a temporary extension for such
27 further period as may appear necessary, but in no case
28 shall the combined periods exceed one hundred and fifty-
29 six weeks.

30 (c) If the injury causes permanent disability, the per-
31 centage of disability to total disability shall be determined
32 and the award computed and allowed as follows:

33 For permanent disability of from one per cent to eighty-
34 five per cent, sixty-six and two-thirds per cent of the
35 average weekly earnings for a period to be computed on
36 the basis of four weeks' compensation for each per cent of
37 disability determined.

38 For a disability from eighty-five to one hundred per
39 cent, sixty-six and two-thirds per cent of the average
40 weekly earnings during the remainder of life.

41 (d) If the injury results in the total loss by severance
42 of any of the members named in this subdivision, the
43 percentage of disability shall be determined in accordance
44 with the following table, and award made as provided
45 in subdivision (c) of this section:

46 The loss of a great toe shall be considered a ten per
47 cent disability.

48 The loss of a great toe (one phalanx) shall be consid-
49 ered a five per cent disability.

50 The loss of other toes shall be considered a four per
51 cent disability.

52 The loss of other toes (one phalanx) shall be considered
53 a two per cent disability.

54 The loss of all toes shall be considered a twenty-five
55 per cent disability.

56 The loss of fore part of foot shall be considered a thirty
57 per cent disability.

58 The loss of foot shall be considered a thirty-five per
59 cent disability.

60 The loss of leg shall be considered a forty-five per cent
61 disability.

62 The loss of thigh shall be considered a fifty per cent
63 disability.

64 The loss of thigh at hip joint shall be considered a sixty
65 per cent disability.

66 The loss of little or fourth finger (one phalanx) shall
67 be considered a three per cent disability.

68 The loss of little or fourth finger shall be considered a
69 five per cent disability.

70 The loss of ring or third finger (one phalanx) shall be
71 considered a three per cent disability.

72 The loss of ring or third finger shall be considered a
73 five per cent disability.

74 The loss of middle or second finger (one phalanx) shall
75 be considered a three per cent disability.

76 The loss of middle or second finger shall be considered
77 a seven per cent disability.

78 The loss of index or first finger (one phalanx) shall be
79 considered a six per cent disability.

80 The loss of index or first finger shall be considered a ten
81 per cent disability.

82 The loss of thumb (one phalanx) shall be considered a
83 twelve per cent disability.

84 The loss of thumb shall be considered a twenty per cent
85 disability.

86 The loss of thumb and index finger shall be considered
87 a thirty-two per cent disability.

88 The loss of index and middle finger shall be considered
89 a twenty per cent disability.

90 The loss of middle and ring finger shall be considered
91 a fifteen per cent disability.

92 The loss of ring and little finger shall be considered a
93 ten per cent disability.

94 The loss of thumb, index and middle finger shall be
95 considered a forty per cent disability.

96 The loss of index, middle and ring finger shall be
97 considered a thirty per cent disability.

98 The loss of middle, ring and little finger shall be
99 considered a twenty per cent disability.

100 The loss of four fingers shall be considered a thirty-two
101 per cent disability.

102 The loss of hand shall be considered a fifty per cent
103 disability.

104 The loss of forearm shall be considered a fifty-five per
105 cent disability.

106 The loss of arm shall be considered a sixty per cent
107 disability.

108 The total and irrecoverable loss of the sight of one eye
109 shall be considered a thirty-three per cent disability, and
110 the injured employee shall be entitled to compensation
111 for a period of one hundred and thirty-two weeks.

112 For the partial loss of vision in one, or both eyes, the
113 percentage of disability shall be determined by the com-
114 missioner, using as a basis the total loss of one eye.

115 (e) Should a claimant to whom has been made a
116 permanent partial award of from one per cent to eighty-
117 five per cent, both inclusive, die from sickness or non-
118 compensable injury, the unpaid balance of such award
119 shall be paid to claimant's dependents as defined in this
120 chapter, if any; such payment to be in the same install-
121 ments that would have been paid to claimant if living:
122 *Provided, however,* That no payment shall be made to
123 any widow of such claimant after her remarriage, and
124 that this liability shall not accrue to the estate of such
125 claimant and shall not be subject to any debts of, or
126 charges against, such estate.

127 (f) The award for permanent disabilities intermediate
128 to those fixed by the foregoing schedule and permanent
129 disability of from one per cent to eighty-five per cent
130 shall be in the same proportion and shall be computed and
131 allowed by the commissioner.

132 (g) The percentage of all permanent disabilities other
133 than those enumerated in subdivisions (c), (d), (e), and
134 (f) of this section shall be determined by the commis-
135 sioner, and award made in accordance with the pro-
136 visions of subdivision (c).

137 (h) Compensation payable under any subdivision of
138 this section shall be limited as follows: Not to exceed
139 a maximum of eighteen dollars a week, nor to be less
140 than a minimum of ten dollars a week.

141 (i) Where an injury results in temporary total dis-
142 ability for which compensation is awarded under sub-
143 division (a) of this section and such injury is later de-
144 termined permanent partial disability under subdivision

145 (c), the amount of compensation so paid shall be con-
146 sidered as payment of the compensation payable for such
147 injury in accordance with the schedule in subdivision
148 (c). Compensation, either total temporary or permanent
149 partial, under this section shall be payable only to the
150 injured employee and the right thereto shall not vest in
151 his or her estate, except that any unpaid compensation
152 which would have been paid or payable to the employee
153 up to the time of his death, if he had lived, shall be paid
154 to the dependents of such injured employee if there be
155 such dependents at the time of death.

156 (j) The following permanent disabilities shall be con-
157 clusively presumed to be total in character:

158 Loss of both eyes or the sight thereof.

159 Loss of both hands or the use thereof.

160 Loss of both feet or the use thereof.

161 Loss of one hand and one foot or the use thereof.

162 In all other cases permanent disability shall be deter-
163 mined by the commissioner in accordance with the facts
164 in the case, and award made in accordance with the
165 provisions of subdivision (c).

2 *Sec. 6-a. Stages of Silicosis; Benefits and Mode of Pay-*
3 *ment to Employees and Dependents.*—An employee shall,
4 for the purposes hereof, be deemed to have silicosis: (1)
5 In the first stage when it is found by the commissioner
6 that the earliest detectable specific signs of silicosis are
7 present, whether or not capacity for work is or has been
8 impaired by such silicosis; (2) In the second stage when it
9 is found by the commissioner that definite and specific
10 physical signs of silicosis are present, and that capacity for
11 work is or has been impaired by that disease; (3) In the
12 third stage when it is found by the commissioner that the
13 employee has silicosis accompanied by active tuberculosis
14 of the lungs resulting in total and permanent disability.

15 Where compensation for silicosis is due an employee
16 under the provisions hereof, such compensation shall be
17 as provided in the following schedule: (a) If the em-
18 ployee is suffering from silicosis in the first stage, the
19 employee shall receive eight hundred dollars as compen-
sation in full for silicosis that he has sustained as a

20 result of and in the course of his employment, to be
21 payable as a lump sum or in periodic installments in the
22 discretion of the commissioner, and shall be a final pay-
23 ment and operate as a full release by the employee for
24 compensation and for any claim against the employer
25 that the employee may thereafter have for silicosis, and
26 irrespective of whether the employee thereafter continues
27 in the same employment, he shall not have the right to
28 receive any or further compensation or make any claim be-
29 cause of silicosis, either to the compensation commissioner
30 or against his employer, anything to the contrary in this
31 chapter notwithstanding. (b) If the employee is suffer-
32 ing from silicosis in the second stage, the employee shall
33 receive sixteen hundred dollars as compensation in full
34 for silicosis that he has sustained as a result of and in
35 the course of his employment, to be payable as a lump
36 sum or in periodic installments in the discretion of
37 the commissioner, and shall be a final payment and oper-
38 ate as a full release by the employee for compensation
39 and for any claim against the employer that the employee
40 may thereafter have for silicosis, and irrespective of
41 whether the employee thereafter continues in the same
42 employment, he shall not have the right to receive any
43 or further compensation or make any claim because of
44 silicosis either to the commissioner or against his em-
45 ployer, anything to the contrary in this chapter not-
46 withstanding. (c) If the employee is suffering from
47 silicosis in the third stage, the compensation shall be paid
48 therefor in the same manner and at the same rate as is
49 provided for permanent disability under the provisions of
50 subdivisions (c), (f) and (h) of the preceding section.
51 (d) If the employee dies from silicosis within six years
52 from the date of his last injurious exposure to silicon
53 dioxide dust in harmful quantities and the commissioner
54 determines that he was suffering from silicosis in the
55 third stage, the benefits shall be in the amounts and to
56 the persons provided for in section ten of this article;
57 as to such benefits sections eleven to fourteen, inclusive,
58 of this article shall apply.

Sec. 8. Physical Examination of Claimant; Expenses.—

2 The commissioner shall have authority, after due notice

3 to the employer and claimant, whenever in his opinion
4 it shall be necessary, to order a claimant of compensation
5 for a personal injury other than silicosis to appear for
6 examination before a medical examiner selected by the
7 commissioner; and the claimant and employer, respect-
8 ively, shall each have the right to select a physician of
9 his or its own choosing and at his or its own expense to
10 participate in such examination. The claimant and em-
11 ployer shall, respectively, be furnished with a copy of
12 the report of examination made by the medical examiner
13 selected by the commissioner. The respective physicians
14 selected by the claimant and employer shall have the
15 right to concur in any report made by the medical exam-
16 iner selected by the commissioner, or each may file with
17 the commissioner a separate report, which separate report
18 shall be considered by the commissioner in passing upon
19 the claim. If the compensation claimed is for silicosis, the
20 commissioner shall have the power, after due notice to
21 the employer, and whenever in his opinion it shall be
22 necessary, to order a claimant to appear for examination
23 before the medical board hereinafter provided. In either
24 case the claimant shall be entitled to reasonable traveling
25 and other expenses necessarily incurred by him in obey-
26 ing such order, which shall be paid out of the amount
27 allowed under this chapter for medical, surgical, dental
28 and hospital treatment.

Sec. 8-a. *Silicosis Medical Board Created; Qualifications;*
2 *Term of Office; Duties; Remuneration.*—There shall be a
3 medical board, known as the "silicosis medical board",
4 which shall consist of three licensed physicians, who shall
5 be appointed by the commissioner. No person shall be ap-
6 pointed as a member of such board, or as a consultant
7 thereto, who has not by special study or experience, or
8 both, acquired special knowledge of pulmonary diseases.
9 All members of the silicosis medical board shall be phy-
10 sicians of good professional standing, admitted to practice
11 medicine and surgery in this state, and one of them shall
12 be a roentgenologist. One of the board shall be designated
13 annually as chairman by the commissioner. The term of
14 office of each member of such board shall be six years.

15 The function of the board shall be to determine all medi-
16 cal questions relating to cases of compensation for sili-
17 cosis under the direction and supervision of the com-
18 missioner. The commissioner, from time to time, shall
19 fix the per diem salary, computed on the basis of actual
20 time devoted to the discharge of their duties, to be paid
21 each member of such board, and they shall also be
22 entitled to reasonable and necessary traveling and other
23 expenses incurred while actually engaged in the per-
24 formance of their duties.

Sec. 8-b. *Silicosis Medical Board; Procedure; Autopsy.*

2 —The silicosis medical board, upon reference to it by the
3 commissioner of a case of silicosis, shall notify the em-
4 ployee, or in case he is dead the claimant, and the
5 employer, to appear before such board at a time and
6 place stated in the notice. If the employee be living, he
7 shall appear before the board at the time and place
8 specified and submit to such examination, including clini-
9 cal and X-ray examinations, as the board may require.
10 If a physician licensed to practice medicine in the state
11 shall make affidavit that the employee is physically un-
12 able to appear at the time and place designated by the
13 board, such board shall, on notice to the proper parties,
14 change the place and time of examination to such other
15 place and time as may reasonably facilitate the hearing or
16 examination of the employee. The employee, or in case he
17 is dead, the claimant, and the employer shall also produce
18 as evidence to the board all reports of medical and X-ray
19 examinations which may be in their respective possession
20 or control, showing the past or present condition of the
21 employee. If the employee be dead, the notice of the
22 board shall further require that the claimant produce
23 necessary consents and permits so that an autopsy may be
24 performed, if the board shall so direct. When in the
25 opinion of the board an autopsy is deemed necessary
26 accurately and scientifically to ascertain and determine
27 the cause of death, such autopsy examination shall be
28 ordered by the board, which shall designate a duly li-
29 censed physician, a pathologist, or such other specialists
30 as may be deemed necessary by the board, to make such

31 examination and tests to determine the cause of death
32 and certify his or their written findings, in triplicate, to
33 the board, which findings shall be public records. In the
34 event that a claimant for compensation for such death
35 refuses to consent and permit such autopsy to be made,
36 all rights for compensation shall thereupon be forfeited.

37 The employee, or if he be dead, the claimant, and the
38 employer, shall be entitled to be present at all exami-
39 nations conducted by the board, and to be represented by
40 attorneys and physicians.

Sec. 8-c. *Silicosis Medical Board; Reports and Distribu-*
2 *tion Thereof; Findings Required of Board; Objection to*
3 *Findings; Procedure Thereon.*—The silicosis medical
4 board, as soon as practicable, after it has completed its
5 investigation, shall make its written report, to the com-
6 missioner of its findings and conclusions on every medi-
7 cal question in controversy, and the commissioner shall
8 send one copy thereof to the employee or claimant and
9 one copy to the employer, and the board shall also re-
10 turn to and file with the commissioner all the evidence,
11 as well as all statements under oath, if any, of the per-
12 sons who appeared before it on behalf of the employee or
13 claimant, or employer, and also all medical reports and
14 X-ray examinations produced by or on behalf of the
15 employee or claimant, or employer.

16 The findings and conclusions of the board shall set
17 forth, among other things, the following:

18 (a) Whether or not the claimant or the deceased em-
19 ployee has contracted silicosis, and, if so, the stage thereof.

20 (b) If the claimant or the deceased employee has con-
21 tracted such disease, whether or not the exposure in the
22 employment was sufficient to have caused silicosis or to
23 have perceptibly aggravated an existing silicosis.

24 (c) What, if any, physician appeared before the board
25 on behalf of the claimant, and what, if any, X-rays were
26 produced by or on behalf of the claimant, and what, if
27 any, physician appeared before the board on behalf of the
28 employer, and what, if any, X-rays were produced by or
29 on behalf of the employer.

30 If either party objects to the whole or any part of such

31 findings and conclusions of the board, he shall file with
32 the commissioner, within fifteen days of the mailing of
33 such copy to him unless for good cause shown the com-
34 missioner extends such time, his objections thereto in
35 writing, specifying the particular statements of the
36 board's findings and conclusions to which he objects.
37 After the time has expired for the filing of objections to
38 the findings and conclusions of the board, the commis-
39 sioner shall proceed to act as provided in this chapter.
40 If after the time has expired for the filing of objections
41 to the findings and conclusions of the board no objections
42 have been filed, the report of a majority of the board of
43 its findings and conclusions on any medical question shall
44 be taken to be plenary and conclusive evidence of the
45 findings and conclusions therein stated. If objection has
46 been filed to the findings and conclusions of the board,
47 notice thereof shall be given to the board, and the mem-
48 bers thereof joining in such findings and conclusions shall
49 appear at the time fixed by the commissioner for the
50 hearing to submit to examination and cross-examination
51 in respect to such findings and conclusions. At such
52 hearing evidence to support or controvert the findings
53 and conclusions of the board shall be limited to examina-
54 tion and cross-examination of the members of the board,
55 and to the taking of testimony of other qualified physi-
56 cians and roentgenologists.

Sec. 9-b. *Effect of Pre-Existing Physical Impairment;*
2 *Limited Compensation.*—Where an employee has a defin-
3 itely ascertainable physical impairment originating as
4 hereafter set forth in this section, then in the event that
5 such employee shall thereafter receive an injury in the
6 course of and resulting from his employment, such
7 physical impairment, and the effect thereof, and an ag-
8 gravation thereof, shall not be taken into consideration
9 in fixing the amount of compensation allowed by reason
10 of such injury, and such compensation shall be awarded
11 only in the amount that would have been allowable had
12 such employee not had such pre-existing physical im-
13 pairment. This section shall only apply to definitely
14 ascertainable physical impairments, either

15 (a) Originating either before or after October 1, 1913,
16 otherwise than from an injury received in the course of
17 and resulting from employment, or

18 (b) Originating prior to October 1, 1913, from an in-
19 jury in the course of and resulting from employment,
20 or

21 (c) Originating after October 1, 1913, from an injury
22 in the course of and resulting from employment by an
23 employer, who at the time of such injury had not elected
24 to comply with, or was not in good standing, under the
25 workmen's compensation law of West Virginia, or

26 (d) Originating in any injury of whatsoever origin
27 whenever received, occurring without the state of West
28 Virginia, except injuries received after October 1, 1913,
29 in the employ of a subscriber in good standing under the
30 compensation fund of West Virginia in the course of and
31 resulting from temporary employment without the state
32 as defined and limited by section one, article two of this
33 chapter.

Sec. 10. *Classification of Death Benefits; "Dependent"*
2 *Defined.*—In case a personal injury other than silicosis,
3 suffered by an employee in the course of and resulting
4 from his employment, causes death within the period of
5 six years and the disability is continuous from date of
6 such injury until date of death, or if death results from
7 determined third degree silicosis within six years from
8 the date of his last injurious exposure to silicon dioxide
9 dust in harmful quantities, the benefits shall be in the
10 amounts and to the persons as follows:

11 (a) If there be no dependents, the disbursements shall
12 be limited to the expense provided for in sections three
13 and four of this article.

14 (b) If the deceased employee leaves a dependent widow
15 or invalid widower, the payment shall be thirty dollars
16 a month until death or remarriage of such widow or
17 widower, and in addition ten dollars a month for each
18 child under sixteen years of age, to be paid until such
19 child reaches such age, or, if an invalid child, fifteen
20 dollars a month, to continue as long as such child re-

21 mains an invalid: *Provided, however,* That if such widow
22 or invalid widower shall remarry within two years from
23 the date of the death of such employee, such widow or
24 widower shall be paid at the time of remarriage twenty
25 per cent of the amount that would be due for the period
26 remaining between the date of such remarriage and the
27 end of ten years from the date of death of such employee,
28 and such widow or widower shall be advised in writing
29 by the commissioner of his or her rights under this
30 proviso at the time of making the original award: *Pro-*
31 *vided further,* That if upon investigation and hearing,
32 as provided in article five of this chapter, it shall be
33 ascertained that such widow or widower is living with
34 a man or woman, as the case may be, as man and wife
35 and not married, or that the widow is living a life of
36 prostitution, the commissioner shall stop the payment of
37 the benefits herein provided to such widow or widower.

38 If the deceased employee be a widow or widower and
39 leave a child or children under the age of sixteen years,
40 the payment shall be fifteen dollars a month to each child
41 until he or she reaches the age of sixteen years.

42 In all awards of compensation to children, unless other-
43 wise provided herein, the award shall be until they
44 reach the age of sixteen years or their death prior thereto.

45 (c) If the deceased employee leaves no dependent
46 widow or widower and leaves a wholly dependent father
47 or mother, he or she shall be paid the sum of twenty dol-
48 lars a month, payments to continue until death, and if
49 there be no widow or widower and both the father and
50 mother are wholly dependent, then a joint award shall
51 be made to the father and mother in the sum of twenty
52 dollars a month until death. Upon the death of either the
53 father or mother in any case in which a joint award has
54 been made to them, the full award of twenty dollars a
55 month shall be paid to the survivor until his or her
56 death.

57 (d) If the deceased employee leaves no dependent
58 widow or widower or wholly dependent father or mother
59 but there are other wholly dependent persons, as de-
60 fined in paragraph (f) of this section, the payment shall

61 be twenty dollars a month, to continue for six years after
62 the death of the deceased.

63 (e) If the deceased employee leaves no dependent
64 widow or widower, child under sixteen years of age, or
65 wholly dependent person, but there are partially depend-
66 ent persons at the time of death, the payment shall be
67 twelve dollars and fifty cents a month, to continue for
68 such portion of the period of six years after the date of
69 death, as the commissioner may determine.

70 Compensation under subdivisions (b), (c), (d), and (e)
71 hereof shall, except as may be specifically provided to the
72 contrary therein, cease upon the death of the dependent,
73 and the right thereto shall not vest in his or her estate.

74 (f) Dependent, as used in this chapter, shall mean a
75 widow; invalid widower; child under sixteen years of
76 age; invalid child; or a posthumous child, who, at the
77 time of the injury causing death, is dependent in whole
78 or in part for his or her support upon the earnings of
79 the employee; also the following persons who are and
80 continue to be residents of the United States or its terri-
81 torial possessions: Stepchild under sixteen years of age;
82 child under sixteen years of age legally adopted prior
83 to the injury causing death; father; mother; grandfather
84 or grandmother, who, at the time of the injury causing
85 death, is dependent in whole or in part for his or her
86 support upon the earnings of the employee; an invalid
87 brother or sister wholly dependent for his or her sup-
88 port upon the earnings of the employee at the time of
89 the injury causing death.

Sec. 13. *Widow or Widower Living Separate from*
2 *Employee.*—Notwithstanding anything herein contained,
3 no sum shall be paid to a widow or widower who shall
4 have abandoned the employee before the injury causing
5 death, but nothing herein contained shall be construed to
6 preclude a widow or widower from receiving compensa-
7 tion in accordance with section ten of this article if such
8 widow or widower has been abandoned within a period
9 of two years by the employee for any reason except such
10 reason as would have entitled the deceased employee to

11 an annulment or a divorce from the bonds of matrimony
12 as provided in article two, chapter forty-eight of this
13 code.

Sec. 14. *Computation of Benefits.*—The average weekly
2 wage earnings, wherever earned, of the injured person
3 at the time of the injury, shall be taken as the basis
4 upon which to compute the benefits. The time of injury
5 within the meaning of this section shall be two months,
6 six or twelve months immediately preceding the date of
7 the injury, whichever is most favorable to the injured
8 employee. In cases involving third stage silicosis "time
9 of injury" within the meaning of this section shall be the
10 day of cessation of work.

Sec. 15. *Application for Benefits; Nonresident Aliens.*—
2 To entitle any employee or dependent of a deceased
3 employee to compensation, other than for silicosis, under
4 this chapter, the application therefor must be made on a
5 form or forms prescribed by the commissioner and filed
6 in the office of the commissioner within six months from
7 and after the date of injury or death, as the case may be,
8 and all proofs of dependency in fatal cases must be filed
9 with the commissioner within nine months from and
10 after the death: *Provided, however,* That in case an em-
11 ployer fails to report an injury within five months from
12 and after the date such injury occurs the claimant shall
13 have two months from and after the date of the filing of
14 the report by the employer within which to file his
15 application for compensation with the commissioner:
16 *Provided further,* That no employee shall be entitled to
17 compensation regardless of whether or not report of in-
18 jury be submitted by the employer unless application
19 therefor be filed in the office of the commissioner within
20 one year from the date of the injury. In case the em-
21 ployee is mentally or physically incapable of filing such
22 application, it may be filed by his attorney or by a member
23 of his family.

24 To entitle any employee to compensation for silicosis
25 under the provisions hereof, the application therefor must
26 be made on a form or forms prescribed by the commis-

27 sioner and filed in the office of the commissioner within
28 one year from and after the date of the last injurious
29 exposure to silicon dioxide dust, or, in the case of death,
30 the application shall be filed as aforesaid by the dependent
31 of such employee within six months from and after such
32 employee's death.

33 Nonresident aliens who may be entitled to benefits
34 under prior law with respect to injuries sustained prior
35 to March eleventh, one thousand nine hundred thirty-
36 nine, may be officially represented by the consular officers
37 of the country of which such aliens may be citizens or
38 subjects, but no compensation shall be paid to such non-
39 resident aliens in fatal cases through the consular officers
40 of the country of which such aliens may be citizens or
41 subjects until such consular officers or a representative
42 of such consular officer is appointed personal representa-
43 tive of the deceased party by proper authority in the
44 county in which the deceased resided, or in which the
45 seat of government is located. Nothing herein contained
46 shall be construed as giving such consular officer the
47 right to make application for compensation on behalf of
48 nonresident aliens.

2 Sec. 15-a. *Nonresident Alien Beneficiaries.*—Notwith-
3 standing any other provisions of this chapter, no benefits
4 under any such provisions and no commutation of peri-
5 odical benefits under the provisions of section seventeen
6 of this article shall be made to nonresident alien bene-
7 ficiaries on account of any injury sustained after March
8 eleventh, one thousand nine hundred thirty-nine. Non-
9 resident alien beneficiaries within the meaning hereof
10 shall mean persons not citizens of the United States re-
11 siding outside of the territorial limits of the United States
12 at the time of the injury with respect to which benefits
13 would otherwise have been payable to them in the ab-
14 sence of such nonresident alienage. In case of nonresident
15 alien beneficiaries entitled under prior law to benefits on
16 account of accidents occurring prior to March eleventh,
17 one thousand nine hundred thirty-nine, the commissioner
18 in his discretion may make, and such beneficiary shall be
19 required to accept, commutation of such benefits into a

19 lump sum settlement and payment, at the rate of one-
20 half of like benefits to resident beneficiaries.

Sec. 15-b. *Nonmedical Questions Determined by Commissioner on Hearing of Silicosis Claim.*—On the hearing of a claim for compensation for silicosis, the commissioner shall hear, determine and file findings covering, but not limited thereto, the following nonmedical questions:

(a) Whether the employee was in fact, within one year prior to the filing of his claim, in the employ of the employer, and, if so, the duration of such employment and whether or not such employment was subject to the provisions hereof.

(b) The occupation or occupations, process or processes in which the employee was engaged during such employment, and the approximate periods of work in each such occupation or process.

(c) The employments, previous and subsequent to the employment out of which the claim arose, the duration thereof, and the exposure therein to the hazard of silicon dioxide dust.

(d) Whether the employee contracted such disease through wilful self-exposure.

(e) The average weekly wages of the employee at the time he ceased work for his last employer in whose employment he was exposed to silicon dioxide dust. The time of cessation of work, within the meaning of this section, shall be two months, six months or twelve months immediately preceding the date of the injury, whichever is most favorable to the injured employee.

(f) Whether the last injurious exposure to silicon dioxide dust in the employment with the employer, occurred within one year prior to the filing of the claim for silicosis benefits, and if the employee is no longer in the service of the employer, the date upon which such employee ceased so to work; and, if the employee has died, the date and place of such death, and the place of interment of the body.

Sec. 16. *Commissioner's Jurisdiction over Case Continuous; Modification of Finding or Order; Time Limitation on Awards.*—The power and jurisdiction of the com-

4 missioner over each case shall be continuing, and he may
5 from time to time, after due notice to the employer, make
6 such modifications or changes with respect to former
7 findings or orders as may be justified: *Provided, however,*
8 That no further award may be made in fatal cases arising
9 after March seventh, one thousand nine hundred twenty-
10 nine, except within two years after the death of the
11 employee, or, in case of nonfatal injuries on and after
12 March seventh, one thousand nine hundred twenty-nine,
13 except within three years after payments for temporary
14 disability shall have ceased and within one year after
15 the commissioner shall have made the last payment in
16 any permanent disability case: *And provided further,*
17 That no further award may be made in either fatal or
18 nonfatal cases arising on account of injuries occurring
19 prior to March seventh, one thousand nine hundred
20 twenty-nine, unless written application for such award,
21 signed personally by claimant, or, in case of claimant's
22 infancy or physical or mental incapacity, by his or her
23 guardian, next friend, or committee, be filed with the
24 commissioner on or before September fifteenth, one thou-
25 sand nine hundred thirty-nine. In any case in which an
26 injured employee shall make application for a further
27 adjustment of his claim, if such application be in writing
28 and filed within the applicable time limit as prescribed
29 herein, the commissioner shall pass upon and determine
30 the merits of such application within thirty days after
31 the filing thereof.

Sec. 20. *Post-Mortem Examinations.* — The commis-
2 sioner shall have authority, after due notice to the em-
3 ployer and claimant, whenever he shall deem it necessary,
4 to order an autopsy, and may designate a duly licensed
5 physician to make such post-mortem examination or
6 examinations as may be necessary to determine the cause
7 of the deceased employee's death, and such physician shall
8 file with the commissioner a written report of his findings;
9 the claimant and the employer respectively, shall have the
10 right to select a physician of his or its own choosing and
11 at his or its own expense, to participate in the post-
12 mortem examination, and the respective physicians
13 selected by the claimant and the employer shall have the

14 right to concur in any report made by the physician
15 selected by the commissioner, or each may file with the
16 commissioner a separate report. In any case, including
17 silicosis cases, in which either the employer or a claimant
18 requests that an autopsy be performed, then such au-
19 topsy shall be directed as hereinbefore provided, and in
20 the event that a claimant for compensation for such
21 death refuses to consent and permit such autopsy to be
22 made all rights to compensation shall be forfeited.

Article 5. Review.

Section

2. Workmen's compensation appeal board.
3. Appeals to board; procedure.
4. Appeals from final decisions of board.
- 4-a. Findings of fact.
- 4-b. Jurisdictional findings and decisions appealable.
5. Fees of attorney for claimant.

Section 2. *Workmen's Compensation Appeal Board.*—

2 There shall be a board to be known as the "Workmen's
3 Compensation Appeal Board", which shall be referred to
4 in this chapter as the "board", to be composed of three
5 members, none of whom shall be a contributor to the
6 compensation fund or in any way connected with a
7 contributor thereto and none of whom shall be a bene-
8 ficiary of the compensation fund or in any way connected
9 with a beneficiary thereof. Two members of such board
10 shall be of opposite politics to the third, and all three
11 shall be citizens of this state who have resided therein
12 for a period of at least five years. All members of the
13 board shall be appointed by the governor for a term of
14 six years. The governor is hereby vested with power to
15 remove any member of the board according to section
16 four, article six, chapter six, of this code. They shall
17 each receive an annual salary of two thousand four hun-
18 dred dollars, payable in monthly installments, and shall
19 also be entitled to reasonable and necessary traveling
20 and other expenses incurred while actually engaged in
21 the performance of their duties. The governor shall
22 designate one of the members of the board as chairman
23 thereof, and the board shall meet at the capitol or at
24 such other places throughout the state as it may deem
25 proper, at regular sessions commencing on the first Tues-

26 day in February, April, June, August, October and Decem-
27 ber, and continuing as long as may be necessary for the
28 proper and expeditious transaction of the business before
29 it. All clerical services required by the board shall be paid
30 for by the compensation commissioner from any funds
31 at his disposal. The board shall, from time to time, com-
32 pile and promulgate such rules of practice and procedure
33 as to it shall appear proper for the prompt and efficient
34 discharge of its business and such rules shall be sub-
35 mitted to the supreme court of appeals for approval, and
36 if approved by such court shall have the same force and
37 effect as the approved rules of procedure of circuit courts.

Sec. 3. *Appeals to Board; Procedure.*—Any employer,
2 employee, claimant, or dependent, who shall feel ag-
3 grievied at any final action of the commissioner taken after
4 a hearing held in accordance with the provisions of
5 section one of this article, and any claimant or employer
6 who shall feel aggrieved at any action of the commissioner
7 in refusing to reopen a claim under the provisions of
8 sections one-b and one-d of this article, shall have the
9 right to appeal to the board created in section two of this
10 article for a review of such action. The aggrieved party
11 shall file a written notice of appeal with the compensation
12 commissioner, directed to such board, within thirty days
13 after receipt of notice of the action complained of, or in
14 any event, regardless of notice, within sixty days after
15 the date of the action complained of, and the commissioner
16 shall notify the other party immediately upon the filing of
17 a notice of appeal. The commissioner shall forthwith
18 make up a transcript of the proceedings before him and
19 certify and transmit the same to the board. In such
20 certificate, he shall incorporate a brief recital of the
21 proceedings therein had and recite each order entered
22 and the date thereof. The board shall review the action
23 of the commissioner complained of at its next meeting
24 after the filing of notice of appeal, provided such notice
25 of appeal shall have been filed thirty days before such
26 meeting of the board, unless such review be postponed
27 by agreement of parties or by the board for good cause.
28 The board shall set a time and place for the hearing of

29 arguments on each claim and shall notify the interested
30 parties thereof, and briefs may be filed by the interested
31 parties in accordance with the rules of procedure pre-
32 scribed by the board. And thereupon, after a review of
33 the case, the board shall sustain the finding of the
34 commissioner or enter such order or make such award as
35 the commissioner should have made and shall thereupon
36 certify the same to the commissioner, who shall proceed
37 in accordance therewith. Or, instead of affirming or re-
38 versing the commissioner as aforesaid, the board may,
39 upon motion of either party or upon its own motion, for
40 good cause shown, to be set forth in the order of the
41 board, remand the case to the commissioner for the
42 taking of such new, additional or further evidence as
43 in the opinion of the board may be necessary for a full
44 and complete development of the facts of the case. In
45 the event the board shall remand the case to the com-
46 missioner for the taking of further evidence therein, the
47 commissioner shall proceed to take such new, additional
48 or further evidence in accordance with any instructions
49 given by the board, and shall take the same within thirty
50 days after receipt of the order remanding the case, giving
51 to the interested parties at least ten days' notice of such
52 supplemental hearing, unless the taking of evidence shall
53 be postponed by agreement of parties, or by the com-
54 missioner for good cause. After the completion of such
55 supplemental hearing the commissioner shall, within
56 sixty days, render his decision affirming, reversing or
57 modifying his former action, which decision shall be
58 appealable to, and proceeded with by the appeal board
59 in like manner as in the first instance. The board may
60 remand any case as often as in its opinion is necessary
61 for a full development and just decision of the case. The
62 board may take evidence or consider ex parte statements
63 furnished in support of any motion to remand the case
64 to the commissioner. All evidence taken by or filed with
65 the board shall become a part of the record. All appeals
66 from the action of the commissioner shall be de-
67 cided by the board at the same session at which they are
68 heard, unless good cause for delay thereof be shown and

69 entered of record. In all proceedings before the board,
70 either party may be represented by counsel.

Sec. 4. *Appeals from Final Decisions of Board.*—From
2 any final decision of the board, including any order of
3 remand, an application for review may be prosecuted by
4 either party, or by the commissioner, to the supreme
5 court of appeals within thirty days from the date thereof
6 by the filing of a petition therefor to such court against
7 the board and the adverse party (claimant or employer,
8 as the case may be) as respondents, and the clerk of such
9 court shall notify each of the respondents and the com-
10 missioner of the filing of such petition. The board shall,
11 within ten days after receipt of such notice, file with the
12 clerk of the court the record of the proceedings had be-
13 fore it, including all the evidence. The court or any judge
14 thereof in vacation may thereupon determine whether or
15 not a review shall be granted. And if granted to a non-
16 resident of this state, he shall be required to execute and
17 file with the clerk before such order of review shall be-
18 come effective, a bond, with security to be approved by
19 the clerk, conditioned to perform any judgment which
20 may be awarded against him thereon. The board may
21 certify to the court and request its decision of any ques-
22 tion of law arising upon the record, and withhold its
23 further proceeding in the case, pending the decision of
24 court on the certified question, or until notice that the
25 court has declined to docket the same. If a review be
26 granted or the certified question be docketed for hearing,
27 the clerk shall notify the board and the parties litigant or
28 their attorneys and the commissioner, of that fact by
29 mail. If a review be granted or the certified question
30 docketed, the case shall be heard by the court in the same
31 manner as in other cases, except that neither the record
32 nor briefs need be printed. Every such review granted or
33 certified question docketed prior to thirty days before
34 the beginning of the term, shall be placed upon the docket
35 for such term. The attorney general shall, without extra
36 compensation, represent the board in such cases. The
37 court shall determine the matter so brought before it
38 and certify its decision to the board and to the commis-

39 sioner. The cost of such proceedings on petition, including
40 a reasonable attorney's fee, not exceeding thirty dollars
41 to the claimant's attorney, shall be fixed by the court and
42 taxed against the employer if the latter be unsuccessful,
43 and if the claimant, or the commissioner (in case the latter
44 be the applicant for review) be unsuccessful, such costs,
45 not including attorney's fees, shall be taxed against the
46 commissioner, payable out of any funds available in his
47 hands, or shall be taxed against the claimant, in the dis-
48 cretion of the court. But there shall be no cost taxed upon
49 a certified question.

Sec. 4-a. *Findings of Fact.*—In a judicial proceeding to
2 review a decision of the board, the findings of fact of the
3 board shall have like weight to that accorded to the
4 findings of facts of a trial chancellor or judge in equity
5 procedure.

Sec. 4-b. *Jurisdictional Findings and Decisions Appeal-*
2 *able.*—In any case where the jurisdiction of the commis-
3 sioner is contested, his order in respect thereto shall be
4 deemed final for the purpose of appeal to the board and
5 any decision of the board in respect to such questions of
6 jurisdiction, shall be deemed final for the purpose of
7 appeal to the supreme court of appeals.

Sec. 5. *Fees of Attorney for Claimant.*—If any claimant
2 shall employ an attorney to represent him in connection
3 with any claim arising under this chapter and such
4 attorney shall file with the commissioner an executed
5 copy of his contract of employment with such claimant,
6 it shall be the duty of the commissioner to protect such
7 attorney in the collection of the amount provided for
8 therein from any award made under the provisions of
9 this chapter in favor of the claimant, up to but not in
10 excess of twenty-five per cent of the total amount
11 awarded.

CHAPTER 132

(House Bill No. 227—By Mr. McElwee, by request)

AN ACT authorizing the state auditor and state treasurer to charge off by appropriate bookkeeping entries state funds in certain closed banks which are now included in the balance of the state fund.

[Passed March 7, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Auditor and treasurer authorized to charge off balances of funds in closed banks now included in balance of the state fund.
2. Disposition of dividends from receivers of closed banks.

Be it enacted by the Legislature of West Virginia:

Section 1. Auditor and Treasurer Authorized to Charge

2 Off Balances of Funds in Closed Banks Now Included in

3 Balance of the State Fund.—The state auditor and the

4 state treasurer are authorized and empowered to reduce

5 by appropriate bookkeeping entries the balance of the

6 state fund by charging off the sum of sixty-nine thousand

7 six hundred forty-five dollars and eighty-five cents com-

8 posed of balances in the following closed banks in stated

9 amounts:

10	Beverly Bank, Beverly	\$ 1,627.09
11	Fidelity Bank & Trust Co., Bluefield	13,457.39
12	First National Bank, Friendly	537.34
13	Grafton Bank, Grafton	172.63
14	Kingwood National Bank, Kingwood	8,689.47
15	First National Bank, Mullens	3,202.22
16	First National Bank, New Cumberland	19,969.09
17	Citizens National Bank, Philippi	578.16
18	First National Bank, Pineville	10,055.63
19	Tunnelton Bank, Tunnelton	11,356.83

Sec. 2. Disposition of Dividends from Receivers of

2 *Closed Banks.*—Any dividends which may hereafter be

3 paid to the state of West Virginia as receivership dividends

4 from the receivers of the banks named in section one shall

- 5 be deposited in the state fund and become a part of the
6 general revenues of the state.

CHAPTER 133

(House Bill No. 228—By Mr. McElwee, by request)

AN ACT to authorize the state auditor and the state treasurer to transfer balances of certain special revenue funds to the state fund.

[Passed March 7, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Auditor and treasurer authorized to transfer certain funds..

Be it enacted by the Legislature of West Virginia:

- Section 1. *Auditor and Treasurer Authorized to Transfer Certain Funds.*—The state auditor and state treasurer are authorized and empowered to transfer to the state fund, to become a part of the general revenues of the state, balances of the following funds in the stated amounts:
- | | | |
|----|---|-----------|
| 6 | Federal Building Funds: | |
| 7 | 4-H Camp for Colored Boys and Girls..... | \$ 3.57 |
| 8 | West Virginia Penitentiary | 1,322.12 |
| 9 | Pinecrest Sanitarium | 80.21 |
| 10 | State Board of Aeronautics | 243.59 |
| 11 | American Negro Exposition Fund | 317.03 |
| 12 | Unemployment Compensation Reserve Fund... | 19,907.00 |

CHAPTER 134

(House Bill No. 226—By Mr. McElwee, by request)

AN ACT to authorize the state auditor and state treasurer to transfer from the special escrow account of the state banking commissioner in the state treasury the sum of

two hundred seventy-three dollars twenty-two cents received for Peoples bank of West Virginia, Buckhannon, West Virginia, of which the receivership and liquidation has been completed.

[Passed March 7, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Explanation and derivation of sum to be transferred.
2. Authorization to transfer to state fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Explanation and Derivation of Sum to Be Transferred.*—The West Virginia commissioner of banking has received from trustees of the bankrupt estate of Henry M. Jackson the sum of two hundred seventy-three dollars twenty-two cents which was due from said estate to the Peoples bank of West Virginia, Buckhannon, West Virginia. The said Peoples bank had been closed, liquidation completed and receiver discharged, leaving no method whereby this amount of two hundred seventy-three dollars twenty-two cents could be distributed to the creditors of the said bank. The commissioner of banking deposited this sum in the state treasury in a special escrow account until proper disposition of it could be made.

Sec. 2. *Authorization to Transfer to State Fund.*—The state auditor and state treasurer are authorized and empowered to transfer the amount described in section one from the special escrow account in the state treasury to the state fund to become a part of the general revenues of the state.

CHAPTER 135

(Com. Sub. for Senate Bill No. 9—Originating in the Senate Committee on the Judiciary)

AN ACT to amend chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, by adding

thereto a new article to be designated article three, relating to the establishment of a home for aged and infirm white men and women and delinquent white boys; providing for the management thereof, the qualifications for admission thereto, and the cost of maintaining the inmates therein.

[Passed March 1, 1945; in effect from passage. Approved by the Governor.]

Article 3. Home for Aged and Infirm White Men and Women.

1. Establishment; name; management; superintendent.
2. Admission of inmates.
3. Transfer of inmates of state hospitals.
4. Transfer of inmates from the Industrial School for Boys.
5. How expenses to be paid.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new article embracing five sections to be designated article three, sections one, two, three, four and five to read as follows:

Article 3. Home for Aged and Infirm White Men and Women.

Section 1. *Establishment; Name; Management; Superintendent.*—The West Virginia Home for aged and infirm white men and women is hereby established at Sweet Springs, Monroe county, West Virginia, to be known as Andrew S. Rowan Memorial Home, and shall be managed, directed and controlled as provided in article one, chapter twenty-five of this code. The chief executive officer thereof shall be a superintendent who must be a citizen of the state and a person of good executive ability, and who shall be appointed by the governor by and with the advice and consent of the senate.

Sec. 2. *Admission of Inmates.*—Any white man or woman shall be eligible for admission to said home who:

- (1) Has attained the age of sixty-five years;
- (2) Has resided in the state for at least one year immediately preceding the application;

6 (3) Has not made an assignment or transfer of prop-
7 erty for the purpose of qualifying for public assistance;

8 (4) Is in need of continuing institutional care because
9 of his physical or mental condition;

10 (5) Is actually in need and has not sufficient income
11 or other resources to provide a subsistence compatible
12 with decency and health;

13 (6) Has no children, father, brothers, sisters or mother
14 of sufficient financial ability to support such person in the
15 manner required by the county council of the department
16 of public assistance of the county of which the person may
17 be a resident.

18 No person shall be admitted to said home except upon
19 the recommendation of the council of the department of
20 public assistance of the county in which the individual
21 seeking admission resided at the date of application there-
22 for, or unless such person be qualified to admission to said
23 home under the provisions of the next two succeeding
24 sections.

Sec. 3. *Transfer of Inmates of State Hospitals.*—The
2 state board of control shall have authority to transfer any
3 person from Weston State Hospital, Spencer State Hos-
4 pital and Huntington State Hospital to the Andrew S.
5 Rowan Memorial Home who is qualified for admission
6 under the provisions of this article. The said board shall
7 also have authority to transfer any such person to the
8 hospital from which he or she may have been trans-
9 ferred or to any other hospital under the control of the
10 board.

Sec. 4. *Transfer of Inmates from the Industrial School
2 for Boys.*—The state board of control shall also have the
3 power and authority to transfer, from time to time, any
4 number of inmates of the Industrial School for Boys at
5 Pruntytown, to the Andrew S. Rowan Memorial Home,
6 if, in the opinion of the board, the maintenance of boys
7 at this institution will promote their rehabilitation. The
8 board of control shall prescribe rules and regulations
9 pertaining to transfers of this nature. The board shall
10 also have the authority to return such boys to the In-
11 dustrial School for Boys as it sees fit.

Sec. 5. *How Expenses to be Paid.*—The pay for the
2 care and accommodation of any person who may be ad-
3 mitted to the home, except as to those transferred from
4 state hospitals and from the Industrial School for Boys,
5 shall be provided by the county department of public
6 assistance of the county which recommended his or her
7 admission; and said county department of public assist-
8 ance shall also pay all just and proper charges for the
9 transportation of such person to the home. Such pay
10 shall be at the rate of fifteen dollars monthly and shall
11 be paid quarterly.

CHAPTER 136

(House Bill No. 356—By Mr. Holt)

AN ACT providing that the West Virginia home for aged and infirm colored men and women, located at McKendree, West Virginia, shall pay to Dr. J. W. Hartigan the sum of three hundred forty dollars for maintenance and services as physician, and for medical instruments furnished said institution when it was operated as the McKendree emergency hospital.

[Passed March 10, 1945; in effect from passage. Approved by the Governor.]

Section

1. West Virginia home for aged and infirm colored men and women to pay claim of Dr. J. W. Hartigan.

WHEREAS, During the six months period from April twenty-fourth, one thousand nine hundred forty-one, to October twenty-fourth, one thousand nine hundred forty-one, while Dr. J. W. Hartigan served as physician at the McKendree emergency hospital, at McKendree, West Virginia, the said hospital failed to make payment to Dr. Hartigan in the amount of three hundred forty dollars, which amount was owed him for maintenance and service as physician at said hospital and for medical instruments furnished said hospital; and

WHEREAS, Since that time the name of the institution has

been changed to that of West Virginia home for aged and infirm colored men and women; therefore,

Be it enacted by the Legislature of West Virginia:

- Section 1. *Payment to Dr. J. W. Hartigan.*—That the
2 West Virginia home for aged and infirm colored men and
3 women shall pay, out of any funds available, the sum of
4 three hundred forty dollars to Dr. J. W. Hartigan for serv-
5 ices rendered at McKendree emergency hospital as phy-
6 sician, for his maintenance, and for medical instruments
7 furnished said hospital by the said Dr. J. W. Hartigan.
8 Upon payment of the three hundred forty dollars, the
9 agents of the West Virginia home for aged and infirm
10 colored men and women are hereby directed to receive
11 a full and complete release and discharge for said obli-
12 gation.

CHAPTER 137

(Senate Bill No. 234—By Mr. Hardesty)

AN ACT relating to the disposition of balances remaining in funds realized from the Federal Army, Navy and Civil Aeronautics Trainee Program in the West Virginia University, West Virginia Institute of Technology, Marshall College, Shepherd College, Concord College, Fairmont State College, and West Virginia State College.

[Passed March 10, 1945; in effect from passage. Approved by the Governor.]

Section

1. Application of the net proceeds from the federal army, navy and civil aeronautics trainee program in the West Virginia university and the state colleges of West Virginia.
2. Duration of the act.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Application of the Net Proceeds from the*
2 *Federal Army, Navy and Civil Aeronautics Trainee Pro-*
3 *gram in the West Virginia University and the State Col-*

4 *leges of West Virginia.*—The entire net proceeds derived
5 from the Federal Army, Navy and Civil Aeronautics
6 Trainee Program in the West Virginia University, West
7 Virginia Institute of Technology, Marshall College, Shep-
8 herd College, Concord College, Fairmont State College
9 and West Virginia State College shall be expended re-
10 spectively by the said West Virginia University, West
11 Virginia Institute of Technology, Marshall College, Shep-
12 herd College, Concord College, Fairmont State College
13 and West Virginia State College upon the approval of
14 the board of governors for West Virginia University as
15 to that institution, and upon the approval of the West
16 Virginia board of control as to all the other institutions
17 herein named, for the renovation and repair of the build-
18 ings of said institutions; for the replacement of furniture
19 and equipment of said institutions, and for the restoration
20 of property damaged by the said Federal Army, Navy
21 and Civil Aeronautics Trainee Program in each of said
22 institutions. Any unexpended funds heretofore collected
23 by said institutions, whether heretofore paid and re-
24 ported to the state or otherwise, and any funds hereafter
25 collected and derived from such sources by each of said
26 institutions, shall be placed and kept in a special fund to
27 the credit of such institution so reporting or collecting
28 the same, and shall be expended by the board of governors
29 for West Virginia University for that institution, and
30 shall be expended by the board of control for each of the
31 other institutions so reporting or collecting for the pur-
32 poses herein enumerated.

Sec. 2. *Duration of the Act.*—The provisions of this
2 act shall be operative and in full force and effect until
3 March first, one thousand nine hundred forty-seven.

CHAPTER 138

(Com. Sub. for Senate Bill No. 240—Originating in the Senate Committee on the Judiciary)

AN ACT to amend article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section seven, relating to the transfer of Barboursville unit of Weston State Hospital to Huntington State Hospital.

[Passed March 8, 1945; in effect July 1, 1945. Approved by the Governor.]

Section

7. Transfer of Barboursville unit of Weston state hospital to Huntington state hospital.

Be it enacted by the Legislature of West Virginia:

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

Section 7. *Transfer of Barboursville Unit of Weston State Hospital to Huntington State Hospital.*—Effective the first day of July, one thousand nine hundred forty-five, the operation of the Barboursville unit of Weston state hospital shall be transferred by the board of control in such manner that thereafter the said Barboursville unit shall be operated as a part of Huntington state hospital. The board of control is empowered to take all such steps and do all such things as may be necessary and proper to effect such transfer, including transfer of property and other like accounts from Weston state hospital to Huntington state hospital.

Nothing herein contained shall in any wise impair the rights and powers vested in the board of control by law with respect to state institutions. Appropriations now or hereafter made for the operations of said Barboursville unit shall be used for its maintenance and operation without regard to the transfer required hereunder.

CHAPTER 139

(House Bill No. 112—By Mr. Hansbarger)

AN ACT to amend and reenact section one, article one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, relating to the tax commissioner, and authorizing the attorney general, upon the request of the tax commissioner, to select and appoint an assistant attorney general, to perform, under the supervision and direction of the attorney general, such duties as may be required of him by the tax commissioner.

[Passed February 15, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 1. Supervision.

Section

1. Tax commissioner; appointment of assistant attorney general to perform duties for commissioner.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Tax Commissioner; Appointment of Assistant*

2 *Attorney General to Perform Duties for Commissioner.*—

- 3 There shall be a tax commissioner who shall be appointed
- 4 by the governor, by and with the advice and consent of
- 5 the senate. The tax commissioner in office when this code
- 6 takes effect shall, unless sooner removed, continue to serve
- 7 until his term expires, and his successor has been ap-
- 8 pointed and has qualified. On or before the first day of
- 9 March, one thousand nine hundred thirty-five, and on or
- 10 before the first day of March of each sixth year thereafter,
- 11 the governor shall appoint a tax commissioner for a term
- 12 of six years, commencing on said first day of March. The
- 13 person so appointed shall take the oath or affirmation
- 14 prescribed by section five of article four of the constitu-

15 tion. He shall give bond with good security, to be ap-
16 proved by the governor, in the penalty of five thousand
17 dollars. The salary of the tax commissioner shall be six
18 thousand dollars a year. He shall be repaid his actual dis-
19 bursements for traveling expenses. He shall be provided
20 with an office in the capitol, and with such furniture and
21 clerical assistance as shall be necessary.

22 The tax commissioner, if he deem such action neces-
23 sary, may request the attorney general to appoint an
24 assistant attorney general, who shall perform, under the
25 supervision and direction of the attorney general, such
26 duties as may be required of him by the tax commis-
27 sioner. The attorney general, in pursuance of such re-
28 quest, may select and appoint an assistant attorney gen-
29 eral, to serve during the will and pleasure of the attor-
30 ney general; and such assistant shall receive a salary
31 not in excess of five thousand dollars per annum, to be
32 paid out of any funds made available for that purpose
33 by the Legislature to the office of the tax commissioner.

CHAPTER 140

(Senate Bill No. 47—By Mr. Bean)

AN ACT to amend and reenact article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the collection and enforcement of property taxes and to the sale of lands for the school fund.

[Passed March 10, 1945; in effect from passage. Approved by the Governor.]

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. Publication of general notice to redeem.
11. Redemption after certification and before sale.
12. Certificate of redemption issued by deputy commissioner; recordation.
13. Lien of person redeeming interest of another; record.
14. Revaluation and reclassification.
15. Preparation of list of persons entitled to notice of suit.
16. Suit for sale of lands.
17. Parties defendant; right to intervene.
18. Summons; service.
19. Averments and prayer of bill.
20. Procedure; extent to which defendant is bound by order or decree.
21. Certified list made exhibit and part of bill.
22. Separate order book to be kept by clerk; costs.
23. Decree by default.
24. Application for reduction of amount due.
25. Application for dismissal of suit.
26. Procedure upon application for reduction or dismissal; order of reference.
27. Execution of reference; report.
28. Orders when applicant's claim upheld.
29. Decree of sale.
30. Notice of sale.
31. Sale by deputy commissioner; receipt for purchase price; report to circuit court.
32. Return of purchase money.
33. Co-owner free to purchase at sale.
34. Purchase by former owner or by deputy commissioner and other officers prohibited.
35. Right of former owner to surplus proceeds.
36. Right of creditor of former owner of escheated land.
37. Redemption after sale and before confirmation.
38. Lien of person redeeming interest of another; record.
39. Payment of redemption money to clerk of circuit court.
40. Contest of redemption by payment to clerk.
41. Contest when claim is made that payment was insufficient.
42. Proceeding to set aside sale.
43. Confirmation of sale; right to redeem terminated.
44. Deed to purchaser; record.
45. Title acquired.
46. Effect of irregularity on title acquired.
47. Right to set aside sale or deed when land was not subject to sale.
48. Right to set aside deed improperly obtained.
49. Right to set aside sale or deed when one entitled to notice not notified.
50. On whose behalf suits instituted; decree when sale or deed set aside.
51. Redemption by persons under disability.
52. Redemption by members of armed services.
53. Annual report of deputy commissioner to auditor.
54. Sheriff to keep proceeds in separate accounts; disposition.
55. Disposition of pending suits; former sales confirmed.
56. Liability of officer failing to perform duty; penalty.
57. Release of taxes and interest.
58. Separability.

Be it enacted by the Legislature of West Virginia:

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

Section 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 establish a judicial proceeding for the sale of land for the school fund, which will be as expeditious, inexpensive and informal as possible without violating any claim which may fairly and properly be made on behalf of the former owner. The procedure provided for in this article is designed to convey to the purchaser not an original but merely a derivative title, transferring only such interest in the land as may at the time of the sale be vested in the state under its constitution and laws, or otherwise.

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 books of the appropriate county, have himself charged with the taxes due thereon, and pay the same. 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 forfeited, delinquent, escheated, or waste and unappropriated lands, shall be construed to refer to the auditor in his capacity 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
12 such lands. The auditor, on behalf of the state, shall have
13 power to hold and manage such lands, and to exercise
14 all other powers incident to the general ownership of
15 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
6 effect, and shall make new appointments from time to
7 time thereafter whenever vacancies occur, or when in
8 his judgment it is deemed advisable. The auditor may
9 make rules respecting the tenure of deputy commis-
10 sioners. In the absence of such rules, the deputy for each
11 county shall, so long as he satisfies the requirements of
12 this section in respect to professional qualifications and
13 bonding, 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
17 be made for each county from among attorneys residing
18 and 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
21 the bar of another county in the same judicial circuit.
22 Whenever in respect to any land the deputy commis-
23 sioner, in his own judgment or in the opinion of the
24 auditor, is disqualified because of his personal interest,
25 or because of his representation of clients in matters
26 affecting such land, the auditor may appoint a special
27 deputy to deal with that land. All provisions of this
28 article in respect to the rights, duties, liabilities and
29 qualifications of the deputy commissioner, shall be ap-
30 plicable to the special 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
35 the auditor or by the provisions of this article. As com-
36 pensation for his services he shall receive the sum of
37 one dollar for every tract certified to the circuit court
38 of the county of his appointment, and such additional
39 compensation 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, as the auditor may direct. The premium
46 for such bond shall be paid by the auditor out of the
47 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 forfeited, delinquent, escheated, and waste
4 and unappropriated lands. The record shall, as to every
5 tract or lot listed, set forth the information available
6 as to quantity, local description, and, except in the case
7 of waste and unappropriated lands, the name of the
8 former owner and the respective dates of nonentry and
9 forfeiture, or delinquency and sale to the state, or escheat,
10 as the case may be. The record shall be prima facie
11 evidence of all matters required by this section to be
12 set forth therein, including the propriety of the descrip-
13 tion of lands as forfeited, delinquent, escheated, or waste
14 and unappropriated.

Sec. 7. *Operating Fund for Land Department in Audi-
tor's Office.*—The auditor shall set up a special operating
2 fund for the land department in his office. He shall pay
3 into such fund all redemption fees, all publication or
4 other charges collected by him, if such charges were
5 paid by or were payable to him, and all payments made
6 to him by sheriffs under the provisions of section fifty-
7 four of this article except such part thereof as repre-
8 sents state taxes and interest and the proceeds of the
9 sale of any escheated or waste and unappropriated lands.
10 The fund shall be used by the auditor to pay any bal-
11

12 ances due to deputy commissioners for services rendered
13 under the provisions of this article, to pay for publi-
14 cation of the notice to redeem as provided in section ten
15 of this article, and to pay for the operation and mainte-
16 nance of the land department in his office. The surplus,
17 over and above the amount of twenty-five thousand dol-
18 lars, remaining in the fund at the end of any fiscal year,
19 shall be paid by the auditor into the general school fund.

Sec. 8. *Officers to Report Lands Subject to Sale.*—When-
2 ever an assessor, or clerk of the county court, or county
3 surveyor learns of the existence within the county of
4 any forfeited land, he shall promptly report that fact to
5 the auditor, together with his information relating thereto.
6 The county surveyor shall also report all waste and un-
7 appropriated lands within his county, except lands lying
8 under the bed of a navigable stream, and shall in his
9 report specify the quantity, the local description, and
10 any claims of title thereto. The assessor, as escheator,
11 shall likewise report all lands which escheat to the
12 state.

Sec. 9. *Auditor to Certify List of Lands to Be Sold.*—
2 On or before the first day of December, one thousand
3 nine hundred forty-six, and on or before the first day
4 of December of each year thereafter, the auditor shall
5 certify to the circuit court of each county a list of all
6 lands in the county subject to sale under this article
7 which have been under his control as state commissioner
8 of forfeited and delinquent lands for as much as a year
9 before certification, except that escheated or waste and
10 unappropriated lands need not be held a year but may
11 be certified by the auditor at any time after they are
12 brought to his attention. He shall note the fact of
13 certification on his record of delinquent lands. Upon
14 completion of a list for certification, a charge of one dol-
15 lar shall be added to the taxes, interest and charges
16 already due on each item listed, to cover the costs in-
17 curred by the auditor in the preparation of the list, and
18 in the event of any sale or redemption, the same shall be
19 paid into the operating fund provided for in this article.
20 Escheated lands and waste and unappropriated lands

21 shall be listed separately. The list shall be arranged by
22 districts and, except in the case of waste and unappro-
23 priated lands, alphabetically by name of the former owner.
24 The list shall state as to each item listed, the information
25 required by section six of this article to be set forth in
26 the auditor's record of delinquent lands, and shall specify
27 as to each tract listed as forfeited or delinquent, the
28 amount of taxes and interest due on the date of certifica-
29 tion, the publication and other charges due, with interest,
30 and the total currently due, which total shall, except for
31 the redemption fee, correspond to the sum required for
32 redemption from the auditor on the date of certification.
33 The specification of taxes due shall, as to delinquent land,
34 commence with those for nonpayment of which it was
35 sold, and as to forfeited land, with those properly charge-
36 able to it for the first year of nonentry.

37 All items certified to each circuit court shall be num-
38 bered consecutively, and all subsequent orders, entries,
39 applications or proceedings under this article in respect
40 to any item shall refer to its number and to the year of
41 certification. All tracts, lots, or parcels sold to the state
42 as a unit may be treated by the auditor as a single item
43 for purposes of certification. Subject to the provisions
44 of this section, the auditor shall prescribe a form for the
45 list and shall provide in such form adequate space to
46 show the subsequent history and final disposition of
47 each item certified.

48 The list shall be made in quadruplicate. The auditor
49 shall keep the original, and shall send one copy to the
50 clerk of the circuit court, one to the clerk of the county
51 court, and one to the deputy commissioner. The clerk of
52 the circuit court and the clerk of the county court shall
53 each bind his copy in a permanent book to be labeled
54 "Report of State Commissioner of Forfeited and Delin-
55 quent Lands," and the clerk of the county court shall note
56 the fact of the certification of each item on his record of
57 delinquent lands. Such copies shall become permanent
58 records, and shall be preserved as such in the offices of
59 the auditor, the county clerk and the circuit clerk.

Sec. 10. *Publication of Notice to Redeem.*—Within ten

2 days after receipt of the auditor's certified list of forfeited
3 and delinquent lands, the deputy commissioner shall pre-
4 pare and insert twice in two newspapers of opposite
5 politics, published in the county, a notice in form or effect
6 as follows:

7 Notice is hereby given to all interested parties that the
8 following described tracts or lots of land, or undivided in-
9 terests therein, forfeited or sold to the state for nonpay-
10 ment of taxes and not redeemed, are in the hands of the
11 deputy commissioner of forfeited and delinquent lands, and
12 that suits will be instituted as soon as possible for the bene-
13 fit of the school fund, and furthermore, that any person
14 having the right to redeem any of the lands may do so be-
15 fore the sale by applying to the deputy commissioner whose
16 address shall be given. The form of such a descriptive
17 list shall be determined by the auditor and shall show the
18 certificate number, the name of the party, parties, firms
19 or corporations claiming title to such land at the time it
20 was forfeited or sold to the state, the number of lots or
21 acres, as the case may be; the town, city, district, road,
22 street or waters in or on which such real estate is located
23 and the aggregate of the tax, costs and interests necessary
24 to redeem at the time the list of forfeited or delinquent
25 lands is certified to the deputy commissioner of forfeited
26 and delinquent lands. The deputy commissioner shall also
27 post a copy of the notice and list at the front door of the
28 courthouse on the date of the first publication. There
29 shall be allowed and paid out of the operating fund of
30 the land department in the auditor's office the sum of
31 twenty-five cents per item for each insertion in each news-
32 paper.

Sec. 11. *Redemption After Certification and Before*
2 *Sale.*—In order to redeem after certification and before
3 sale, a 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
6 commissioner shall thereupon compute the amount re-
7 quired for redemption by adding to the amount stated
8 in the auditor's list as the total due on the date of certi-
9 fication, interest on such amount at the rate of twelve per

10 cent per annum from such date to the date of redemption,
11 and such of the following fees, charges and costs as may
12 be due: (1) Such fee for the certificate of redemption
13 as is provided by section nine, article three of this chap-
14 ter, for redemption from the auditor, together with an
15 additional fee of one dollar for the deputy commissioner
16 for execution of the certificate. (2) A charge of one
17 dollar for preparation and certification of the list. (3) A
18 fee of one dollar for compensation of the deputy com-
19 missioner, together with such compensation as he may
20 have earned for making an examination of the title, as
21 provided in section fifteen of this article. (4) A charge
22 of one dollar for costs of the proceedings in the circuit
23 court, if redemption is after institution of a suit for the
24 sale of the land. (5) Such costs as may have been in-
25 curred for service of summons by publication, as pro-
26 vided in section eighteen of this article, or for publi-
27 cation of the notice of sale as provided in section thirty
28 of this article.

29 The amount so found to be due shall be entered by
30 the deputy commissioner on a blank order, to be signed
31 by him, directing the sheriff to receive and give his
32 receipt for such amount. The order, thus filled in and
33 signed, shall be presented to the sheriff when payment
34 is made. The auditor shall prescribe the form of the
35 order, and shall furnish copies thereof to each deputy
36 commissioner.

37 Partial redemption, as provided for in sections eight
38 and thirteen, article three of this chapter, shall not be
39 allowed at any time after certification.

40 If redemption of any land is sought after institution
41 of a suit for its sale, and if the pleadings disclose that
42 there are two or more adverse parties claiming owner-
43 ship of such land, the deputy commissioner shall allow
44 redemption only upon order of the court.

Sec. 12. *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, article
7 three of this chapter. All certificates issued by the deputy
8 commissioner in each year shall be numbered consec-
9 utively. The original certificate shall be sent to the auditor
10 for filing in his office, one copy shall be delivered to the
11 person redeeming, and the other copy shall be delivered
12 by the deputy commissioner to the clerk of the county
13 court who in respect to this certificate shall do every-
14 thing required of him by section nine, article three of
15 this chapter, in respect to the auditor's certificate, and
16 shall also note the fact of redemption on his certified
17 list. If redemption is after institution of a suit for sale
18 of the land, the deputy commissioner shall report the
19 redemption to the clerk of the circuit court who shall
20 note the fact on his certified list.

Sec. 13. *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
4 interest. He shall lose his right to the lien, however,
5 unless within thirty days after payment he shall file
6 with the clerk of the county court his claim in writing
7 against the owner of such interest, together with a refer-
8 ence by number to the certificate of redemption delivered
9 by the deputy commissioner to the clerk, as provided
10 in the preceding section. The clerk shall docket the
11 claim on the judgment lien docket in his office and proper-
12 ly index the same. Such lien may be enforced as other
13 judgment liens are enforced.

Sec. 14. *Revaluation and Reclassification.*—One re-
2 deem from the deputy commissioner may request such
3 a revaluation or reclassification as is provided for in sec-
4 tion eleven, article three of this chapter. Any new
5 valuation or reclassification shall, however, be certi-
6 fied by the county court to the deputy commissioner
7 and shall be used by him in computing the taxes due.

Sec. 15. *Preparation of List of Persons Entitled to*
2 *Notice of Suit.*—Upon receipt of the certified list, the
3 deputy commissioners shall as speedily as possible pro-
4 ceed to make an examination of the title of each

5 tract or lot, in order to determine the persons entitled to
6 notice of the institution of suit for the sale of the land
7 and to acquire the information necessary for prepara-
8 tion of the bill as provided in section nineteen of this
9 article. If, however, the deputy commissioner knows or
10 later learns, from his examination of the title, or other-
11 wise, that any tract or lot is owned by a member of the
12 armed services who would be entitled to redeem the land
13 under the provisions of section fifty-two of this article, he
14 shall not proceed any further with the examination of the
15 title and shall not institute a suit for sale of the land. If
16 the fact of such ownership is not discovered until after
17 suit has been instituted, the deputy commissioner shall, as
18 soon as he learns the fact, request the court to enter an
19 order staying the proceedings as to such land until after
20 the expiration of the redemption period provided for in
21 that section.

22 He shall, in respect to each tract or lot, prepare a list
23 of the following persons entitled to notice of the insti-
24 tution of the suit: (1) The person in whose name the
25 real estate was forfeited or was returned delinquent and
26 sold, or, in case of his death, his heirs or devisees and his
27 personal representative, if such there be; (2) every sub-
28 sequent grantee of the land, or his heirs or devisees and
29 his personal representative, if such there be, if the con-
30 veyance under which he claims is recorded or filed for
31 record in the office of the clerk of the county court; (3)
32 every person having a lien upon such real estate dis-
33 closed by any paper recorded in the county clerk's of-
34 fice; and (4) every other person having such an interest
35 in the property as would entitle him to redeem, if the
36 existence of such interest appears of record.

37 He shall, as to each tract or lot, also obtain the in-
38 formation appearing on the record concerning the source
39 of title of the person in whose name the land was for-
40 feited or was returned delinquent and sold, and if it con-
41 tains a description of the land, by reference or otherwise,
42 he shall make a note of the date of the deed or other writ-
43 ing in which the description or reference appears, and of
44 the volume and page of the record on which it is found.

45 For his services in making the examination of the title

46 of each tract or lot, the deputy commissioner shall be en-
47 titled to a fee of ten dollars, plus such additional com-
48 pensation as the auditor may recommend and the court or
49 judge approve, to be paid as hereinafter provided.

Sec. 16. *Suit for Sale of Lands.*—As soon as possible
2 after receipt of the certified list, the deputy commissioner
3 shall, except as otherwise provided in the preceding sec-
4 tion, institute in the circuit court of his county a suit or
5 suits in chancery, in the name of the State of West Vir-
6 ginia, for the sale for benefit of the school fund of all the
7 lands included in the list, except such as may have been
8 redeemed after certification. Except as hereinafter pro-
9 vided, not more than twenty-five items as certified by the
10 auditor shall be included in one suit, and whenever the
11 deputy commissioner deems it advisable, a suit may be
12 instituted in respect to any number less than twenty-five.
13 In the case of forfeited or delinquent undivided interests
14 in a single tract or lot, one suit may be brought for the
15 sale of all such interests regardless of the number in-
16 volved. In a suit for the sale of any escheated lands or of
17 any waste and unappropriated lands, no lands of any
18 other sort shall be included.

Sec. 17. *Parties Defendant; Right to Intervene.*—In any
2 suit for the sale of lands for the benefit of the school fund,
3 the deputy commissioner shall name as parties defendant
4 all persons mentioned in section fifteen of this article as
5 ones entitled to notice of the institution of suit. He shall
6 also make defendants all other persons, including the un-
7 known heirs of any deceased former owner, who, ac-
8 cording to his knowledge however acquired, have or
9 claim an interest in any of the land included in the suit.
10 Failure to make any such person a defendant, however,
11 shall in no wise affect the validity of the proceeding in
12 respect to any person who was made a defendant.

13 In the case of escheated or waste and unappropriated
14 lands, the deputy commissioner shall also make parties
15 defendant, in addition to those referred to in the preced-
16 ing paragraph, all unknown claimants of any interest in
17 such lands.

18 In the case of any land which the deputy commissioner

19 has found should not be sold, it shall be necessary for him
20 to name as a party defendant only the former owner, in
21 whose name the real estate was forfeited or was returned
22 delinquent and sold, or, if the land has since been trans-
23 ferred, only the present owner or owners.

24 Any person claiming an interest in any land included
25 in a suit instituted under the provisions of the preceding
26 section may intervene, at any stage of the proceeding, by
27 filing his petition in the suit stating what interest he
28 claims, and thereupon he shall become a party defendant
29 with the same rights as if he had originally been named a
30 defendant.

Sec. 18. *Summons; Service.*—In all suits for the sale of
2 lands as provided in this article, the clerk of the circuit
3 court shall append to the summons a memorandum con-
4 taining a list of the lands included in the suit, setting forth
5 as to each tract or lot its location, and local description, and
6 the names of such defendants as may be interested therein.

7 The summons in such suits shall be in form and effect
8 as follows.

9 SUMMONS IN CHANCERY

10 STATE OF WEST VIRGINIA:

11 To the Sheriff of _____ County, Greeting:

12 You are hereby commanded to notify _____

13 _____

14 (Here list all defendants in the suit.)

15 _____

16 _____

17 that the State of West Virginia has instituted a suit for the
18 sale, for benefit of the school fund, of the lands listed in the
19 appended memorandum, and you are further commanded
20 to summon each of the persons named above, if he be found
21 in your bailiwick, to appear before the judge of the circuit
22 court for _____ County, at rules to be held in the clerk's
23 office of such court on the first Monday in _____ next, to
24 answer the bill in chancery of the state of West Virginia,
25 exhibited therein against him, and show cause, if any there
26 be, why a decree should not be entered for the sale of the
27 land or lands in respect to which, in the appended memo-
28 randum, he is named as an interested party, and have then
29 and there this writ.

30 WITNESS: _____, Clerk of the circuit court for
 31 _____ County, at the courthouse thereof, on this the _____
 32 day of _____, 19____, and in the _____ year of the state.

33 _____, Clerk

34 By _____, Deputy.

35 MEMORANDUM

36 Lands Included in Suit	Parties Interested in
37 Location and Local Description	Each Tract or Lot
38 1. _____	_____
39 2. _____	_____

40 _____
 (etc.)

41 The summons and memorandum shall be personally
 42 served on those defendants who are found or reside in the
 43 state, and shall be served on all other defendants, by pub-
 44 lication once a week for three successive weeks, as in
 45 other suits in chancery. In such published summons,
 46 however, only those defendants not served personally
 47 shall be named, and in the published memorandum shall
 48 be listed only those tracts or lots in which such defendants
 49 are interested. The published summons shall, however,
 50 refer to the style of the case, as, State of West Virginia v.
 51 A. B., *et al.*

52 The cost of such publication shall not, for each in-
 53 sertion, exceed the total of the following amounts: (1)
 54 Five cents for each defendant served by publication; (2),
 55 twenty-five cents for each tract or lot listed in the pub-
 56 lished memorandum; and (3) five cents for each defend-
 57 ant named as a party interested in the listed tracts or lots.
 58 Such publication charges in respect to each tract or lot
 59 shall be taxed to the state as part of its costs in the suit
 60 and shall be paid as hereinafter provided.

Sec. 19. *Averments and Prayer of Bill.*—In all suits for
 2 the sale of lands as provided in this article, the bill shall,
 3 except as hereinafter provided, contain an averment that
 4 each tract or lot included in the suit is, as certified to the
 5 court by the auditor, subject to sale for the benefit of the
 6 school fund. The bill shall also contain a list of the lands
 7 included in the suit, setting forth as to each piece of land
 8 the total amount due including all fees or compensation
 9 earned by the deputy commissioner, and indicating

10 whether the land is forfeited, delinquent, escheated or
11 waste and unappropriated, its certification number, loca-
12 tion and general description, the name of the former
13 owner, if any, and in the case of forfeited or delinquent
14 land, the year of forfeiture or sale to the state. Whenever
15 possible the bill shall as to each item, by reference to
16 the former owner's source of title, state that the particular
17 tract or lot is the same land described, by reference or
18 otherwise, in the deed or other writing dated _____,
19 and recorded on page _____, volume _____, of the records
20 in the county clerk's office.

21 If the deputy commissioner has found that any land
22 included in the suit is not subject to sale, the bill shall
23 state the fact and the reasons for the deputy commis-
24 sioner's conclusion. In such case, the prayer of the bill
25 shall be that the court enter an order dismissing the suit
26 in respect to such land. In respect to all other tracts or
27 lots mentioned in the bill, the prayer shall be that the
28 court enter a decree ordering the sale of each such tract
29 or lot.

Sec. 20. *Procedure; Extent to Which Defendant Is*
2 *Bound by Order or Decree.*—Except as otherwise speci-
3 fically provided, all suits instituted under the provisions
4 of this article shall in all respects be commenced, pro-
5 ceeded in, heard and determined in like manner as other
6 suits in chancery.

7 A defendant in a suit brought under the provisions of
8 this article shall be bound by the orders or decrees en-
9 tered therein only in so far as they concern the particular
10 land in respect to which he was named in the bill as an
11 interested party.

Sec. 21. *Certified List Made Exhibit and Part of Bill.*—
2 The list of lands certified to the circuit court by the
3 auditor shall be considered to be an exhibit, and a part
4 of the bill, in every suit for the sale of any lands included
5 therein. Such list shall be prima facie evidence of every-
6 thing required by section nine of this article to be stated
7 concerning each item, including the propriety of the
8 description of any land as forfeited, delinquent, escheated
9 or waste and unappropriated.

Sec. 22. *Separate Order Book to Be Kept by Clerk;*

2 Costs.—All orders or decrees made by the court in respect
3 to proceedings for the sale of lands under this article
4 shall be entered by the clerk of the court in a separate
5 chancery order books, to be labeled "Chancery Order Book
6 for Sales of Lands for School Fund." Every order shall
7 specify the certification number of each item to which
8 the order is applicable. The clerk of the court shall index
9 the order book by certification number and name of
10 former owner of each tract.

11 The court costs shall be one dollar for each tract or lot
12 included in the suit, which amount shall be taxed to the
13 state as part of its costs and shall be paid as hereinafter
14 provided. Unless otherwise expressly provided by this
15 article, no additional court costs shall be taxed.

Sec. 23. *Decree by Default.*—Under any of the circum-

2 stances mentioned in section forty-nine, article four,
3 chapter fifty-six of this code, a decree by default may be
4 entered, in a suit for the sale of land under the provisions
5 of this article, against any defendant who was properly
6 served with process, either personally or by publication.

Sec. 24. *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 amount
4 charged against it on the certified list, may, unless the
5 decree for sale has become final as to him, apply to the
6 circuit court at any time before the sale for an order
7 reducing such amount. The deputy commissioner may
8 also apply for such an order whenever, because of a re-
9 valuation under section fourteen of this article, or for any
10 other reason, he is satisfied that the amount should be
11 reduced.

Sec. 25. *Application for Dismissal of Suit.*—Any person

2 substantially interested may, unless the decree for sale
3 has become final as to him, apply to the circuit court at
4 any time before the sale for an order dismissing the suit
5 for the sale of any land as to which he makes one or more
6 of the following claims: (1) That all taxes due thereon
7 were paid before sale to the state; (2) that the land was

8 redeemed after sale to the state; (3) that the land has
9 not escheated; (4) that the land has not been forfeited
10 for nonentry; (5) that the land was sold to him at a former
11 circuit court sale for the benefit of the school fund and
12 has not thereafter been sold to the state for nonpayment
13 of taxes nor forfeited for nonentry; (6) that he has ac-
14 quired title to the land by transfer under the provisions
15 of section three, article thirteen of the constitution. The
16 application shall state briefly the facts on which the claim
17 is based. The deputy commissioner may also apply for
18 such an order whenever on any of these grounds he is
19 satisfied that the land should not be sold.

Sec. 26. *Procedure upon Application for Reduction or*
2 *Dismissal; Order of Reference.*—Whenever application
3 under either of the two preceding sections is made by the
4 deputy commissioner, he shall state briefly the reasons
5 for his application, and the court, if satisfied therewith,
6 shall enter the order applied for, together with such other
7 orders mentioned in section twenty-eight of this article
8 as may in the opinion of the court be appropriate. No costs
9 shall be taxed in connection with applications by the
10 deputy commissioner.

11 Whenever such an application is made by a person
12 substantially interested, the court shall make a decree of
13 reference as to the land involved, directing a commis-
14 sioner in chancery to ascertain the facts and report to the
15 court concerning the matter in dispute, unless the court,
16 by reason of the fact that the right claimed by the appli-
17 cant is clearly established, or for any other reason, is of
18 the opinion that a decree of reference need not be
19 made as to such land. The costs in connection with an
20 application by an interested party and those in connection
21 with the reference to a commissioner in chancery, if a
22 reference was made, shall be taxed to the applicant.

Sec. 27. *Execution of Reference; Report.*—Before pro-
2 ceeding to discharge his duties under the decree of refer-
3 ence, the commissioner in chancery shall give at least
4 ten days' notice in writing to all interested parties of
5 record, who have appeared in the suit and who are named
6 as defendants in respect to any of the lands included in

7 the reference, of the time and place at which he will so
8 proceed. Like notice shall be given to the deputy com-
9 missioner who shall attend as representative of the state.
10 As soon after the hearing as may be practicable, the
11 commissioner in chancery shall prepare and file his report
12 with the court, and may do so as to one or more of the
13 tracts or lots mentioned in the decree of reference, with-
14 out waiting to complete his report as to all of them.

Sec. 28. Orders When Applicant's Claim Upheld.—

2 Whenever, on the basis of the report of the commissioner
3 in chancery, or otherwise, the court shall find that the
4 applicant has established the claim made by him, it shall,
5 in the case of an application under section twenty-four
6 of this article, determine the amount properly due, and
7 enter an order that upon payment of this amount the
8 applicant shall be entitled to a certificate of redemption;
9 and in the case of an application under section twenty-
10 five of this article, the court shall enter an order dis-
11 missing the suit as to the land or interest claimed.

*Sec. 29. Decree of Sale.—*Whenever, in respect to any

2 tract or lot included in a suit for the sale of lands for
3 the school fund, the court, either because none of the
4 defendants interested in the tract or lot has appeared in
5 the suit or because such of them as did appear failed to
6 overcome the burden of proof resting on the state to
7 prove by a preponderance of the evidence that the land
8 is subject to sale, shall find as alleged in the bill that the
9 tract or lot is subject to sale for the benefit of the school
10 fund, it may enter a decree ordering that such tract or lot
11 be sold by the deputy commissioner at public auction to
12 the highest bidder. In every such decree the court shall fix
13 the time and place of the sale.

14 The court may order the sale of any one or more of the
15 tracts or lots mentioned in the bill, without waiting for
16 the termination of the suit as to other lands included
17 therein. It may also order that lands included in several
18 suits be sold at the same sale.

*Sec. 30. Notice of Sale.—*In order to encourage attend-

2 ance and bidding at the sale, the deputy commissioner
3 shall, beginning at least fifteen days before the day on

4 which the court has ordered that any lands be sold, pub-
5 lish once a week for two successive weeks a list of all
6 such lands in two newspapers of opposite politics, if
7 such there be in the county. At the head of the list there
8 shall be a notice of the sale in form or effect as follows:

9 Notice is hereby given that, pursuant to the order of
10 the Circuit Court of _____ County, the following
11 described tracts or lots of land, or undivided interests
12 therein, will unless sooner redeemed be sold for cash to
13 the highest bidder at public auction at (*insert place of*
14 *sale fixed by court*), beginning at ten o'clock in the morn-
15 ing on the _____ day of _____, 19_____.

16 The list shall set forth as to each tract or lot its quan-
17 tity, local description and, except in the case of waste and
18 unappropriated lands, the name of the former owner,
19 and shall also specify the total amount of taxes, interest,
20 charges and costs due.

21 The cost of such publication, not to exceed twenty-five
22 cents per item for each insertion in each newspaper, shall
23 be taxed to the state as part of its costs in the suit and
24 shall be paid as hereinafter provided.

Sec. 31. *Sale by Deputy Commissioner; Receipt for*
2 *Purchase Price; Report to Circuit Court.*—On the day fixed
3 by order of the court the deputy commissioner shall sell,
4 in the manner specified in the notice of sale, each un-
5 redeemed item included in the published list of lands to
6 be sold. If the sale is not completed on that day, it shall
7 be continued from day to day until all the land has been
8 offered for sale. If in respect to any land no bid is made,
9 the deputy commissioner shall report that fact to the court,
10 and the court may order that such land be sold at a
11 subsequent sale.

12 For the purpose of receiving the proceeds of the sale,
13 it shall be the duty of the sheriff or one of his deputies to
14 attend all such sales conducted by the deputy commis-
15 sioner in his county. The sheriff or deputy shall issue to
16 the purchaser of each tract or lot a receipt for the pur-
17 chase money. The auditor may prescribe the form of
18 the receipt.

19 The deputy commissioner shall prepare a report for the

20 circuit court which shall show what was done with respect
21 to all lands ordered to be sold. The report shall state as
22 to each item whether it was redeemed before sale or was
23 sold, and if sold, the name of the purchaser and the
24 amount of his bid. The report shall, within ten days after
25 the sale, be filed with the clerk of the circuit court, who
26 shall note on his certified list the information given with
27 respect to each tract.

Sec. 32. *Return of Purchase Money.*—Whenever, after
2 sale and before confirmation thereof, it is discovered that
3 the land sold was nonexistent or that it had been the
4 subject of a duplicate or improper assessment or was
5 transferred to others under the provisions of article thir-
6 teen of the constitution of the State of West Virginia, the
7 purchaser shall be entitled to a return of the purchase
8 money. Upon request of a purchaser so entitled, it shall
9 be the duty of the deputy commissioner to apply to the
10 circuit court for an order directing the sheriff to return
11 the purchase money. If satisfied that the application is
12 proper, the court shall enter the order applied for, but
13 no costs shall be taxed in connection with such an appli-
14 cation. Upon entry of such an order, the clerk of the
15 court shall notify the assessor, who shall make the neces-
16 sary corrections in the land books in his office.

Sec. 33. *Co-owner Free to Purchase at Sale.*—Any co-
2 owner, except a coparcener, in the absence of satisfactory
3 proof of a fiduciary relationship, shall be entitled to pur-
4 chase at the sale for his own account the interest of any,
5 or all, of his co-owners in any real estate, without being
6 required to hold such interest or interests under a con-
7 structive trust. There shall be a prima facie presumption
8 against the existence of any such constructive trust.

Sec. 34. *Purchase by Former Owner or by Deputy*
2 *Commissioner and Other Officers Prohibited.*—It shall be
3 illegal for a former owner, in whose name any real estate
4 was forfeited or was sold to the state, his heirs or assigns,
5 to purchase such real estate at the sale, or to be indirectly
6 interested in its purchase. No deputy commissioner,
7 sheriff, clerk of the county or circuit court, assessor, nor

8 deputy of either shall directly or indirectly become the
9 purchaser, or be interested in the purchase of any real
10 estate at the sale. Any such person or officer so purchas-
11 ing shall for each offense forfeit one hundred dollars, to
12 be collected as other forfeitures are collected. The sale
13 of any real estate to one of the persons or officers named
14 in this section shall be voidable, at the instance of any
15 person having the right to redeem, until such real estate
16 reaches the hands of a bona fide purchaser.

Sec. 35. *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
4 on such land, the sheriff shall pay such surplus to the
5 general receiver of the circuit court. The former owner
6 of such land, his heirs or assigns, shall be entitled to the
7 surplus upon application to the circuit court, if appli-
8 cation is made within two years after the sale. If no
9 application is made within two years the general receiver
10 shall pay such surplus into the operating fund for the
11 land department in the auditor's office.

Sec. 36. *Right of Creditor of Former Owner of Es-*

2 *cheated Land.*—Upon application to the court within a
3 year after the sale, any surplus proceeds arising from
4 the sale of escheated land, after all publication and other
5 charges or costs in respect thereto have been paid, may
6 be applied to the satisfaction of the claims of creditors of
7 the decedent who had a lien on the land at the time of his
8 death, or who, being general creditors, have properly
9 proved their claims against his estate and have been
10 unable to obtain payment out of the personalty. In the
11 disposition of any such surplus, due preference shall be
12 given to lien creditors over general creditors.

Sec. 37. *Redemption After Sale and Before Confirmation.*—

2 After the sale of any forfeited or delinquent land,
3 any person having a right of redemption under the pro-
4 visions of section eight, article three of this chapter, may
5 redeem such land at any time before confirmation of the
6 sale by complying with the provisions of this section.
7 He must first pay to the purchaser, his heirs or assigns,

8 the amount of purchase money, with interest at the rate
9 of twelve per cent per annum from the date of sale. The
10 person redeeming shall be given an itemized receipt for
11 the payment. If the purchaser, his heirs or assigns, shall
12 refuse or fail to sign and give such a receipt when law-
13 fully required to do so, he or they shall pay to the person
14 redeeming twice the amount of such payment, which may
15 be recovered by action on the case in any court of compe-
16 tent jurisdiction.

17 After obtaining the itemized receipt, the person re-
18 deemng shall present it to the deputy commissioner who
19 shall then calculate the additional amount required for
20 redemption. If the land was sold for as much or more
21 than the total amount of taxes, interest, charges and costs
22 due thereon, the additional amount required for re-
23 demption shall be only the fee for the certificate of
24 redemption, together with the fee of one dollar for exe-
25 cution of the certificate. If the land was sold for less than
26 the amount due, the additional amount required for
27 redemption shall be the difference between the purchase
28 price at the sale and the amount then due, with interest
29 at the rate of twelve per cent per annum from the date
30 of sale, plus the fees mentioned above.

31 After the deputy commissioner has determined the
32 amount required for redemption he shall prepare such
33 an order as is provided for in section eleven of this article,
34 directing the sheriff to receive and give his receipt for the
35 payment. Upon presentation to him of the sheriff's re-
36 ceipt for the amount due, the deputy commissioner shall
37 issue a certificate of redemption as required by section
38 twelve of this article, and shall comply with all other
39 provisions of that section in respect to such certificate.

Sec. 38. *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 or
6 in part to some other person, shall have a lien on the in-
7 terest of such other person for the amount paid to redeem
8 such interest. He shall lose his right to the lien, how-

9 ever, unless within thirty days after payment he shall file
10 with the clerk of the county court his claim in writing
11 against the owner of such interest, together with the re-
12 ceipt provided for in the following section, or with a
13 reference by number to the certificate of redemption.
14 The clerk shall docket the claim on the judgment lien
15 docket in his office and properly index the same. Such
16 lien may be enforced as other judgment liens are enforced.

Sec. 39. *Payment of Redemption Money to Clerk of*
2 *Circuit Court.*—Whenever the deputy commissioner or
3 the purchaser, his heirs or assigns, shall refuse to allow
4 redemption, or cannot be found, payment of the amount
5 required for redemption may be made to the clerk of the
6 circuit court at any time before confirmation of the sale.
7 The clerk shall issue duplicate receipts, note the fact of
8 redemption on his certified list, and report the redemption
9 to the deputy commissioner. One of the receipts shall be
10 given to the person redeeming and the other shall be sent
11 by the clerk to the clerk of the county court, who, after
12 noting the fact of redemption on his record of delinquent
13 lands, shall file and preserve the receipt in his office.

Sec. 40. *Contest of Redemption by Payment to Clerk.*—If
2 the deputy commissioner or the purchaser, his heirs or
3 assigns, dispute the right to redeem of the person making
4 payment to the clerk as provided in the preceding section,
5 he or they may, within one year after payment to the
6 clerk, give to such person, or to his heirs, or personal rep-
7 resentative, 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 redeem.
11 Such notice shall be served at least ten days before the
12 day on which it is returnable, and if the party served
13 fails to appear, or if he appears and fails to prove the
14 right to redeem, the court shall enter an order canceling
15 the redemption. The court shall also order the clerk of
16 the court to return the redemption money to the person
17 who made the payment, or to his personal representative.
18 If, however, the decision of the court be that such person
19 had the right to redeem, the clerk shall be ordered to pay

20 the money to the purchaser, his heirs or assigns, or to the
21 sheriff, as the case may be, and shall order the deputy
22 commissioner to execute a certificate of redemption as re-
23 quired by section thirty-seven of this article.

Sec. 41. *Contest When Claim Is Made That Payment Was Insufficient.*—If the deputy commissioner or the purchaser, his heirs or assigns, admit the right to redeem but claim that the sum paid the clerk was insufficient, he or they may, upon such notice as is required by the preceding section, have the sufficiency of the payment determined by the court. If the person served fails to appear, or if the decision is that the sum paid was insufficient, the court shall, unless such additional amount as may be found to be due is paid within thirty days, enter an order canceling the redemption, and shall also enter such further appropriate orders as are authorized to be entered under the preceding section. If the sum is found to have been sufficient, the court shall make such orders as are appropriate when the right to redeem is sustained under the preceding section.

Sec. 42. *Proceeding to Set Aside Sale.*—Any person entitled under the provisions of section twenty-five of this article to apply for an order dismissing the suit for the sale of any land, but who did not learn of the suit in time to protect himself by making such application, may, at any time after the sale and before confirmation thereof, institute a proceeding under this section to set aside the sale. Notice in writing of the institution of such proceeding shall be given to the purchaser, his heirs or assigns. The notice shall state the facts which are the basis of the claimed right to have the sale set aside, shall require the person served to appear before the circuit court, on a day to be named in the notice, and protect whatever rights were acquired at the sale, and shall be served at least ten days before the day on which it is returnable. If the decision be in favor of the claimant, the court shall enter an order setting aside the sale, and directing the sheriff to return the purchase money to the purchaser, his heirs or assigns. Until a decision has been made, the sale may not be confirmed.

Sec. 43. *Confirmation of Sale; Right to Redeem Terminated.*—As soon as possible after the report of the sale has been filed with the clerk of the circuit court as provided in section thirty-one of this article, the deputy commissioner shall apply to the court for an order confirming the sale of each tract or lot sold. If satisfied that the purchase price was as high as might reasonably be expected, the court shall enter an order confirming the sale and directing the deputy commissioner to execute and deliver to the purchaser, or to his heirs or assigns, a deed as provided in the following section. If, however, the court shall be of the opinion that the purchase price was too low, it shall refuse to confirm the sale and shall enter an order directing the deputy commissioner to sell the land again at his next sale and directing the sheriff to return the purchase money to the purchaser, his heirs or assigns. If in any case the court shall be in doubt as to the sufficiency of the purchase price, it may direct the deputy commissioner to confer with the county court, as the board of review and equalization, or with the assessor, or both, concerning the present true and actual value of the land, and to report their estimate of such value to the court.

Upon confirmation of the sale all right of redemption in respect to the land shall be terminated, except such as is expressly saved by the provisions of section fifty-one of this article for persons under disability, or by the provisions of section fifty-two of this article for persons in the armed services.

Sec. 44. *Deed to Purchaser; Record.*—Whenever ordered to do so as provided in the preceding section, the deputy commissioner shall make and deliver to the person entitled thereto a deed in form or effect as follows:

This deed made this _____ day of _____, 19____, by and between _____, deputy commissioner of forfeited and delinquent lands for _____ County, West Virginia, acting for and on behalf of the State of West Virginia, grantor, and _____, purchaser, (or _____, heir, devisee or assignee of _____, purchaser,) grantee, witnesseth that

13 Whereas, In pursuance of the statutes in such case made
14 and provided, the above named deputy commissioner did,
15 by order of the Circuit Court of _____ County,
16 in 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 _____,
19 (here insert name of purchaser) for the sum of \$_____,
20 that being the amount of purchase money paid, did be-
21 come the purchaser of such real estate (or of an un-
22 divided _____ interest in such real estate) which was
23 sold to the state for nonpayment of taxes in the name
24 of _____; (or which was forfeited to
25 the state for nonentry in the name of _____;
26 or which 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 real estate so purchased has not been re-
30 deemed in the manner prescribed by law, and the time
31 for redemption has expired; and

32 Whereas, By an order entered on the _____ day of
33 _____, 19____, in the case of State of West
34 Virginia v. (A. B., *et al.*), the Circuit Court of _____
35 County has confirmed the sale and has ordered that this
36 deed be executed;

37 Now, therefore, the grantor, for and in consideration of
38 the premises and in pursuance of the statute, doth grant
39 and convey unto _____, grantee, his
40 heirs and assigns forever, the real estate so purchased,
41 situate in the county of _____, bounded
42 and described as follows: _____
43 _____

44 Witness the following signature:

45 _____
46 Deputy Commissioner of Forfeited and
47 Delinquent Lands for _____ County

48 After execution and acknowledgment of the deed, the
49 deputy commissioner shall ascertain from the clerk of the
50 county court the total amount of the transfer fee, the fee
51 for recording the deed, and if the grantee was an assignee
52 of the purchaser, the fee for recording the assignment, and

53 shall notify the grantee to pay such amount to the clerk
54 of the county court. Upon such payment and upon pay-
55 ment by the grantee to the deputy commissioner of a fee
56 of five dollars as his compensation for preparing and
57 executing the deed, the deputy commissioner shall have
58 the deed and the assignment, if any, recorded by the
59 clerk of the county court before delivery of the deed
60 to the grantee. The purchaser shall have the right to
61 examine the deed before it is recorded.

62 The clerk of the county court shall index the deed in
63 the grantor's index under the name of the former owner
64 mentioned in the deed as well as under the name "State
65 of West Virginia."

Sec. 45. *Title Acquired.*—Whenever, under the pro-
2 visions of this article, a purchaser, his heirs or assigns,
3 shall have obtained a deed for any real estate from the
4 deputy commissioner, he or they shall thereby acquire
5 all such right, title and interest, in and to the real estate,
6 as was, at the time of the execution and delivery of the
7 deed, vested in or held by the state or by any person who
8 was entitled to redeem, unless such person is one who,
9 being required by law to have his interest separately as-
10 sessed and taxed, has done so and has paid all the taxes
11 due thereon, or unless the rights of such person are ex-
12 pressly saved by the provisions of sections thirty-four,
13 forty-seven, forty-eight, forty-nine, fifty-one or fifty-two
14 of this article. The deed shall be conclusive evidence of
15 the acquisition of such title. The title so acquired shall
16 relate back to the date of the sale.

Sec. 46. *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 thirty-four, forty-seven, forty-
7 eight or forty-nine of this article, expressly made ground
8 for instituting a suit to set aside the sale or the deed. This
9 and the preceding section are enacted in furtherance of
10 the purpose and policy set forth in section one, article
11 three of this chapter.

Sec. 47. *Right to Set Aside Sale or Deed When Land Was Not Subject to Sale.*—Any person entitled under provisions of section twenty-five of this article to apply for an order dismissing the suit for the sale of any land, and not named in section fifteen of this article as one entitled to notice of the institution of the suit, who did not have actual knowledge of the proposed sale in time to protect himself under the provisions of section twenty-five or of section forty-two of this article, may, on or before the expiration of one year after confirmation of the sale, institute a suit in equity to set aside the sale or the deed. 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 before certification, the sale or the deed shall be set aside only in so far as it affects his interest.

Sec. 48. *Right to Set Aside Deed Improperly Obtained.*—Whenever the deputy commissioner has delivered a deed to a purchaser who was not entitled thereto because the property conveyed had been redeemed, the former owner of such property, his heirs or assigns, or the person who redeemed the property may, on or before the expiration of one year after confirmation of the sale, institute a suit in equity to set aside the deed.

Sec. 49. *Right to Set Aside Sale or Deed When One Entitled to Notice Not Notified.*—If any person entitled to be notified under the provisions of section fifteen of this article is not given notice of the institution of the suit and does not have actual knowledge thereof in time to protect his interests by redeeming the property or by instituting proceedings under section forty-two of this article to set aside the sale, he, his heirs or assigns, may, on or before the expiration of one year after confirmation of the sale, institute a suit in equity to set aside the sale or the deed. No sale or deed shall be set aside under the provisions of this section until payment has been made or tendered to the purchaser, his heirs or assigns, and to the deputy commissioner if necessary, of the amount which would have been required for redemption, together with any taxes which have been paid or are

17 chargeable on the property since the sale, with interest
18 at the rate of twelve per cent per annum.

Sec. 50. *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 interest
8 held or claimed by the state prior to the sale to the extent
9 that title is proved to be in the person named as owner,
10 is vested in such person, or that all the right, title and
11 interest of the former owner, his heirs or assigns, is re-
12 vested in him or them.

Sec. 51. *Redemption by Persons Under Disability.*—In
2 addition to and notwithstanding any other provision 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 redeem
6 such land from the purchaser, his heirs or assigns, at any
7 time before the expiration of one year after removal of
8 the disability, but in no event more than twenty years
9 after the sale was confirmed, by paying such an amount
10 as is required for redemption under the provisions of
11 section thirty-five, article three of this chapter.

12 As an alternative to the right of redemption provided
13 by this section, such infant or insane person may elect
14 to redeem forfeited land as provided in section six, article
15 thirteen of the constitution.

Sec. 52. *Redemption by Members of Armed Services.*
2 —In addition to and notwithstanding any other provision
3 of this article, any member of any branch of the armed
4 services of the United States, who was the person in whose
5 name any land was forfeited, or was sold to the state for
6 nonpayment of taxes, or who is the heir or devisee of
7 such person, may redeem the land at any time before
8 the expiration of one year after his or her discharge from
9 the armed services, but in no event more than one year
10 after the termination of the present war or after his or her

11 final return to the territorial limits of the United States,
12 which ever is later. In order to redeem, such person must
13 pay to the purchaser, if any, the amount of the purchase
14 money or the taxes due, which ever is smaller, with
15 interest at the rate of six per cent per annum to the date
16 of redemption, and to the sheriff such additional amount,
17 if any, to be calculated by the deputy commissioner, as
18 would have been necessary to discharge the taxes, inter-
19 est and charges, if any, due on the land on the day he or
20 she became a member of the armed forces, with interest
21 at the rate of six per cent per annum to the date of re-
22 demption, together with any other taxes that have since
23 become due or chargeable thereon, with interest at the
24 rate of six per cent per annum to the date of redemption.
25 If redemption is sought by any such person before
26 certification of the land, he shall pay to the auditor only
27 such an amount as is required by this section, rather than
28 the amount required by section eight, article three of
29 this chapter.

Sec. 53. *Annual Report of Deputy Commissioner to*
2 *Auditor.*—In December of each year the deputy com-
3 missioner shall prepare a report, on forms to be furnished
4 by the auditor, showing the present status of, and all
5 steps which have been taken in the proceeding in respect
6 to, each item certified to the circuit court of his county
7 before the first day of the preceding July, unless the
8 final disposition of such item is shown in a former annual
9 report. Such report shall be prepared in quintuplet. On
10 or before the last day of December the original shall be
11 sent to the auditor, one copy to the clerk of the county
12 court, and one copy to the clerk of the circuit court, each
13 of whom shall make the necessary notations on his certi-
14 fied list. The fourth copy shall be sent to the assessor,
15 who shall make the necessary changes in his land books.
16 For failure to make the report required by this section,
17 the deputy commissioner shall forfeit one hundred dollars.

Sec. 54. *Sheriff to Keep Proceeds in Separate Accounts;*
2 *Disposition.*—The sheriff shall keep in a separate fund the
3 proceeds of all redemptions and sales paid to him under
4 the provisions of this article. He shall keep separate

5 accounts of the proceeds of redemptions before institu-
6 tion of suit and the proceeds of sales and redemptions
7 after institution of suit.

8 The proceeds of redemptions before institution of suit
9 shall in respect to each tract or lot be credited as follows,
10 for payment as hereinafter provided: (1) To the deputy
11 commissioner, such part as represents fees and other
12 compensation due him; (2) to the auditor, such part as
13 represents state taxes with interest, the redemption fee,
14 and all charges which were paid by or which are payable
15 to the auditor; (3) to the fund kept by the sheriff for each
16 local taxing unit, such part as represents taxes, interest
17 and charges payable to such unit.

18 In respect to the proceeds of sales and redemptions
19 after institution of suit, the sheriff shall keep a separate
20 account as to all tracts or lots included in each suit. Out
21 of the total proceeds of sales and redemptions of the lands
22 included in a particular suit, the sheriff shall first ear-
23 mark an amount sufficient to pay all court costs taxed to
24 the state and all charges or fees due in respect to any tract
25 or lot included in the suit. If the total is insufficient for
26 this purpose, the sheriff shall on a pro rata basis divide
27 the proceeds among the various charges and costs. The
28 amount so set aside for charges and costs shall be credited
29 as follows, for payment as hereinafter provided: (1) To
30 the clerk of the circuit court, such part as represents court
31 costs; (2) to the deputy commissioner, such part as
32 represents fees or compensation due him; (3) to the
33 auditor, such part as represents redemption fees, and
34 all charges which were paid by or which are payable to
35 him; (4) to the general county fund, such part as repre-
36 sents charges paid out of such fund or payable to it.

37 The balance, if any, of the proceeds of the lands in-
38 cluded in the suit shall be prorated among the various
39 taxing units on the basis of the total amount of taxes
40 due them in respect to the lands that were sold or re-
41 deemed, and shall be credited as follows, for payment as
42 hereinafter provided: (1) To the auditor, such part as
43 represents state taxes and interest, and the surplus pro-
44 ceeds of the sale of any escheated or waste and unappro-
45 priated lands; (2) to the fund kept by the sheriff for

46 each local taxing unit, such part as represents taxes,
47 interest and charges payable to such unit.

48 The amounts so credited by the sheriff to the deputy
49 commissioner shall be paid to him quarterly; those
50 credited to the clerk of the circuit court shall be paid to
51 him quarterly; those credited to the auditor shall be
52 paid to him semi-annually; and those credited to the
53 various local taxing units shall be transferred semi-
54 annually by the sheriff to the fund kept by him for each
55 such taxing unit.

56 The tax commissioner, in cooperation with the land
57 department in the auditor's office, shall prescribe the
58 form of the records to be kept by the sheriff for the pur-
59 poses of this section, and the method to be used by him
60 in making the necessary pro rata distributions.

Sec. 55. *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
4 shall be and are hereby discontinued and dismissed. Any
5 circuit 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
9 school fund are hereby confirmed. Whatever right, title
10 or interest the state had in any land so sold, shall be
11 deemed to have vested in the purchaser or grantee there-
12 of. Notwithstanding any irregularity, error or mistake
13 in such suit or in the tax enforcement proceedings prior
14 thereto, such title shall not hereafter be subject to at-
15 tack. This paragraph is enacted in furtherance of the
16 purpose and policy set forth in section one, article three
17 of this chapter.

Sec. 56. *Liability of Officer Failing to Perform Duty;*
2 *Penalty.*—If the deputy commissioner or any other of-
3 ficer mentioned in this article shall fail or refuse to per-
4 form any duty required of him, he and the sureties on his
5 official bond shall be liable in an action on the bond for
6 such damages as may be sustained by any person by
7 reason of such failure. In addition to this liability, he
8 shall forfeit not less than twenty-five nor more than one

9 hundred dollars for each such failure or refusal, unless a
10 different penalty is imposed by the provisions of this
11 article.

Sec. 57. *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 thirty-six, due to the insufficient
5 and inadequate reports by former school land commis-
6 sioners, and the unconstitutionality of the legal status of
7 delinquent or forfeited undivided interests, the Legis-
8 lature finds that it will be impossible to provide a speedy
9 method for disposing of delinquent and forfeited lands
10 and for conveying to the purchasers of such lands a secure
11 title, unless some action is taken to prevent the certifica-
12 tion and sale of lands which were formerly redeemed from
13 or were sold by such commissioners, but which appear on
14 the auditor's records, as unsold and unredeemed. Where-
15 fore it is the purpose and intent of the Legislature to release
16 all taxes, interest and charges that may be due on any real
17 estate in this state for the assessment year one thousand
18 nine hundred thirty-five and for all years prior thereto, and
19 all such taxes, interest and charges are hereby declared
20 to be fully paid. If all the taxes due on any land for the
21 assessment year one thousand nine hundred thirty-six
22 and for all years subsequent thereto have been paid, all
23 title to any such land theretofore acquired by the state
24 shall be and is hereby released.

25 The auditor, in computing the amount necessary for
26 redemption as provided in section eight, article three of
27 this chapter, and in preparing the list of lands for cer-
28 tification to the circuit court as provided in section nine
29 of this article, shall use the assessment year one thousand
30 nine hundred thirty-six as the initial year for which
31 taxes are charged. He shall specify the year in which
32 the state acquired title, but if such year was prior to one
33 thousand nine hundred thirty-six, shall charge no taxes
34 for any year prior thereto, nor shall he charge any inter-
35 est, fees, penalties or costs for any years prior to the year
36 one thousand nine hundred thirty-six, and all interest,
37 fees, penalties and costs provided by law shall be charged

38 for all years subsequent to the year one thousand nine
39 hundred thirty-five.

40 Nothing contained in this section shall be held or con-
41 strued to affect in any way the right of a person claiming
42 title to any land by transfer, as provided in section three,
43 article thirteen of the constitution of this state.

Sec. 58. *Provisions of Article Severable.*—If any part of
2 this article shall be declared unconstitutional, such decla-
3 ration shall not affect any other part thereof.

CHAPTER 141

(House Bill No. 42—By Mr. Hansbarger)

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 and reenacted by chapter one hundred, acts of the Legislature, regular session, one thousand nine hundred forty-three; and section twenty-two, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter eighty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-three, relating to tax on gasoline.

[Passed February 22, 1945; 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.

22. Taxes to be used for road purposes.

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 and reenacted by chapter one hundred, acts of the Legislature, regular session, one thousand nine hundred

forty-three; and section twenty-two, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter eighty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-three, be 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
3 hereby 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
7 tax shall until July first, one thousand nine hundred
8 forty-seven, be equivalent to five cents per gallon thereof,
9 and shall be paid as hereinafter provided. On and after
10 July first, one thousand nine hundred forty-seven, the
11 tax herein provided shall be equivalent to four cents
12 per gallon.

13 A distributor, importer, or retail dealer shall use as the
14 measure of the tax the gallonage produced, purchased,
15 sold or used in this state (as provided in section four of
16 this article). Gallonage shall be included in the measure
17 of the tax by refiners and producers when such gallonage
18 has been placed into any tank from which withdrawals
19 are made for sales or transfer to any other person.

20 The excise tax imposed by this article shall be paid by
21 the person first producing, or receiving in this state, the
22 gallonage of gasoline which under this article shall form
23 the measure of such tax; but in no case shall any such
24 gallonage be used more than once in determining taxes
25 due hereunder. The taxes imposed by this article are in
26 addition to all other taxes now imposed by law.

27 The excise tax imposed by this article shall accrue
28 from the date of production, purchase, sale or use of the
29 gasoline. The penalties imposed by section thirteen of
30 this article shall accrue from the date they become due
31 and payable. A tax due and unpaid under this article shall
32 be a debt due the state of West Virginia. It shall be a per-

33 sonal obligation of the taxpayer and shall be a lien in fa-
34 vor of the state of West Virginia upon all property and
35 rights to property, whether real or personal, belonging to
36 such taxpayer. The lien shall arise when a taxpayer fails
37 to file his return and remit the tax at the time required by
38 this article. Such lien shall not be valid or enforceable
39 against a purchaser (including lien creditor) of real estate
40 or personal property for a valuable consideration, without
41 notice unless docketed in the office of the clerk of the
42 county court as provided in sections one and two, article
43 ten-c, chapter thirty-eight of the code of West Virginia,
44 one thousand nine hundred thirty-one, as last amended
45 and reenacted by chapter ninety-nine, acts of the Legisla-
46 ture, regular session, one thousand nine hundred forty-
47 three.

48 Whenever a distributor, importer or retail dealer ceases
49 to engage in business within this state by reason of the
50 discontinuance, sale or transfer of the business of such
51 distributor, importer or retail dealer, it shall be his duty
52 to notify the tax commissioner in writing at the time of
53 the discontinuance, sale or transfer takes effect. Such no-
54 tice shall give the date of discontinuance and in the event
55 of a sale or transfer of the business, the date thereof and
56 the name and address of the purchaser or transferee
57 thereof; all taxes accruing under this article, but not yet due
58 and payable under the provisions of this article shall, not-
59 withstanding such provisions, become due and payable
60 concurrently with such discontinuance, sale or transfer,
61 and it shall be the duty of such distributor, importer or
62 retail dealer to make a report and pay all such taxes, and
63 to surrender to the tax commissioner the license certifi-
64 cate theretofore issued, under the provisions of this ar-
65 ticle.

66 Unless the notice shall have been given to the tax
67 commissioner as above provided, such purchaser or trans-
68 feree shall be liable to the state of West Virginia for the
69 amount of all taxes and penalties, under this article
70 accrued against such distributor, importer or retail dealer
71 so selling or transferring his business, on the date of
72 such sale or transfer, but only to the extent of the value

73 of the property and business thereby acquired from such
74 distributor, importer or retail dealer.

Sec. 22. *Taxes to Be Used for Road Purposes.*—All
2 taxes collected under the provisions of this article shall
3 be paid into the state treasury and shall be used only for
4 the purpose of the construction, reconstruction, mainte-
5 nance and repair of roads and highways, and for the pay-
6 ment of the interest and sinking fund on state bonds
7 issued for road purposes.

8 Unless necessary for such bond requirements, one-fifth
9 of the taxes collected under the provisions of this article
10 shall be used for secondary road purposes, until July first,
11 one thousand nine hundred forty-seven.

CHAPTER 142

(Senate Bill No. 77—By Mr. Boreman)

AN ACT to amend and reenact section four, article eleven,
chapter eleven of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to inherit-
ance and transfer taxes.

[Passed March 9, 1945; in effect ninety days from passage. Approved by the
Governor.]

Article 11. Inheritance and Transfer Taxes.

Section

4. Exemptions.

Be it enacted by the Legislature of West Virginia:

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

Section 4. *Exemptions.*—(a) All property transferred
2 to the state or to any county, school district, or municipal

3 corporation thereof for public purposes shall be exempt
4 from taxation under this article.

5 (b) No transfer of less than one hundred dollars shall
6 be taxable under this article. For this purpose all trans-
7 fers from a decedent to the same transferee shall be
8 treated as a unit.

9 (c) In computing the tax upon property transferred
10 to a widow or a widower of a deceased person, an ex-
11 emption of fifteen 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 widow or widower, an
15 exemption of 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, scien-
22 tific, 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 143

(Senate Bill No. 159—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact section nine, article three,
chapter eleven of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the ex-
emption of property from taxation.

[Passed March 10, 1945; in effect from passage. Approved by the Governor.]

Article 3. Assessments Generally.

Section

9. Property exempt from taxation.

Be it enacted by the Legislature of West Virginia:

That section nine, article three, 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. *Property Exempt from Taxation.*—All property, real and personal, described in this section, and to the extent herein limited, shall be exempt from taxation, that is to say: Property belonging to the United States, other than property permitted by the United States to be taxed under state law; property belonging exclusively to the state; property belonging exclusively to any county, district, city, village, or town in this state, and used for public purposes; property used exclusively for divine worship; parsonages, and the household goods and furniture pertaining thereto; mortgages, bonds and other evidence of indebtedness in the hands of bona fide owners and holders hereafter issued and sold by churches and religious societies for the purposes of securing money to be used in the erection of church buildings used exclusively for divine worship, or for the purpose of paying indebtedness thereon; cemeteries; property belonging to, or held in trust for, colleges, seminaries, academies and free schools, if used for educational, literary or scientific purposes, including books, apparatus, annuities, money and furniture; public and family libraries; property used for charitable purposes, and not held or leased out for profit; all real estate not exceeding one-half acre in extent, and the buildings thereon, and used exclusively by any college or university society as a literary hall, or as a dormitory or club room, if not leased or otherwise used with a view to profit; all property belonging to benevolent associations, not conducted for private profit; property belonging to any public institution for the education of the deaf, dumb or blind, or any hospital not held or leased out for profit; house of refuge, lunatic or orphan asylum; homes for children or for the aged, friendless or infirm, not conducted for private profit; fire engines and implements for extinguishing fires,

35 and property used exclusively for the safekeeping there-
36 of, and for the meetings of fire companies; and all prop-
37 erty on hand to be used in the subsistence of livestock
38 on hand at the commencement of the assessment year,
39 household goods to the value of two hundred dollars,
40 dead victuals laid away for family use and any other
41 property or security exempted by any other provision of
42 law; but no property shall be exempt from taxation which
43 shall have been purchased or procured for the purpose
44 of evading taxation, whether temporarily holding the
45 same over the first day of the assessment year or other-
46 wise: *Provided, however,* That the property, both real
47 and personal, which is exempt from taxation by this sec-
48 tion, shall be entered upon the assessor's books, together
49 with the true and actual value thereof, but no taxes
50 shall be levied upon the same or extended upon the
51 assessor's books.

52 Notwithstanding any other provision of this section,
53 however, no language herein shall be construed to ex-
54 empt from taxation any property owned by, or held
55 in trust for, educational, literary, scientific, religious or
56 other charitable corporations or organizations, unless such
57 property is used primarily and immediately for the pur-
58 poses of such corporations or organizations.

○—————

CHAPTER 144

(House Bill No. 269—By Mr. Warden)

AN ACT to provide for redemption of real property formerly held for religious, charitable and educational purposes and wrongly exempted from taxation; to provide procedure for stabilizing and protecting titles thereto, and establishing the rights of persons therein.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

***Article 2-b. Redemption of, and Clarification of Title to, Real Property Formerly Held for Religious, Charitable and Educational Purposes and Improperly Exempted from Taxes.**

Section

1. Compromise of state's claims.
2. Auditor's receipt for redemption; receipt as release and discharge from taxes; recordation.
3. Entry and back-taxing of property after redemption.
4. Entry of property acquired after year 1942.
5. Reports to auditor by assessor; when assessor to reenter property.
6. Protection of purchasers of such exempted property who have held for five years or more; right of redemption.
7. Protection of constitutional transferees; priority of redemption.
8. Purpose of act; power and jurisdiction of courts in suits involving such real estate; state as party to suits.
9. Auditor's power to provide for redemption of such property as not covered by other statutes.

Be it enacted by the Legislature of West Virginia:

Section 1. *Compromise of State's Claims.*—The auditor, in his capacity as commissioner of forfeited and delinquent lands, is hereby authorized to compromise all claims of the state against all real property, including undivided interests therein, which, heretofore, may have been exempted from taxation and carried upon the land books of any county as tax exempt property, or which may have been exempted from taxation as religious, charitable or educational property regardless of the form of assessment or entry insofar as the state may now have any claim thereto and the property, or any part thereof, or interest therein, has not been transferred to others by operation of section three, article thirteen of the constitution of West Virginia, upon payment to him of the sum of one dollar for each year that any parcel, lot, tract or interest, heretofore exempted as aforesaid, may have been exempted or carried as exempt property upon the land books of any county prior to the year one thousand nine hundred forty-five. The auditor, as such commissioner, is hereby authorized to establish and provide administrative procedure for handling of such cases; and to design, procure and keep and maintain such records concerning his transactions under this ar-

*Since H. B. No. 269 did not amend the West Virginia Code, the publishers of the Code have been requested to publish the Act as article 2-b of Chapter 37.

23 title as sound business practice may demand, and charge
24 the cost thereof to appropriations for the operation of his
25 office and the proceeds of redemption hereunder.

Sec. 2. *Auditor's Receipt for Redemption; Receipt as Re-
2 lease and Discharge from Taxes; Recordation.*—The audi-
3 tor shall issue his receipt for redemptions made under the
4 preceding section. Such receipt shall operate as a full
5 and complete discharge and release of the property de-
6 scribed therein from any and all claims on account of
7 direct property taxes imposed or imposable by the state
8 of West Virginia, or any of its subdivisions, or agencies of
9 every kind and character for each and every year covered
10 by such receipt, and shall release and return to the owner
11 of the property described such title as may have been in
12 the state at the time such receipt is issued free and acquit
13 of all claims of the state, or any of its subdivisions for the
14 year or years covered by such receipt. Such receipts
15 shall be recordable in the deed books of the proper coun-
16 ties, and once recorded shall constitute notice to all persons
17 of the facts recited therein.

Sec. 3. *Entry and Back-Taxing of Property After Re-
2 demption.*—In every case where the auditor provides for
3 redemption under this act he shall, where such redemption
4 is made prior to the first day of January, one thousand
5 nine hundred forty-seven, direct the assessor to enter
6 and back-tax such property, as other property should be
7 entered and back-taxed for the assessment year one thou-
8 sand nine hundred forty-five and each and every year
9 thereafter in which the same has not properly appeared
10 upon the land books of such county. In those cases where
11 redemption is made after the first day of January, one
12 thousand nine hundred forty-seven, he shall extend and
13 collect taxes at proper valuations and rates for all assess-
14 ment years after the year one thousand nine hundred
15 forty-five. No compromise shall be made under the au-
16 thority of this act for direct property taxes for the year
17 one thousand nine hundred forty-five or thereafter: *Pro-*
18 *vided, however,* That nothing herein contained shall pre-
19 vent the auditor from redetermining value and taxes for

20 the year one thousand nine hundred forty-five and there-
21 after in the manner otherwise provided for by law in
22 case of redemption of property which may have been
23 sold to the state for nonpayment of taxes, or be delin-
24 quent, or forfeit for nonentry.

Sec. 4. *Entry of Property Acquired After Year 1942.*—

2 In every case where real property was acquired for
3 and transferred to or placed in religious, educational
4 or charitable usages after the assessment year one thou-
5 sand nine hundred forty-two and was improperly ex-
6 empted (under the holding of Central Realty company
7 versus Martin, assessor), the assessor shall reenter such
8 property and value and extend taxes thereupon for the
9 assessment year one thousand nine hundred forty-five,
10 without regard to the former exemption in those cases
11 where redemption has been made from the auditor. Taxes
12 extended upon such assessment shall be valid and en-
13 forceable as all other taxes without regard to the former
14 exemptions. Entry and payment of taxes hereunder shall
15 operate to relieve such property against the assertion of
16 any forfeiture which has not become effective prior to the
17 effective date of this act, and shall stand and at all times
18 be construed as a valid entry of such property for tax-
19 ation for the year or years involved, and payment of taxes
20 under such assessment shall discharge and relieve such
21 property from all claims of the state and its subdivisions
22 for all property taxes of any such year or years.

Sec. 5. *Reports to Auditor by Assessor; When Assessor
2 to Reenter Property.*—The auditor is empowered to direct
3 the assessor of each county to examine the lists of tax
4 exempt properties appearing on the land books of his
5 county for the assessment years one thousand nine hun-
6 dred twenty-eight through one thousand nine hundred
7 forty-five, both inclusive, and report to the auditor a list
8 of all real estate so exempted from taxation in any of said
9 years which was not actually used for religious, charitable
10 or educational purposes and which (under the opinion in
11 Central Realty company versus Martin, assessor) he be-
12 lieves should have been assessed with taxes in any of

13 said years. No assessor shall reenter any real property,
14 now or formerly held for religious, charitable or educa-
15 tional usages and upon which taxes for years prior to the
16 year one thousand nine hundred forty-five should have
17 been paid except upon written directions from the auditor
18 or by order of the judge of a court of record which has
19 jurisdiction to deal with such property or rights therein.
20 Such list shall show the name of the person assessed, a
21 description of the property, and the year or years for
22 which the same was entered on the land books as tax
23 exempt, and the assessor shall classify and value the
24 same. Where any list of real property is forwarded to
25 the auditor under this section, he shall have power and
26 authority to compromise the claim of the state or its sub-
26 divisions or agencies for taxes, to accept redemptions from
27 forfeitures, and to do all acts and things which may be
28 necessary to protect the interest of the state and assist
29 the property owner in clearing his title.

Sec. 6. *Protection of Purchasers of Such Exempted*
2 *Property Who Have Held for Five Years or More; Right of*
3 *Redemption.*—In all cases where property formerly held
4 for religious, charitable or educational usages has hereto-
5 fore been sold or transferred in good faith to persons for
6 value as successors in title of the person who held for such
7 usage, and has been subsequently assessed to them and
8 taxes have been paid thereon for such number of years
9 that such persons are or would otherwise be entitled to
10 claim the benefit of a transfer under section three, article
11 thirteen of the constitution, the same, by operation here-
12 of, shall be transferred to and vested in such person, and
13 the state hereby waives its claim to assert penalties or
14 forfeiture on account of any taxes which would otherwise
15 have accrued or become due prior to the creation of color
16 of title in such successor.

17 In all cases where property formerly held for the uses
18 aforesaid has heretofore been sold or transferred to an-
19 other in good faith and has subsequently been assessed
21 to him, and the taxes paid, for a period of time less than
21 the period of time necessary to establish the right to

22 claim the benefit of a transfer under said constitutional
23 provision or this section, the owners shall have the right
24 to apply for and have redemption so far as title thereto
25 may be in the state.

Sec. 7. *Protection of Constitutional Transferees; Priority of Redemption.*—The provisions of this act shall not extend
2 to or affect any real property or undivided interest therein
3 which has been transferred to or vested in adverse claim-
4 ants by operation of section three, article thirteen of the
5 constitution of West Virginia, in those cases where the
6 color of title of such claimants originated in good faith
7 and has been regularly maintained and protected against
8 subsequent forfeiture and loss by entry and payment of
9 taxes according to law: *Provided, however,* That in any
10 case where there has been a constitutional transfer and
11 the adverse claim has subsequently been acquired by the
12 state for nonpayment or nonentry, the successor in title to
13 the former religious, charitable or educational usage shall
14 have a prior right of redemption.
15

Sec. 8. *Purpose of Act; Power and Jurisdiction of Courts in Suits Involving Such Real Estate; State as Party to Suits.*—This act is to provide for clarification of land
2 titles and for establishment of a sound system of property
3 law and of taxation, and the courts of this state which
4 have equitable jurisdiction are hereby vested with au-
5 thority, power and jurisdiction to entertain, hear and
6 decide suits on behalf of any person whose property or
7 title may be affected by a former exemption from taxa-
8 tion for religious, charitable or educational purposes; and
9 to make and render such decisions, orders and decrees as
10 will give equitable justice to the persons involved. When-
11 ever it appears that the state or any of its subdivisions
12 has any interest in any of such proceedings, any person or
13 the court shall have the right to make the state, its sub-
14 divisions, or proper officials a party or parties plaintiff
15 thereto and shall cause the attorney general of the state
16 of West Virginia to be notified thereof. Such courts
17 shall have the right to try title and render decisions as
18 may be necessary and proper, based upon the tax status
19
20

21 of different claims without regard to proof of chain of
 22 title for a period longer than is necessary to establish a
 23 tax claim better than that of any other party. No decision,
 24 order or opinion rendered by any court under this act
 25 shall establish precedent or be regarded as stare decisis
 26 as to any other case.

Sec. 9. *Auditor's Power to Provide for Redemption of
 2 Such Property as Not Covered by Other Statutes.*—The
 3 auditor shall have full power and authority to provide for
 4 redemption of property covered by this act, and to compro-
 5 mise the state's claim for unpaid taxes upon any such
 6 property which has heretofore been purchased at sales
 7 for nonpayment of taxes, or acquired by forfeiture for
 8 nonentry, to make redemptions, and to provide for re-
 9 assessment and back-taxing of property redeemed on ac-
 10 count of any taxes heretofore levied or hereafter to accrue;
 11 such redemptions and compromiess to be made upon like
 12 payment and condition as provided in section one of this
 13 act for any year prior to the year one thousand nine
 14 hundred thirty-six.

CHAPTER 145

(Senate Bill No. 195—By Mr. Vickers, Mr. President)

AN ACT to amend article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section eighty-six thereof, and by adding thereto a new section, to be designated section eighty-six-a, relating to suits by the state against delinquent corporations to enforce payment of corporation license taxes, and to the rights of purchasers of the assets of such corporations in suits heretofore or hereafter instituted.

[Passed March 7, 1945; in effect from passage. Approved by the Governor.]

Article 12. License Taxes.**Section**

86. Suit to enforce payment of corporation license tax.

86-a. Limitation on institution of proceedings to set aside sales in prior suits.

Be it enacted by the Legislature of West Virginia:

That article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section eighty-six thereof, and by adding thereto a new section to be designated section eighty-six-a, to read as follows:

Section 86. *Suit to Enforce Payment of Corporation License Tax.*—Within thirty days after such first day of the fifth month of the license tax year the auditor shall certify to the governor and the secretary of state a list of all such delinquent corporations, domestic and foreign. The secretary of state shall preserve the list in his office, and a certificate from him that the name of any corporation mentioned in such certificate is delinquent in the payment of the license tax imposed by this article shall be prima facie evidence thereof. Within thirty days after receiving such list from the auditor the governor shall issue his proclamation, in which he shall declare the delinquency of every such corporation. A copy of such proclamation shall be filed and recorded in the office of the secretary of state, and be published in such newspapers as the governor may designate, not exceeding one in each congressional district; the costs of such publication shall be paid by the governor when allowed by the board of public works. Sixty days after the date of the publication of such proclamation, it shall be the duty of the attorney general to institute on the chancery side of the circuit court, in the county in which the seat of government is, a suit or proceedings, or suits or proceedings, in the name of the state, in which such delinquent corporations shall be made defendants; in the bill or petition so filed it shall only be necessary to allege that the corporations therein made defendants have failed to pay such license tax, and that each of them justly owes to the state the amount of license tax, penalty and fines stated

30 therein, in connection with the name of the corporation,
31 which amount shall be computed up to the first day of
32 the month succeeding that in which such bill or petition
33 is filed. No such corporation shall interpose as a plea or
34 defense in such suit the fact that the auditor failed to
35 notify it as prescribed in this article, or that it failed to
36 receive such notice, or that its name was not included in
37 the list or proclamation hereinbefore mentioned. Upon
38 the hearing of such suit, if it shall appear to the court
39 that any such corporation has failed to pay any such
40 license tax and the penalties and fines assessed against
41 it, the court shall enter a decree or judgment against such
42 corporation for the amount due, including the costs of the
43 proceeding, or such portion of such costs as the court
44 shall apportion to be paid by such corporation, and, if the
45 same be not then and there paid, the court shall enter a
46 decree if it be a domestic corporation, forfeiting its char-
47 ter, rights and franchises; and if it be a foreign corpora-
48 tion, revoking its rights and privileges to hold property
49 and transact business in this state. The amount of the
50 judgment or decree, including costs, entered against any
51 corporation, and interest thereon until paid, may be
52 collected by the attorney general, or be collected by the
53 auditor in the same manner that other claims due the
54 state are collected. In any such suit or proceeding the
55 court may, upon payment of the judgment hereinabove
56 mentioned together with interest and costs and the pay-
57 ment of any and all license taxes which may have ac-
58 crued since the institution of such suit, reinstate any
59 corporation to its former rights as if it had not been
60 delinquent and proceeded against under this section, and
61 make such other orders and decrees as it shall deem
62 necessary and proper for a court of equity; and may ap-
63 point a receiver for any such corporation and order its
64 assets marshalled and distributed among its creditors;
65 and may, on motion of the attorney general, grant an
66 injunction against any such corporation restraining it
67 from the exercise of any franchise or the transaction of
68 any business within this state, until such tax and the
69 costs be paid. Any person or persons who shall exercise
70 or attempt to exercise any powers under the charter of

71 any such corporation, after the issuing of the governor's
72 proclamation, shall be guilty of a misdemeanor, and shall
73 be punished by imprisonment not exceeding one year,
74 or a fine not exceeding one thousand dollars, or both, in
75 the discretion of the court. The words "license tax" used in
76 this section include, in addition to the amount of license
77 tax proper, all penalties and fines accruing for failure
78 to pay such tax, the annual fee of the auditor as statutory
79 attorney-in-fact, and the cost of any suit or proceeding
80 to enforce the collection of the same. When two or more
81 corporations are included in one suit or proceeding the
82 court shall apportion the cost thereof among them as it
83 may deem just.

84 If in any such suit or proceeding the court shall decree
85 the sale of the property of any delinquent corporation
86 without ordering that its assets be marshalled and dis-
87 tributed among its creditors, the purchaser at the sale
88 shall acquire title to the property subject to any rights
89 which the creditors of the corporation would have had if
90 no suit had been brought by the state for collection of
91 delinquent license taxes. In any subsequent suit, how-
92 ever, brought by the creditors of the corporation to sub-
93 ject the property in the hands of the purchaser to the
94 payment of their claims against the corporation, the pur-
95 chaser shall be given a preference over any creditor for
96 the payment of the purchase price, including costs with
97 interest at six per cent per annum from the date of sale.

Sec. 86-a. *Limitation on Institution of Proceedings to*
2 *Set Aside Sales in Prior Suits.*—No suit or proceeding shall
3 be instituted in any court of this state on and after the
4 first day of July, one thousand nine hundred forty-six,
5 for the purpose of setting aside the sale of all or any of
6 the assets of any corporation heretofore sold by order of
7 the court in any former suit instituted under the preced-
8 ing section on the ground that process was served on the
9 auditor or that service thereof was accepted by him.

CHAPTER 146

(Senate Bill No. 10—By Mr. Harmer)

AN ACT to amend and reenact section nine, article five, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to who may administer an oath and take an affidavit, by adding thereto a new paragraph providing for the administration of oaths to and taking of affidavits by members of the military service of the United States by commissioned officers in the military service of the United States, and providing for the validation of oaths and affidavits heretofore taken by persons in the military service.

[Passed February 19, 1945; in effect from passage. Approved by the Governor.]

Article 5. Miscellaneous Provisions.

Section

9. Who may administer an oath or take an affidavit; how affidavit made in another state authenticated; oaths and affidavits of persons in military service.

Be it enacted by the Legislature of West Virginia:

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

- Section 9. *Who May Administer an Oath or Take an Affidavit; How Affidavit Made in Another State Authenticated; Oaths and Affidavits of Persons in Military Service.*
- Any judge of this state may administer any oath that is or may be lawful for any person to take, including oaths of office, and also may swear any person to an affidavit, and administer an oath to any person in any proceeding.
- Any oath or affidavit required by law, which is not of such a nature that it must be made otherwise or elsewhere may, unless otherwise provided, be administered by, or made before, a county commissioner, notary public, or a commissioner appointed by the governor, or by the clerk of any court, or, in case of a survey directed

14 by a court in a case therein pending, by or before the
15 surveyor directed to execute said order of survey.

16 An affidavit may also be made before any officer of
17 another state or country authorized by its laws to ad-
18 minister an oath, and shall be deemed duly authenticated
19 if it be subscribed by such officer, with his official seal
20 annexed, and if he have none, the genuineness of his sig-
21 nature, and his authority to administer an oath, shall
22 be authenticated by some officer of the same state or
23 country under his official seal.

24 Any oath or affidavit required of a person in the mili-
25 tary service of the United States (including the Women's
26 Army Corps, Women's Appointed Volunteers for Emer-
27 gency Service, Army Nurse Corps, Spars, Women's Re-
28 serve, or similar women's auxiliary unit officially con-
29 nected with such military service of the United States),
30 may be administered by or made before any commissioned
31 officer of any branch of the military service of the
32 United States, or any auxiliary unit officially connected
33 with such military service. Such oath may be taken or
34 affidavit made at any place either within or outside the
35 United States of America, or any territory, possession
36 or dependency thereof. The jurat to such oath and cer-
37 tificate to such affidavit need not state the place where
38 the same is taken and shall require no seal to be affixed
39 thereto. The certificate of the officer before whom such
40 oath is taken or affidavit is made must state his rank,
41 branch of military service, and identification number,
42 and such certificate may be substantially in form and
43 effect as follows:

44 IN THE MILITARY SERVICE OF THE UNITED
45 STATES:

46 I, _____, being duly sworn on
47 oath (affirmation), do swear (affirm) that I am a member
48 of the military service of the United States (or of _____
49 _____, an auxiliary to the military
50 forces of the United States); that * * *, etc.

51
52 Taken, subscribed and sworn to before me, _____,
53 a commissioned officer in the _____ service of the

54 United States, by _____, a member of the military
55 service of the United States (or of _____,
56 an auxiliary to the military forces of the United States),
57 this the ____ day of _____, 19____.

58

59

(Signature of officer)

60

61

(Rank)

(Identification Number)

62

63

64

Any oath or affidavit heretofore taken or made by any
person in the military service in substantial compliance
with this section shall be deemed valid.

CHAPTER 147

(House Bill No. 152—By Mr. Lubliner)

AN ACT to amend the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new chapter numbered nine-a, relating to veterans; and to establish a state agency to aid, assist, counsel and advise, and look after the rights and interests of all persons known as veterans who have served in the armed forces of the United states in the army, navy, marine corps or coast guard as defined by the laws of the United States and whose separation therefrom has been other than dishonorable and who are citizens and residents of this state, and the widows, dependents and orphans, who are or have become citizens and residents of this state, of all such persons known as veterans who have served in the armed forces of the United States in the army, navy, marine corps or coast guard as defined by the laws of the United States and whose separation therefrom has been other than dishonorable; to transfer to such state agency from the department of public assistance and the office of the state veterans' service officer all the property, equipment, files, records and documents pertaining to veterans, their widows, dependents and orphans; to repeal article eight, chapter nine of the code of West Virginia, one thousand

nine hundred thirty-one, and any and all amendments thereto, and all other acts, or parts of acts, inconsistent herewith.

[Passed March 10, 1945; in effect July 1, 1945. Approved by the Governor.]

CHAPTER 9-A. VETERANS' AFFAIRS

Article 1. Department of Veterans' Affairs.

Section

1. General purposes.
2. Veterans' council; administration of department.
3. Appointment of veterans' council members; term of office; removal.
4. Duties and functions of council; appointment of director; term of office; removal.
5. Compensation of director, deputies, assistants and employees; honorarium of council members; traveling expenses; meetings of council.
6. Oaths.
7. Definitions.
8. Offices.
9. Duties of department.
10. Powers and duties of director.
11. Advisory council.
12. Legal assistance.
13. Succession of offices and property.
14. Provisions severable.
15. Acts repealed.

Be it enacted by the Legislature of West Virginia:

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

- Section 1. *General Purposes.*—A state agency to be
- 2 known as the "West Virginia Department of Veterans'
 - 3 Affairs" is hereby created and established for the pur-
 - 4 pose of aiding, assisting, counseling and advising, and look-
 - 5 ing after the rights and interests of, all persons known as
 - 6 veterans who have served in the armed forces of the
 - 7 United States in the army, navy, marine corps or coast
 - 8 guard as defined by the laws of the United States
 - 9 and whose separation therefrom has been other than
 - 10 dishonorable and who are citizens and residents of this
 - 11 state, and the widows, dependents and orphans, who
 - 12 are or have become citizens and residents of this state, or

13 all persons known as veterans who have served in the
14 armed forces of the United States in the army, navy,
15 marine corps or coast guard as defined by the laws of
16 the United States and whose separation therefrom has
17 been other than dishonorable.

Sec. 2. *Veterans' Council; Administration of Department.*—There shall be a "Veterans' Council" which shall
2 consist of five members who shall be citizens and resi-
3 dents of this state, who have served in and been honor-
4 ably discharged or separated under honorable conditions
5 from the armed forces of the United States and whose
6 service was within a time of war as defined by the laws
7 of the United States, either Public Law No. 2—73rd Con-
8 gress or Public Law No. 346—78th Congress, and any and
9 all amendments thereto. The members of the veterans'
10 council shall be selected with special reference to their
11 ability and fitness to effectuate the purposes of this act.
12 The West Virginia department of veterans' affairs shall
13 be administered by a director, and such deputy directors,
14 assistants and employees as may be deemed advisable.

Sec. 3. *Appointment of Veterans' Council Members; Term of Office; Removal.*—The term of office of the mem-
2 bers of the veterans' council shall be six years, and they
3 shall be appointed by the governor by and with the advice
4 and consent of the senate: *Provided, however,* That upon
5 the adoption of this act, the governor as aforesaid shall
6 appoint two members for a term of two years, two mem-
7 bers for a term of four years, and one member for a term
8 of six years, and thereafter the successors of each mem-
9 ber shall be appointed for the term of six years. In case
10 of a vacancy in the veterans' council, the appointment
11 shall be for the remainder of the unexpired term. A mem-
12 ber of the veterans' council shall be subject to removal by
13 the governor for cause, but shall have upon his own re-
14 quest an open hearing before the governor on the com-
15 plaints or charges lodged against him. The action of the
16 governor shall be final.

Sec. 4. *Duties and Functions of Council; Appointment of Director; Term of Office; Removal.*—It shall be the
2

3 duty and function of the veterans' council to determine
4 the general administrative policies of the department, to
5 select at their first meeting in each fiscal year commenc-
6 ing on the first day of July a chairman to serve one year,
7 to promulgate such rules and regulations as may be
8 necessary, to examine into the efficiency of the depart-
9 ment from time to time, to exercise general supervision
10 over the operations of the department, to advise the gov-
11 ernor and the Legislature with respect to legislation affect-
12 ing the interests of veterans, their widows, dependents
13 and orphans, to make annual reports to the governor re-
14 specting the service of the department, and to prescribe
15 the duties of the director. Such director shall have the
16 same eligibility and qualifications prescribed for mem-
17 bers of the veterans' council. The governor shall appoint
18 a director for a term of six years, by and with the advice
19 and consent of the senate. Before making such appoint-
20 ment, the governor shall request the council of the West
21 Virginia department of veterans' affairs to furnish a full
22 and complete report concerning the qualifications and
23 suitability of the proposed appointee. The director shall
24 be subject to removal by the governor for cause, but shall
25 have upon his own request an open hearing before the gov-
26 ernor on the complaints or charges lodged against him.
27 The action of the governor shall be final. The director ex
28 officio shall be the executive secretary of the veterans'
29 council, keep the minutes of each meeting, and be in
30 charge of all records of the department.

Sec. 5. *Compensation of Director, Deputies, Assistants
2 and Employees; Honorarium of Council Members; Travel-
3 ing Expenses; Meetings of Council.*—The director shall
4 receive a salary of six thousand dollars per annum, pay-
5 able in monthly installments, and, in addition, the neces-
6 sary traveling expenses incident to the performance of
7 his duties. The salaries of the deputy directors, assistants
8 and employees shall be fixed by the veterans' council.
9 The members of the veterans' council shall receive no sal-
10 ary, but each member shall receive an honorarium of ten
11 dollars for each day actually in attendance at a meeting
12 and his actual expenses and traveling expenses incurred in

13 the performance of his duties under this act. The requisition for such expenses and traveling expenses shall be accompanied by a sworn and itemized statement, which shall be filed with the auditor and permanently preserved as a public record. The veterans' council shall hold its initial meeting on the call of the governor, and thereafter shall meet on the call of its chairman, except as otherwise provided. With the exception of the first three meetings of the veterans' council, none of which shall be of a duration longer than two weeks each, for organizational purposes, the veterans' council shall meet not more than once every two months at such times as may be determined by and upon the call of the chairman for a period of not more than two days, unless there should be an emergency requiring a special meeting or for a longer period and so declared and called by the governor or by the chairman with the approval of the governor. A majority of the members of the veterans' council shall constitute a quorum for the conduct of official business.

Sec. 6. *Oaths.*—The members of the veterans' council, the director, and his deputy directors, shall take and subscribe to the oath prescribed by article four, section five of the state constitution, before entering on their duties. Their oaths shall be filed with the secretary of state.

Sec. 7. *Definitions.*—(a) The word, "veteran", shall be construed to mean any person who shall have served in the armed forces of the United States as defined in section one of this act.

(b) The term, "federal agency", shall mean any agency, department or bureau created and established by the act of congress, or executive order of the president of the United States.

(c) The word or term, "administrator", shall be construed to designate and refer to the administrator of veterans' affairs of the United States.

(d) The term or words, "federal act", shall mean any law of the United States.

Sec. 8. *Offices.*—The offices of the director shall be lo-

2 cated at the state capitol or other place provided in the
3 capital city. The director shall keep his offices open at
4 all reasonable times for the transaction of business. The
5 offices and meeting place of the veterans' council shall be
6 in the offices of the director: *Provided*, That the veterans'
7 council with the approval of the governor may hold
8 meetings at other places but not outside of this state,
9 except in the District of Columbia.

Sec. 9. *Duties of Department.*—The department of
2 veterans' affairs of West Virginia shall:

3 (1) Assist veterans, their widows, dependents and or-
4 phans within the state, in properly presenting their
5 claims before the United States veterans' administration,
6 its administrator, or any federal agency, the state of West
7 Virginia, or any of the several states of the United States,
8 when the claims arise out of service with the armed forces
9 of the United States as defined in section one of this act;

10 (2) Contact all veterans' organizations in this state
11 through their duly elected or appointive officers to effectuate
12 the purposes of this act and aid in the efficiency of the
13 operations of the department;

14 (3) Render all possible and proper advice, assistance
15 and counsel to veterans, their families, and their widows,
16 dependents and orphans, within the state, and furnish
17 them information, on compensation, allowances, pen-
18 sions, insurance, rehabilitation, hospitalization, education,
19 vocational training, or refresher or retraining courses in
20 education or training, employment, loans or aid for the
21 purchase, acquisition or construction of homes, farms,
22 farm equipment and business property, preference in
23 the purchase of property and preference in employment,
24 as provided or may be provided by any federal act, any
25 federal agency, this state or other states;

26 (4) Make careful inquiry into all claims presented for
27 payment out of the state treasury from any appropriation
28 made for the benefit of veterans, their widows, depend-
29 ents and orphans.

Sec. 10. *Powers and Duties of Director.*—The director
2 shall be the executive and administrative head of the de-

3 department, and as such shall have the power and duty,
4 subject to the provisions of section four hereof, to:

5 (a) Supervise and put into effect the purposes and pro-
6 visions of this act and the rules and regulations for the
7 government of the department;

8 (b) Prescribe methods pertaining to investigations and
9 reinvestigations of all claims, and to the rights and inter-
10 ests of all veterans, their widows, dependents and orphans;

11 (c) Prescribe uniform methods of keeping all records,
12 and case records of the veterans, their widows, dependents
13 and orphans;

14 (d) Sign and execute, in the name of the state by "West
15 Virginia Department of Veterans' Affairs", and by and
16 with the consent of the veterans' council, any contract or
17 agreement with the federal government or its agencies,
18 other states, subdivisions of this state, corporations, asso-
19 ciations, partnerships or individuals;

20 (e) Supervise the fiscal affairs and responsibilities of
21 the department;

22 (f) Organize the department to comply with the re-
23 quirements of this act and with the standards required by
24 any federal act or any federal agency;

25 (g) Establish such regional or area offices throughout
26 the state as may be necessary to promote efficiency and
27 economy in administration;

28 (h) Make such reports as will comply with the require-
29 ments of any federal act or federal agency and the pro-
30 visions of this act;

31 (i) Cooperate with the federal and state governments
32 for the more effective attainment of the purposes of this
33 act;

34 (j) Keep a complete and accurate record of all pro-
35 ceedings; record and file all contracts and agreements,
36 and assume responsibility for the custody and preserva-
37 tion of all papers and documents pertaining to his office
38 and the department;

39 (k) Prepare for the veterans' council the annual re-
40 ports to the governor of the condition, operation and func-
41 tioning of the department;

42 (l) Exercise any other powers necessary and proper to

43 standardize the work; to expedite the service and busi-
44 ness; to assure fair consideration of the rights and inter-
45 ests, and claims of veterans, their widows, dependents
46 and orphans, and to promote the efficiency of the depart-
47 ment;

48 (m) Invoke any legal, equitable or special remedies for
49 the enforcement of his orders or the provisions of this
50 act;

51 (n) Appoint the deputy directors and heads of divisions
52 of the department, and of regional or area offices, and
53 employ such assistants and employees as may be neces-
54 sary for the efficient operation of the department;

55 (o) Delegate to all or any of his appointees, assistants
56 or employees all powers and duties vested in the director,
57 except the power to sign and execute contracts and agree-
58 ments, but the director shall be responsible for the acts
59 of such appointees, assistants and employees;

60 (p) Remove at his will and pleasure any appointee,
61 assistant or employee.

Sec. 11. *Advisory Council.*—There is hereby estab-
2 lished an advisory council to the West Virginia depart-
3 ment of veterans' affairs, which shall meet on the call
4 of the chairman of the veterans' council with the veter-
5 ans' council at any of its regular or special meetings, in
6 connection with the establishment of policies and rules
7 and regulations of the department to effectuate the
8 purposes of this act and promote the efficient operation
9 of the department, but the advisory council shall have
10 no vote. The director, in carrying out his powers and
11 duties, shall have the right to call on the individual
12 members of the advisory council, and through them
13 or their department, agency or organization, and also
14 to call on such other departments or agencies of the
15 state as may be necessary, for advice, aid and assistance.
16 The members of the advisory council shall be the state
17 superintendent of free schools, secretary of agriculture,
18 adjutant general, state banking commissioner, state health
19 commissioner, president of the board of governors of West
20 Virginia university, president of the state board of con-
21 trol, state road commissioner and director of the state

22 department of public assistance, or their duly authorized
23 and accredited representatives.

Sec. 12. *Legal Assistance.*—The attorney general of the
2 state and his assistants, and the prosecuting attorneys
3 of the various counties, shall render to the veterans'
4 council or director, without additional compensation,
5 such legal services as may be required in the discharge of
6 the provisions of this act.

Sec. 13. *Succession of Offices and Property.*—Upon this
2 act taking effect, the West Virginia department of veter-
3 ans' affairs shall have possession of and there shall be
4 transferred from the department of public assistance and
5 the office of the state veterans' service officer to the de-
6 partment any unexpended funds appropriated for the
7 state veterans' service officer and all the property, equip-
8 ment, files, records and documents pertaining to veterans,
9 their widows, dependents and orphans.

Sec. 14. *Provisions Severable.*—The provisions of this
2 act shall be construed as severable, and should any sec-
3 tion or part thereof be held unconstitutional, or for any
4 other reason invalid, the remaining provisions shall not
5 be affected thereby.

Sec. 15. *Acts Repealed.*—Article eight, chapter nine of
2 the code of West Virginia, one thousand nine hundred
3 thirty-one, and any and all amendments thereto, and all
4 acts, or parts of acts, general or special, in conflict or in-
5 consistent with or superseded by this act are hereby re-
6 pealed.

CHAPTER 148

(House Bill No. 301—By Mr. Ross, of Mercer)

AN ACT to amend and reenact section three, article five, chap-
ter fifteen of the code of West Virginia, one thousand nine
hundred thirty-one, as last amended, relating to national
and state defense.

[Passed March 10, 1945; in effect from passage. Approved by the Governor.]

Article 5. State Council of Defense.**Section****3. Powers and duties.**

Be it enacted by the Legislature of West Virginia:

That section three, article five, 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 3. *Powers and Duties.*—The “council” shall
- 2 have 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 of
 - 7 state and local cooperation, or with any similar federal
 - 8 agencies hereafter created, and with any departments
 - 9 or other federal agencies engaged in defense activities.
 - 10 (c) To cooperate with similar councils of defense in
 - 11 other states.
 - 12 (d) To prepare, edit, and have printed a bulletin ex-
 - 13 plaining the rights, benefits and opportunities available in
 - 14 West Virginia to veterans, service men and service women,
 - 15 and war workers. Upon the completion of the bulletin,
 - 16 the council shall deliver the copies of the bulletin to the de-
 - 17 partment now existing or hereafter created for the rendi-
 - 18 tion of service to veterans for appropriate distribution.
 - 19 (e) To cooperate with local defense councils.
 - 20 (f) To supervise and direct investigations, and report
 - 21 to the governor with recommendations for legislation or
 - 22 other appropriate action, as it may deem necessary, with
 - 23 respect to the following matters insofar as they are or may
 - 24 be related to defense:
 - 25 (1) Industrial materials and facilities.
 - 26 (2) Production and manufacturing facilities.
 - 27 (3) Agriculture, food supply, and land use.
 - 28 (4) Transportation facilities.
 - 29 (5) Labor supply and training labor relations, and
 - 30 human resources, professions, trades, and skills.
 - 31 (6) Consumers and consumer protection.

- 32 (7) Housing and related facilities.
- 33 (8) Health, hospitals, and sanitation facilities.
- 34 (9) Welfare.
- 35 (10) Educational facilities.
- 36 (11) Recreational areas and facilities.
- 37 (12) Finance.
- 38 (13) Civil liberties, including but without limitation, the
- 39 protection thereof, maintenance of law and order, and mea-
- 40 sures to guard against sabotage and subversive activities.
- 41 (14) Civil defense, including police mobilization, co-
- 42 ordinated for fire protection, and disaster relief.
- 43 (15) Any other type of activity directly or indirectly
- 44 related to defense.
- 45 (g) To create committees, either within or without its
- 46 membership, to aid it in the discharge of its powers and
- 47 duties.
- 48 (h) To require and direct the cooperation and assist-
- 49 ance of state and local governmental agencies and offi-
- 50 cials.
- 51 (i) To make full investigation as to all questions di-
- 52 rectly or indirectly relating to the powers or duties vested
- 53 in it by this act, or by any other law.
- 54 (j) To do all acts and things, not inconsistent with law,
- 55 for the furtherance of defense activities.

CHAPTER 149

(Senate Bill No. 95—By Mr. Mitchell)

AN ACT to amend and reenact section two, article three, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, relating to memorials in memory of all persons who served in the armed forces of the United States; to provide revenue therefor; to provide a fund to erect new buildings, structures or monuments, acquire ground therefor; to remodel existing buildings; to provide a maintenance fund; to provide for a board of directors;

to provide for the receipt of gifts; and to provide for a reasonable charge for the use of the facilities.

[Passed March 10, 1945; in effect from passage. Approved by the Governor.]

Article 3. Monuments, Tablets and Memorials.

Section

2. Memorials to soldiers and sailors; memorial fund.

Be it enacted by the Legislature of West Virginia:

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

Section 2. Memorials to Soldiers and Sailors; Memorial

2 Fund.—The county court of any county shall have the
3 power, upon petition of twenty per cent of the voters of
4 such county, based on the number of votes cast at the last
5 general election, to acquire and establish at the county
6 seat, or at any other suitable place within the county,
7 by purchase or otherwise, ground, park or grove, and to
8 erect and maintain thereon a building or buildings, struc-
9 ture or structures, monument or monuments, as a me-
10 morial in memory of and in recognition of the virtues
11 and sacrifices of the soldiers and sailors from the county
12 in the World Wars, and may lay a tax for the purpose of
13 acquiring and establishing the same of not more than five
14 cents on the one hundred dollars, on all taxable property
15 in the county, and thereafter a like tax of not more than
16 two cents on the one hundred dollars, such tax to be
17 levied and collected in like manner as the general taxes
18 of the county, which shall be kept separate in a fund to be
19 known as the "Memorial Fund": *Provided*, That in any
20 county, where such memorial has been established and
21 partly completed, the amount of levy for acquiring and
22 establishing the same shall not be more than ten cents
23 on the hundred dollars, and thereafter a like tax of not
24 more than three cents on the hundred dollars of all tax-
25 able property in the county.

26 Whenever such memorial is established under this
27 section, the county court shall appoint a board of directors
28 equal in number to the magisterial districts of the county

29 and select one from each of such districts from the citizens
30 thereof, with reference to their fitness for such office.
31 Such directors shall hold office for four years from the
32 first day of July following their appointment, and until
33 their successors are appointed. No person shall be ineli-
34 gible to appointment by reason of sex. Vacancies in the
35 board shall be reported to the county court and filled by
36 appointment in like manner as original appointments for
37 the unexpired term. The county court may remove any
38 director for misconduct or neglect of duty. No compen-
39 sation shall be paid or allowed any director.

40 The board of directors of each memorial established
41 under this section shall, immediately after their appoint-
42 ment, meet and organize by electing one of their number
43 as president and one as secretary; a majority of all the
44 members of any board shall constitute a quorum for the
45 transaction of business. They shall make and adopt such
46 by-laws, rules and regulations from time to time, for their
47 own guidance and for the government and use of the
48 memorial, as may be expedient and not inconsistent with
49 this section. Such board shall have authority to contract
50 for the construction or purchase of a memorial established
51 under this section and for repairs thereon or maintenance
52 thereof and the supervision, care and custody of the
53 ground, structure or structures: *Provided, however,* That
54 all contracts shall be approved by the county court and
55 that the expenditures of all funds shall be subject to the
56 approval of the county court, and all moneys belonging to
57 the memorial fund shall be deposited in the treasury of
58 such county to the credit of the memorial fund and shall be
59 drawn therefrom on orders issued by the county court.
60 Such orders shall not be drawn except upon requisition
61 of the memorial board attached to proper authenticated
62 vouchers. Ground, park or a grove for a memorial estab-
63 lished under this section may be acquired by condem-
64 nation by such board in the same manner as the county
65 court may acquire other real estate for public uses and
66 purposes, and the title of all such property shall be and
67 vest in the county court. The board shall have power to
68 appoint a suitable custodian and assistants and prescribe
69 rules for their conduct, fix their duties and compensation,

70 and shall have power to remove such appointees and,
71 in general, to carry out the spirit and intention of this
72 section.

73 Each memorial established under this section shall be
74 free for the use of the inhabitants of the county, subject
75 to such reasonable rules and regulations as the board may
76 adopt, in order to render the use of such building or struc-
77 ture of the greatest benefit to the greatest number; and
78 the board may exclude from the use of the building any
79 and all persons who shall wilfully violate such rules. The
80 board of directors may extend the use and privileges of
81 the building and structure to an educational institution
82 or to nonresidents of the county upon such terms and con-
83 ditions as the board may prescribe.

84 The board of directors shall, on or before the first day
85 of July in each year, make a report to the county court,
86 stating the condition of the property, the various sums of
87 money received from the memorial fund, and from all
88 other sources, how much money was expended and for
89 what expended; also an itemized budget estimate of ex-
90 pense of the property for the ensuing year, with such
91 other information and suggestions as they deem of general
92 interest, or that may be required by the county court.

93 Any person or persons, including corporations, who
94 desire to make donations of cash or other personal prop-
95 erty or real estate for the benefit of the memorial, shall
96 have the right to do so, and shall have the right to vest
97 the title thereof in the county court, to be held in trust
98 and controlled by such board, the same as the other prop-
99 erty owned or acquired, and according to the terms and
100 for the purposes set out in the deed, gift, devise or be-
101 quest.

CHAPTER 150

(House Bill No. 135—By Mr. Speaker, Mr. Amos)

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 thirteen, providing for preference rating to veterans on examinations for positions in the departments of public assistance, health and unemployment compensation, and in other departments or agencies filled according to a nonpartisan merit basis; and to repeal article eleven of said chapter as enacted by chapter one hundred twenty-eight, acts of the Legislature, regular session, one thousand nine hundred forty-one.

[Passed March 6, 1945; in effect from passage. Approved by the Governor.]

Article 13. Preference Rating of Veterans on Written Examination on Nonpartisan Merit Basis.

Section

1. Preference rating of veterans on written examinations for positions in state departments filled under the nonpartisan merit system.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred twenty-eight, acts of the Legislature, regular session, one thousand nine hundred forty-one, be repealed, and that said chapter six be amended by adding thereto a new article to be designated article thirteen, to read as follows:

- Section 1. *Preference Rating of Veterans on Written Examinations for Positions in State Departments Filled Under the Nonpartisan Merit System.*—For positions in the departments of public assistance, health, unemployment compensation and in any other department or agency in which positions are filled under the nonpartisan merit system, a preference of five points in addition to the regular numerical score received on examination shall be awarded to all veterans having qualified for appointment

10 by making a minimum passing grade; and to all veterans
11 having a service-connected disability, as established by
12 any proper veterans' bureau or department of the federal
13 government, an additional five points shall be allowed.

14 For the purpose of this act, "veteran" shall mean any
15 person who has served in the armed forces of the United
16 States during the Spanish American War, World War I or
17 World War II and who has been honorably discharged
18 from such service.

19 Such awards shall be made for the benefit and prefer-
20 ence in appointment of all veterans who have heretofore
21 or who shall hereafter take such examinations, but shall
22 not operate to the detriment of any person heretofore
23 appointed to a position in such department or agency.

CHAPTER 151

(House Bill No. 325—By Mr. Powell and Mr. Osborne)

AN ACT to amend article nine, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section designated section one-a, relating to presumptive findings of death.

[Passed March 10, 1945; in effect from passage. Approved by the Governor.]

Article 9. Persons Presumed to Be Dead and Their Estates.

Section

1-a. When a person in military service presumed to be dead; administration of estate; when spouse may remarry.

Be it enacted by the Legislature of West Virginia:

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

Section 1-a. *When a Person in Military Service Presumed to Be Dead; Administration of Estate; When*

3 *Spouse May Remarry.*—Presumptive findings of death of
4 any person engaged in any service or activity of, or em-
5 ployment by the United States in any war in which the
6 United States is engaged, by an official or officer of the
7 United States, who is authorized to make such presump-
8 tive findings by any act of congress, shall create a pre-
9 sumption of the death of such person in the state of West
10 Virginia. Proceedings under section two of this article
11 may be commenced at any time after such finding is made.

12 No administrator, executor or personal representative
13 of any person who is presumed to be dead under this
14 section shall make final distribution of the assets of any
15 such person until the expiration of three years after the
16 termination of the present World War by presidential
17 proclamation: *Provided, however,* That assets in the
18 estate of any such person, which are exempt from attach-
19 ment by creditors, including moneys paid by the United
20 States of such nature, and other assets of any such estate
21 which would otherwise be available for support of the
22 wife, children and other dependents of such person, if
23 he were alive, after allowance for debts and costs of ad-
24 ministration, may be paid by the personal representative
25 for the support of the wife and children and dependents
26 of such person upon order of the circuit or other similar
27 court of the county which has jurisdiction in probate pro-
28 ceedings until such time as distribution may be made or
29 administration terminated, and such sums shall be treated
30 for all purposes of law as expenditures legally chargeable
31 against such person, as if he were living to the time a
32 final presumption of death becomes effective in this state.
33 In case any such person presumed to be dead as a result
34 of a finding, as aforesaid, is not heard from as provided
35 in section one of this article, for a period of three years
36 after the termination of the present World War by presi-
37 dential proclamation, the presumption provided in section
38 one of this article shall become effective to permit final
39 distribution of his estate.

40 No surviving spouse of any person who is presumed to
41 be dead under this section shall marry another until
42 after the expiration of two years following the finding

43 aforesaid, unless proceedings for divorce were commenced
44 by such spouse or the missing person prior to the date
45 such presumptive finding was made by an official of the
46 United States; and after such two-year period the sur-
47 viving spouse shall be free to remarry, or at any time un-
48 less the other spouse be heard from prior to the actual
49 date of remarriage.

CHAPTER 152

(Senate Bill No. 148—By Mr. Perry and Mr. Bean)

AN ACT to authorize the county court of Berkeley county to use unexpended funds and surpluses in the general fund of said county for the purpose of creating a special fund for the building of a new jail, or for enlarging, remodeling and improving the present jail, and to expend for such purpose the fund so created.

[Passed March 2, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Berkeley county court authorized to create special fund for building new jail, or for improving present jail.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Berkeley County Court Authorized to Create Special Fund for Building New Jail, or for Improving Present Jail.*—The county court of Berkeley county is hereby authorized and empowered, from year to year, to use any unexpended funds of said county and any surplus in the general county fund for the purpose of creating a special fund for the building of a new jail, or for enlarging, remodeling and improving the present jail, and to expend for such purpose the fund so created.

CHAPTER 153

(Senate Bill No. 188—By Mr. Hall, of Boone)

AN ACT to amend and reenact section five-(three), article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter eighteen, acts of the Legislature, regular session, one thousand nine hundred forty-three, relating to the salary of the assessor of Boone county.

[Passed March 8, 1945; in effect ninety days from passage. Approved by the Governor.]

Article 2. Assessors.

Section

5-(3). Boone county.

Be it enacted by the Legislature of West Virginia:

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

Section 5-(3). *Boone County.*—For the county of 2 Boone, two thousand six hundred dollars.

CHAPTER 154

(Senate Bill No. 155—By Mr. Belknap)

AN ACT to authorize the county court of Braxton county to use unexpended funds and surpluses in the general fund of said county for the purpose of creating a special fund for the remodeling, enlarging, repairing and improving the present jail of said county, and to expend such fund for such purposes.

[Passed March 2, 1945; in effect from passage. Approved by the Governor.]

Section

1. Braxton county court authorized to create special fund for improving county jail.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Braxton County Court Authorized to Create*
2 *Special Fund for Improving County Jail.*—The county
3 court of Braxton is hereby authorized and empowered
4 from year to year to use any unexpended funds of said
5 county and any surplus in the general county fund for
6 the purpose of creating a special fund, not to exceed the
7 sum of twenty thousand dollars, for the remodeling, en-
8 larging, repairing and improving the present jail of said
9 county, and to expend such fund for such purposes.
-

CHAPTER 155

(Senate Bill No. 118—By Mr. Belknap)

AN ACT to authorize the county court of Braxton county to transfer funds from the general county fund to the dog tax fund.

[Passed February 23, 1945; in effect from passage. Approved by the Governor.]

Section

1. Braxton county court authorized to transfer funds.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Braxton County Court Authorized to Transfer*
2 *Funds.*—The county court of Braxton is authorized to
3 transfer the sum of two thousand dollars from the general
4 county fund of said county to the dog tax fund.
-

CHAPTER 156

(Senate Bill No. 140—By Mr. Winters)

AN ACT to authorize the county court of Cabell county to use part of the several funds of said county or part of any unexpended balances in any said funds, to assist in the

maintenance of the public library of Huntington, in said county.

[Passed February 23, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Cabell county court authorized to use county funds to assist in maintenance of Huntington public library.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Cabell County Court Authorized to Use*
2 *County Funds to Assist in Maintenance of Huntington*
3 *Public Library.*—The county court of Cabell county is au-
4 thorized, out of any county funds or balances in said funds
5 not needed or which may be otherwise available, to ex-
6 pend such sum or sums as in its discretion may seem need-
7 ful and proper to assist in the maintenance of the Hunt-
8 ington public library. The court may designate for
9 what particular maintenance purpose, or purposes, said
10 sum or sums may be expended.

— 0 —

CHAPTER 157

(Senate Bill No. 243—By Mr. Winters)

AN ACT to authorize and empower the county court of Cabell county, in conjunction with the city of Huntington, or alone, to construct, acquire, equip, operate and maintain a general hospital in said county for the treatment and care of patients, charitable and otherwise; to appoint a board of trustees to control, manage and operate the said hospital, and to use in connection therewith such existing facilities or property as may be available.

[Passed March 8, 1945; in effect from passage. Approved by the Governor.]

Section

1. Establishment and maintenance of Cabell county general hospital.
2. Cost of operating; hospital fund.
3. Construction, etc., to be under control of board of trustees.

4. Officers and members of board to serve without compensation; committees.
5. Qualifications of members of board; term of office; vacancies.
6. Hospital board to be a corporation.
7. Composition of medical staff and specific powers of staff and board.
8. Board to keep books of account; method of making disbursements.
9. Requirement of surety bonds for officers or agents of board.
10. Cabell county general hospital fund; accounts; payment of necessary expenses; surplus.
11. Hospital employees to be within workmen's compensation act; other insurance.
12. Wide discretion to be vested in the board.
13. Title to hospital property.

Be it enacted by the Legislature of West Virginia:

Section 1. *Establishment and Maintenance of Cabell County General Hospital.*—That the county court of Cabell county, alone or in conjunction with the city of Huntington in Cabell and Wayne counties, West Virginia, is hereby authorized and empowered to construct, acquire, equip, operate and maintain a general hospital in said county to be known as the "Cabell County General Hospital" or by other appropriate name, and for that purpose to acquire and use, to the extent possible, all existing public and private facilities and property as may be available for the care, hospitalization and treatment of the indigent poor of said county, and the treatment and hospitalization of such pay patients as are able and willing to pay the reasonable costs thereof.

Sec. 2. *Cost of Operating; Hospital Fund.*—The cost of maintaining and operating the said hospital shall be paid out of its revenue: *Provided*, That said court and said city, if it shall elect to participate in the construction, acquisition, equipment, operation and maintenance of said hospital, may, in its or their discretion as the case may be, contribute to the cost of constructing, acquiring, equipping, operating and maintaining such hospital out of any available funds subject to the control of said court or said city as are not otherwise appropriated. Until such time as sufficient funds are available for the establishment of said hospital, the said court and city, or either or both of them, may set aside out of any available funds not otherwise appropriated such sums annually as it or they may determine,

15 and the same shall, until the establishment of said hospital,
16 be kept in a separate account to be known as the "Cabell
17 County Hospital Fund", and upon the establishment of
18 said hospital the same shall be paid over to it. All funds
19 in said account shall be invested and kept invested as are
20 other public funds until such time as the same shall in
21 the judgment of said court and city or said court alone,
22 as the case may be, be sufficient to warrant the establish-
23 ment of said hospital. Said court and city or said court
24 alone, as the case may be, may receive gifts of money
25 or property to be used or held for the benefit of such hos-
26 pital and shall have the right to apply for and receive for
27 its use and benefits grants-in-aid from federal and state
28 governments and agencies thereof, and shall also have
29 the right and power to borrow from federal and state
30 governments and lending agencies of them or either of
31 them, and from private lending agencies such sums as
32 may from time to time be required upon the sole security
33 of such hospital and its revenues from all sources.

Sec. 3. *Construction, etc., to Be Under Control of Board
2 of Trustees.*—The said court and city or said court alone,
3 as the case may be, shall forthwith appoint a board of
4 trustees consisting of nine persons, of whom one each
5 shall be a member of the following organizations, viz:
6 Huntington ministerial association, Cabell county bar
7 association, chamber of commerce of said city, woman's
8 club of said city, council of social agencies and com-
9 munity chest. Two of such persons shall be members of
10 the two major labor organizations (A. F. of L. and C. I. O.)
11 in said city, and the remaining two shall be members in
12 good standing of the Cabell county medical society. Said
13 board is hereby authorized and empowered to construct,
14 acquire, equip, operate and maintain said Cabell county
15 general hospital, and the term "board" when hereafter
16 used in this act shall be construed to mean the board of
17 trustees of the Cabell county general hospital.

Sec. 4. *Officers and Members of Board to Serve with-
2 out Compensation; Committees.*—No officer or member
3 of the board shall receive any compensation for his

4 services as a member thereof; and no person who holds
5 any other public office or public employment shall be
6 eligible to membership on the board. The officers of the
7 board shall be a president, vicepresident, secretary, and
8 treasurer, and such other officers as may be appropriate
9 or necessary. Except as herein otherwise provided, the
10 board shall have the power to establish by-laws, rules
11 and regulations for its own government and respecting
12 the construction, maintenance and operation of said hos-
13 pital, and it may by appropriate resolution or resolutions
14 designate one or more committees consisting of two or
15 more members of the board to have and exercise the
16 powers of the board in the management, control and oper-
17 ation of the hospital to the extent provided for in any
18 such resolution.

Sec. 5. *Qualifications of Members of Board; Term of
2 Office; Vacancies.*—All members of the board shall be
3 citizens of West Virginia and residents of Cabell county,
4 and no more than two of such members shall be engaged
5 in the practice of medicine or surgery. The term of office
6 of the members of the board shall be three years, except
7 that the court and city or the court alone, as the case may
8 be, shall divide those originally appointed into three
9 classes; the term of office of those of the first class shall
10 expire on the first day of March next ensuing; of the
11 second class one year thereafter; and of the third class two
12 years thereafter; and at each annual appointment made
13 after such classification, members shall be chosen for a
14 full term of three years to succeed those whose terms
15 expire. All vacancies in the board shall be filled by the
16 appointment of a successor member for the unexpired
17 term by the court and city or the court alone, as the case
18 may be, and in every occasion appointment shall be made
19 and the terms of office shall continue until successors
20 have been appointed and qualified. Every appointee to
21 fill a vacancy, or upon the expiration of a term on the
22 board, shall be a member of the same organization as
23 the predecessor. The members of the board shall be
24 chosen with regard to their business and professional ex-
25 perience and their standing as citizens in the community

26 and without regard to their religious or political affilia-
27 tions. Members of the board may be removed for such
28 cause as other public officers may be removed from office.

Sec. 6. *Hospital Board to Be a Corporation.*—Said board
2 of trustees shall be a corporation under the name of
3 “Cabell County General Hospital” and as such it may
4 contract and be contracted with, sue and be sued, plead
5 and be impleaded, and shall have and use a common seal.

Sec. 7. *Composition of Medical Staff and Specific Powers
2 of Staff and Board.*—The medical staff of the hospital shall
3 consist of such reputable licensed physicians and surgeons
4 as are members in good standing of the Cabell county
5 medical society. The medical staff shall promulgate
6 medical and surgical rules and regulations for the staff
7 and shall be amenable to such general rules and regula-
8 tions governing the operation of the hospital as may from
9 time to time be promulgated by the board. If said hos-
10 pital shall have an out-patient department, all members
11 of the staff shall render without charge or remuneration
12 such services to the indigent patients of said out-patient
13 department as may be prescribed by the staff, and the
14 refusal of any member of the staff to render services with-
15 out charge to any indigent out-patient or to perform any
16 services in connection with the operation of such out-
17 patient department as the staff may prescribe shall be suf-
18 ficient cause for the summary removal of such offending
19 member from the staff.

20 In addition to any other powers granted by this act,
21 the said board shall have specific authority over each of
22 the following subjects:

23 1. Employment of all agents, technicians, nurses and
24 other employees deemed proper or needful by it and the
25 medical staff for the successful operation of the hospital,
26 and fix the conditions of their employment and their com-
27 pensation. All employees shall be chosen upon the basis
28 of their administrative, technical or other particular quali-
29 fications for the office or position for which they are
30 employed and without regard to their religious or political
31 opinions or affiliations;

32 2. The making of such rules and regulations in and

33 concerning the management of the hospital as may seem
34 necessary, needful or proper; and the adoption of such
35 disciplinary measures as may appear expedient. The
36 board may delegate to the superintendent of the hospital
37 and to such others of the directing personnel, as it may
38 from time to time determine, ample and plenary power
39 to enforce its rules and regulations;

40 3. The formulation of appropriate rules and regulations
41 relating to the use of the hospital and its facilities by
42 members of the medical and surgical profession and mem-
43 bers of the medical staff;

44 4. The fixing and establishing of appropriate rates and
45 charges for the use of the hospital and its facilities by any
46 patients who may be admitted thereto for care, hospitali-
47 zation or treatment;

48 5. The utilization of net income or surplus for equip-
49 ment, equipment-maintenance and improvement of facili-
50 ties; and the board is specifically authorized to make such
51 expenditures for these purposes as may in its discretion
52 seem proper;

53 6. In general, the board shall possess complete authority
54 to conduct the affairs of the Cabell county general hos-
55 pital with all appropriate facilities and services; and the
56 enumeration of powers in this section shall not operate to
57 exclude the exercise of other powers fairly incidental
58 thereto or reasonably implied and within the purposes
59 of this act.

Sec. 8. *Board to Keep Books of Account; Method of*
2 *Making Disbursements.*—The board shall cause accurate
3 and proper books of account to be kept and no money
4 shall be paid out of the board's treasury except upon an
5 order signed by the president and secretary of the board
6 and specifying the purposes for which the amount thereof
7 is to be paid with sufficient clearness to indicate the pur-
8 pose for which the order is issued. Checks shall be drawn
9 in the name of the hospital, signed by the treasurer and
10 countersigned either by the superintendent of the hos-
11 pital or some other officer or agent of the board desig-
12 nated so to do.

Sec. 9. *Requirement of Surety Bonds for Officers or*

2 *Agents of Board.*—All officers, agents or employees of
3 the hospital, appointed or authorized to receive moneys
4 for the hospital, shall be required to give bond in such
5 sum and with such surety as may be deemed sufficient
6 by the said board.

Sec. 10. *Cabell County General Hospital Fund; Ac-*
2 *counts; Payment of Necessary Expenses; Surplus.*—All
3 funds of the hospital, from whatever source received,
4 shall be deposited in such bank or banks in Cabell county
5 as a majority of the board may direct, and at least once
6 each month the board shall render an itemized statement
7 of the hospital's receipts and disbursements to the court
8 and city or the court alone, as the case may be, and an-
9 nually as of the first day of July in each year, it shall also
10 submit to the court and city or the court alone, as the
11 case may be, a completely itemized statement of the
12 hospital's financial condition. The board may provide for
13 such reserve accounts for operation, repair, insurance,
14 depletion, depreciation and building as it may deem
15 advisable and shall order paid into such reserve account
16 or accounts such part of the funds of the hospital under
17 such conditions as it may prescribe.

Sec. 11. *Hospital Employees to Be within Workmen's*
2 *Compensation Act; Other Insurance.*—All employees of
3 the hospital, eligible thereto, shall be deemed to be within
4 the workmen's compensation act of West Virginia, and
5 premiums on their compensation shall be paid by the
6 board as required by law. Adequate insurance-coverage
7 against hazards shall at all times be carried in such amount
8 as prudence and good management indicates.

Sec. 12. *Wide Discretion to Be Vested in the Board.*—
2 It is the purpose of this act to provide for an efficient
3 operation of the hospital, and to permit of the prudent
4 and economical management of the hospital by said
5 board. Wide discretion and adequate authority are ac-
6 cordingly hereby vested in the said board of trustees in
7 order to accomplish such purposes expeditiously and with
8 due safeguards.

9 Nevertheless, the board shall make no discrimination

10 among the medical practitioners of said county or their
11 patients, provided these comply with all reasonable rules
12 and regulations made by the board for the governing of
13 the said hospital, and the regulations of the medical staff.

Sec. 13. *Title to Hospital Property.*—Title to all property
2 constituting or belonging to the Cabell county general
3 hospital shall be vested in the county court of Cabell
4 county and the city of Huntington or in the county court
5 of Cabell county alone, as the case may be.

CHAPTER 158

(Senate Bill No. 162—By Mr. Boner)

AN ACT to authorize the county court of Doddridge county
to expend funds for the construction and maintenance of
a Four-H camp and county recreational center in Doddridge
county, and for the acquisition of necessary buildings,
land and equipment in connection therewith.

[Passed March 2, 1945; in effect ninety days from passage. Approved by
the Governor.]

Section

1. Doddridge county court authorized to expend funds for construction and maintenance of a Four-H camp and county recreational center.

Be it enacted by the Legislature of West Virginia:

Section 1. *Doddridge County Court Authorized to Expend Funds for Construction and Maintenance of a Four-H Camp and County Recreational Center.*—The Doddridge
2 county court is hereby authorized to expend annually from
3 general county funds the amount of money which it deems
4 necessary for the purpose of constructing and maintaining
5 a Four-H camp and county recreational center in Dodd-
6 ridge county, and for the acquisition of buildings, land
7 and equipment in connection therewith.

CHAPTER 159

(House Bill No. 110—By Mr. Welton)

AN ACT to authorize and empower the county court of Grant county to transfer the sum of thirty thousand dollars arising from the sale of the county poor farm, to a special fund to be known as the "Grant County Courthouse Fund".

[Passed February 26, 1945; in effect from passage. Approved by the Governor.]

Section

1. Grant county authorized to transfer funds and set up a special courthouse fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Grant County Authorized to Transfer Funds*

2 *and Set Up a Special Courthouse Fund.*—The county court
3 of Grant county is hereby authorized and empowered to
4 transfer the sum of thirty thousand dollars, derived from
5 the sale of the county poor farm, and set up a special
6 fund to be known as the "Grant County Courthouse Fund".
7 Said funds shall be invested in government bonds.
8 Said funds, and any securities in which said funds may
9 from time to time be invested, shall be used for the pur-
10 chase of land for, and the construction of, a new court-
11 house: *Provided, however,* That said county court may,
12 in its discretion, use said fund for the repair and re-
13 modeling of the present courthouse, and the purchase of
14 additional land adjacent thereto. Said fund shall not be
15 expended until materials are available for a new court-
16 house or for the repair or remodeling of the present court-
17 house, except for the acquisition of land for the purpose
18 hereinbefore set forth.

19 All acts or parts of acts inconsistent herewith are hereby
20 repealed insofar as they may apply to Grant county.

CHAPTER 160

(Senate Bill No. 96—By Mr. Bowling)

AN ACT to authorize the county court of Greenbrier county, West Virginia, to use unexpended funds of said county and any surpluses in the funds of said county, and funds derived from capital assets for the purpose of erecting a county jail building, and to expend for such purpose the fund so created.

[Passed February 23, 1945; in effect from passage. Approved by the Governor.]

Section

1. Greenbrier county court authorized to create special jail building fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Greenbrier County Court Authorized to Create Special Jail Building Fund.*—The county court of Greenbrier county, West Virginia, is hereby authorized and empowered from year to year to use any unexpended funds of said county and any surpluses in any county funds, and any existing surpluses or funds derived from capital assets, for the purpose of creating a special fund for the building and erection of a new county jail, and to expend for such purpose the fund so created, and when so created such fund shall not be used for any other purpose.

CHAPTER 161

(Senate Bill No. 164—By Mr. Bambrick)

AN ACT validating the use, by the county court of Hancock county in prior years, of funds from justices' fines deposited in the general county fund of said county.

[Passed March 6, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Use of justices' fines in prior years by Hancock county court validated.

Be it enacted by the Legislature of West Virginia:

Section 1. *Use of Justices' Fines in Prior Years by Hancock County Court Validated.*—The use of forty-two thousand six hundred eighty-six dollars and seventy-six cents by the county court of Hancock county, in prior years, from justices' fines deposited in said county's general fund and representing the difference between the gross revenue from fines and forfeitures collected in and around the unincorporated town of Weirton, Hancock county, West Virginia, and the net proceeds of such fines and forfeitures, is validated. Any unexpended balance of said justices' fines and forfeitures shall be transferred by the court to the general school fund of the county, effective as of the date of this act.

CHAPTER 162

(Senate Bill No. 31—By Mr. Boner and Mr. Harmer)

AN ACT to authorize the county court of Harrison county to use unexpended funds and surpluses in the general fund of said county for the purpose of creating a special fund for the building of a new jail, or for enlarging, remodeling and improving the present jail, and to expend for such purposes the fund so created.

[Passed February 8, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Harrison county court authorized to create a special jail fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Harrison County Court Authorized to Create a Special Jail Fund.*—The county court of Harrison county is hereby authorized and empowered from year to year

- 4 to use any unexpended funds of said county and any sur-
- 5 plus in the general county fund for the purpose of cre-
- 6 ating a special fund for the building of a new jail, or for
- 7 enlarging, remodeling and improving the present jail,
- 8 and to expend for such purposes the fund so created.

CHAPTER 163

(House Bill No. 340—By Mr. Desist and Mr. Sharpe)

AN ACT to amend and reenact section four, chapter twenty-seven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred nine; as amended and reenacted by section four, chapter twelve, acts of the Legislature, regular session, one thousand nine hundred nineteen; as amended and reenacted by section four, chapter one hundred forty-six, acts of the Legislature, regular session, one thousand nine hundred twenty-nine; as amended and reenacted by section four, chapter twenty-seven, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, and as last amended by section twenty-one, chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, all relating to the salary of the judge of the criminal court of Harrison county.

[Passed March 8, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Salary of judge of criminal court of Harrison county.

Be it enacted by the Legislature of West Virginia:

That section four, chapter twenty-seven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred nine, as amended and reenacted by section four, chapter twelve, acts of the Legislature, regular session, one thousand nine hundred nineteen, as amended and reenacted by section four, chapter one hundred forty-six, acts of the Legislature,

regular session, one thousand nine hundred twenty-nine, as amended and reenacted by section four, chapter twenty-seven, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, and as last amended by section twenty-one, chapter eighty-two, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, be amended and reenacted to read as follows:

Section 4. *Salary of Judge of Criminal Court of Harrison County.*—The judge of the criminal court of Harrison county, West Virginia, shall, from the effective date hereof, receive for his services a salary of five thousand dollars per year; said amount to be paid in twelve equal monthly installments from year to year by the county court of said county, out of funds of said county, in the manner provided by statute.

CHAPTER 164

(Senate Bill No. 122—By Mr. Staats)

AN ACT to authorize the county court of Jackson county to use unexpended funds and surpluses in any fund of said county for purchasing and erecting a memorial for those who served in the armed forces of the United States during World War I and World War II, or for the purposes of creating a special fund for purchasing gravel and other necessary material to be used for secondary road purposes in cooperation with the state road commission of West Virginia, and to expend for such purposes the fund so created.

[Passed March 5, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Jackson county court authorized to create a special fund for construction of a war memorial, or for secondary road purposes.

Be it enacted by the Legislature of West Virginia:

Section 1. *Jackson County Court Authorized to Create a Special Fund for Construction of a War Memorial, or for Secondary Road Purposes.*—The county court of Jackson county is hereby authorized and empowered from year to year to use any unexpended funds of said county and any surplus in any county fund for the purpose of creating a special fund for purchasing and erecting a memorial for those who served in the armed forces of the United States during World War I and World War II, or for purchasing gravel and other necessary material to be used for secondary road purposes in cooperation with the state road commission of West Virginia, upon such terms as said county court and the state road commission may agree, and to expend for such purposes or such of them as the said county court deems expedient, the fund so created.

CHAPTER 165

(House Bill No. 348—By Mr. Davis)

AN ACT authorizing and empowering the county court of Kanawha county to expend money for the improvement of an airport; repairs, alterations and improvements to the courthouse, and acquisition of ground at county infirmary.

[Passed March 10, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Kanawha county court authorized to expend surplus funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Kanawha County Court Authorized to Expend Surplus Funds.*—The county court of Kanawha county is authorized and empowered to use general county funds or any other funds at its disposal which are not required to be expended for other purposes or which have not been appropriated for other county expenditures, for

7 the purpose of constructing and improving an airport in
 8 Kanawha county; for the purpose of making repairs, al-
 9 terations and improvements to the Kanawha county court-
 10 house building, and for the purpose of acquiring ground
 11 and making improvements at the county infirmary prop-
 12 erty in Kanawha county.

CHAPTER 166

(Senate Bill No. 37—By Mr. Morrison, by request)

AN ACT to amend and reenact section eleven, chapter twenty-five, acts of the Legislature of West Virginia, one thousand nine hundred seven, as amended by chapter one hundred forty-three, acts of the Legislature, one thousand nine hundred thirty-seven, relating to the time for holding terms of the intermediate court of Kanawha county, West Virginia.

[Passed March 2, 1945; in effect from passage. Approved by the Governor.]

Section

11. Terms of intermediate court of Kanawha county.

Be it enacted by the Legislature of West Virginia:

That section eleven, chapter twenty-five, acts of the Legislature of West Virginia, one thousand nine hundred seven, as amended by chapter one hundred forty-three, acts of the Legislature, one thousand nine hundred thirty-seven, be amended and reenacted to read as follows:

Section 11. *Terms of Intermediate Court of Kanawha County.*—There shall be three terms of said court held in each year, commencing on the second Monday in January, the third Monday in April, and the third Monday in September. Adjourned and special terms of said court may be called and held as provided for special and adjourned terms of the circuit court.

CHAPTER 167

(Senate Bill No. 108—By Mr. Morrison)

AN ACT to repeal chapter ninety-three, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-seven, relating to the salary of the judge and probation officers of the juvenile court of Kanawha county, and to amend and reenact section nine, chapter one hundred seventy-one, acts of the Legislature, regular session, one thousand nine hundred twenty-one, relating to the salary of the judge of the court of common pleas of Kanawha county.

[Passed March 5, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Salary of the judge of the court of common pleas of Kanawha county.

Be it enacted by the Legislature of West Virginia:

That chapter ninety-three, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-seven, is hereby repealed, and that section nine, chapter one hundred seventy-one, acts of the Legislature, regular session, one thousand nine hundred twenty-one, be amended and reenacted to read as follows:

- Section 9. *Salary of the Judge of the Court of Common Pleas of Kanawha County.*—The judge of the court of common pleas of Kanawha county shall receive for his services as such eight thousand five hundred dollars per annum, payable out of the county treasury of said county of Kanawha as the salaries of the other officers of said county are paid, beginning the first day of July, one thousand nine hundred forty-five.

CHAPTER 168

(House Bill No. 56—By Mr. Knight)

AN ACT to amend and reenact section one, chapter sixteen, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-seven, relating to the authorization of the judge of the thirteenth judicial circuit of West Virginia to appoint a law assistant, fixing his qualifications and salary, and requiring the county court of Kanawha county to provide the manner of payment of such salary.

[Passed February 2, 1945; in effect from passage. Approved by the Governor.]

Section

1. Law assistant for thirteenth judicial circuit; qualifications; salary.

Be it enacted by the Legislature of West Virginia:

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

- Section 1. *Law Assistant for Thirteenth Judicial Circuit; Qualifications; Salary.*—On or after the effective date of this act, the judge of the circuit court of Kanawha county, West Virginia (thirteenth judicial circuit), may appoint a law assistant who shall be a person duly licensed to practice law in this state, and who shall discharge such secretarial duties as may be assigned him by the judge; said law assistant, while acting as such, shall not engage in the practice of law but shall devote his time to the duties of his office, and may be removed and his successor appointed at any time by the judge. Said law assistant shall receive a salary of not in excess of four thousand two hundred dollars per year, payable monthly, and the county court of Kanawha county shall annually, at its levy session, provide for the payment out of general county funds the amount of the salary so fixed.

CHAPTER 169

(House Bill No. 204—By Mr. Craddock and Mr. Flannery)

AN ACT to authorize the county court of Logan county to use unexpended funds and surpluses in any fund of said county for the purpose of creating a special fund for the building of additional county buildings or for enlarging, remodeling and improving present county buildings, and to expend for such purpose the fund so created.

[Passed March 8, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Logan county court authorized to create special county building fund.

Be it enacted by the Legislature of West Virginia:

Section 1. *Logan County Court Authorized to Create Special County Building Fund.*—The county court of Logan county is hereby authorized and empowered from year to year to use any unexpended funds of said county and any surpluses in any county fund, or so much thereof as they may see fit, for the purpose of creating a special fund for the erection of new county buildings or for enlarging, remodeling and improving present county buildings, and to expend for such purpose the fund so created.

—O—

CHAPTER 170

(Com. Sub. for House Bill No. 352—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section nine, chapter five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred nineteen, as last amended, concerning the judge of the criminal court of McDowell county.

[Passed March 7, 1945; in effect July 1, 1945. Approved by the Governor.]

Section

9. Salary of McDowell county criminal judge.

Be it enacted by the Legislature of West Virginia:

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

Section 9. *Salary of McDowell County Criminal Judge.*

2 —The said criminal judge shall, for his services, receive
3 six thousand dollars per annum, to be paid out of the
4 county treasury.

CHAPTER 171

(Senate Bill No. 38—By Mr. Johnston, by request)

AN ACT to amend and reenact section four, chapter eighteen, acts of the Legislature of West Virginia, one thousand eight hundred ninety-three, as amended by section one, chapter fourteen, acts of the Legislature, extraordinary session, one thousand nine hundred four, as amended by section four, chapter twenty-seven, acts of the Legislature, one thousand nine hundred seven, as amended by section four, chapter five, acts of the Legislature, extraordinary session, one thousand nine hundred eight, as amended by section four, chapter sixty-eight, acts of the Legislature, one thousand nine hundred nineteen, relating to the salary of the judge of the criminal court of Mercer county, West Virginia.

[Passed February 6, 1945; in effect from passage. Approved by the Governor.]

Section

4. Salary of the judge of the criminal court of Mercer county.

Be it enacted by the Legislature of West Virginia:

That section four, chapter eighteen, acts of the Legislature

of West Virginia, one thousand eight hundred ninety-three, as amended by section one, chapter fourteen, acts of the Legislature, extraordinary session, one thousand nine hundred four, as amended by section four, chapter twenty-seven, acts of the Legislature, one thousand nine hundred seven, as amended by section four, chapter five, acts of the Legislature, extraordinary session, one thousand nine hundred eight, as amended by section four, chapter sixty-eight, acts of the Legislature, one thousand nine hundred nineteen, be amended and reenacted to read as follows:

Section 4. *Salary of the Judge of the Criminal Court of Mercer County.*—The judge of said court shall, for his services, receive five thousand four hundred dollars per annum, payable out of the county treasury of said county, as provided by section one, chapter fourteen, acts of the extraordinary session of the Legislature of West Virginia, one thousand nine hundred four.

CHAPTER 172

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

AN ACT to authorize and empower the county court of Monongalia county to transfer funds, realized from the assessment and collection of head taxes on dogs, to the general county fund, for the use of said county court in the employment, operation and maintenance of a dog catcher in Monongalia county.

[Passed February 23, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Monongalia county court authorized to transfer funds to be used for employment, operation, and maintenance of a dog catcher.

Be it enacted by the Legislature of West Virginia:

- Section 1. *Monongalia County Court Authorized to Transfer Funds to Be Used for Employment, Operation,*

3 *and Maintenance of a Dog Catcher.*—The county court of
4 Monongalia county is hereby authorized and empowered
5 to transfer any and all necessary money, from the fund
6 realized from the assessment and collection of head taxes
7 on dogs, to the general county fund to be used for the
8 payment and satisfaction of all expense in connection
9 with the hiring, operation and maintenance of a dog
10 catcher in Monongalia county, to be selected by and
11 operate under the direction of the said county court.

12 All acts, or parts of acts, inconsistent herewith, are
13 hereby repealed, insofar as they may apply to Monon-
14 galia county.

CHAPTER 173

(House Bill No. 194—By Mr. Hugus and Mr. Burt)

AN ACT to authorize the board of commissioners of the county of Ohio to use all or part of debt levies, not required for bonded indebtedness, for the purpose of the construction, equipment and maintenance of an airport, and a county building, providing for the leasing of temporary quarters during the construction of any county building, and for the construction, equipment and maintenance of any county building in conjunction with the city of Wheeling, and validating and confirming levies heretofore laid for the purchase of lands for and the construction of an airport.

[Passed March 6, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Board of commissioners of the county of Ohio authorized to lay an additional levy, and to use proceeds therefrom for construction and maintenance of an airport and a county building.
2. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. *Board of Commissioners of the County of Ohio Authorized to Lay an Additional Levy, and to Use*

3 *Proceeds Therefrom for Construction and Maintenance*
4 *of an Airport and a County Building.*—For a period of five
5 years commencing with the fiscal year one thousand nine
6 hundred forty-five—one thousand nine hundred forty-six,
7 in addition to the levies heretofore authorized to be laid by
8 county courts for general county current expense, and for
9 the payment of interest and sinking fund requirements on
10 bonded indebtedness incurred subsequent to the passage
11 of the tax levy limitation amendment, the board of com-
12 missioners of the county of Ohio is hereby authorized and
13 empowered to lay such additional levy as may not be re-
14 quired for bonded indebtedness, on all of the property in
15 Ohio county, but not to exceed four and nine-tenths cents
16 on each one hundred dollars' assessed valuation on class I
17 property; nine and eight-tenths cents on class II prop-
18 erty; and nineteen and six-tenths cents on classes III and
19 IV property. The proceeds of said levy shall be placed
20 in a separate fund designated "Public Improvement
21 Fund", to be used solely for the construction, equipment
22 and maintenance of an airport, and a county building,
23 and for the leasing of temporary quarters for a county
24 building during any construction period. Any such
25 county building may be constructed, equipped and main-
26 tained in conjunction with the city of Wheeling. Such
27 levies heretofore laid by the board of commissioners of
28 the county of Ohio for the purpose of purchasing land
29 and constructing an airport thereon are hereby validated
30 and confirmed.

Sec. 2. *Inconsistent Acts Repealed.*—All acts and parts
2 of acts inconsistent or in conflict herewith, insofar as the
3 same may be applicable to the county of Ohio, or the said
4 board of commissioners of the county of Ohio, are hereby
5 repealed.

CHAPTER 174

(House Bill No. 178—By Mr. Ward and Mr. Flint)

AN ACT to amend chapter one hundred fifty-one, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-one, by adding thereto a new section, numbered fourteen, relating to the approval, by the county court of Raleigh county, of disbursements made from the general county fund of said county for improvements of the Raleigh county recreational park, known as Four-H lake.

[Passed March 2, 1945; in effect from passage. Became a law without the approval of the Governor.]

Section

14. Raleigh county court authorized to approve disbursements made for the improvement of the county recreational park.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred fifty-one, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-one, be amended by adding thereto a new section to read as follows:

Section 14. *Raleigh County Court Authorized to Approve Disbursements Made for the Improvement of the County Recreational Park.*—The county court is authorized to approve at any regular meeting of the said court within six months after the effective date of this act, the disbursements heretofore made from the general county fund for the improvements of the Raleigh county recreational park commission, known as the Four-H lake, which said approval shall be a validation of all such disbursements so made.

CHAPTER 175

(House Bill No. 334—By Mr. Flint and Mr. Ward)

AN ACT to amend and reenact chapter one hundred sixty-six, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-one, fixing the salary of the judge of the criminal court of Raleigh county.

[Passed March 8, 1945; in effect July 1, 1945. Approved by the Governor.]

Section

9. Salary of the judge of the criminal court of Raleigh county.

Be it enacted by the Legislature of West Virginia:

That chapter one hundred sixty-six, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-one, be amended and reenacted to read as follows:

Section 9. *Salary of the Judge of the Criminal Court of Raleigh County.*—The judge of the criminal court of Raleigh county shall receive for his services six thousand dollars per annum, to be paid out of the county treasury of said county of Raleigh in the same manner and at the same time as the salaries of the other county officers are paid; and he shall not practice law in any of the courts of this state during his continuance in said office.

CHAPTER 176

(Senate Bill No. 135—By Mr. Hall, of Raleigh)

AN ACT authorizing the county courts of Preston, Raleigh and Ritchie counties to expend money for acquiring, developing and maintaining an airport or landing field within each of said counties and to cooperate with state and federal agencies for that purpose.

[Passed March 2, 1945; in effect from passage. Approved by the Governor.]

Section

1. County courts of Preston, Raleigh and Ritchie counties authorized to use public funds for acquiring and developing airports or landing fields.

Be it enacted by the Legislature of West Virginia:

Section 1. *County Courts of Preston, Raleigh and Ritchie Counties Authorized to Use Public Funds for Acquiring and Developing Airports or Landing Fields.*—The county courts of Preston, Raleigh and Ritchie counties are hereby authorized to use general county funds or any other funds at their disposal, and which they are not required to spend for other purposes, for acquiring, developing and maintaining airports or landing fields within each of their said counties. The said county courts are also authorized to cooperate with any state or federal agencies or departments in acquiring, developing and maintaining said airports or landing fields and are authorized to accept state or federal funds, and other gifts, devises and bequests for such purposes.

CHAPTER 177

(Senate Bill No. 210—By Mr. McKown)

AN ACT to authorize the county court of Wayne county to construct, equip, maintain and operate memorial buildings in the vicinities of Wayne, Ceredo-Kenova and Westmoreland, in Wayne county; and to transfer unexpended balances in the county contractual fund and county road bond fund to the general county fund to be used for said purposes.

[Passed March 7, 1945; in effect ninety days from passage. Approved by the Governor.]

Section

1. Wayne county court authorized to construct, maintain and operate war memorials.
2. Transfer of county funds.

Be it enacted by the Legislature of West Virginia:

Section 1. *Wayne County Court Authorized to Construct, Maintain and Operate War Memorials.*—The county court of Wayne county, West Virginia, is authorized to erect, or purchase community buildings, structure or structures, monument or monuments, and to acquire sites therefor either by purchase or condemnation, as memorials in memory of and in recognition of the virtue and sacrifices of the soldiers and sailors from Wayne county in the two World Wars, and to lay a levy for the purpose as provided by section two, article three, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, and said fund shall be administered in every respect as provided therein.

Sec. 2. *Transfer of County Funds.*—The said county court is hereby authorized to transfer such unexpended funds as it now has in the contractual debt fund and the county road bond fund by proper order entered of record to the general county fund of said county to be used for the purposes set out in section one hereof.

CHAPTER 178

(Senate Bill No. 190—By Mr. Bowers, by request)

AN ACT to authorize the county court of Wetzel county to reimburse Marne Post No. 28 of the American Legion, for money spent for repairs to the War Memorial building at New Martinsville, West Virginia, to the extent of five thousand dollars.

[Passed March 7, 1945; in effect from passage. Approved by the Governor.]

Section

1. Wetzel county court authorized to reimburse Marne Post No. 28 of the American Legion, for money spent for repairs to war memorial building.

Be it enacted by the Legislature of West Virginia:

Section 1. *Wetzel County Court Authorized to Reim-*
2 *burse Marne Post No. 28 of the American Legion, for*
3 *Money Spent for Repairs to War Memorial Building.—*
4 The county court of Wetzel county is hereby authorized
5 and empowered to reimburse Marne Post No. 28 of the
6 American Legion, for money expended for repairs on the
7 War Memorial building at New Martinsville, West Vir-
8 ginia, and pay said reimbursement out of any available
9 funds: *Provided, however, That such reimbursement*
10 *shall not exceed the sum of five thousand dollars.*

RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 1

(By Mr. Schupbach)

[Adopted January 10, 1945.]

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 2:45 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 7th day of November, one thousand nine hundred forty-four, as provided by section three, article seven of the Constitution of this State.

HOUSE CONCURRENT RESOLUTION NO. 2

(By Mr. Ross, of Mercer)

[Adopted January 10, 1945.]

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 3:00 o'clock P. M., this day, to hear the biennial message of His Excellency, Governor Matthew M. Neely.

HOUSE CONCURRENT RESOLUTION NO. 3

(By Mr. Ward)

[Adopted January 10, 1945.]

Providing for a recess of the Legislature.

Resolved by the House of Delegates, the Senate concurring therein:

That when adjournment is taken by the two Houses of the Legislature at the close of this day's session, such adjournment shall be until Tuesday, January 16th, 1945, at 2:00 o'clock P. M.

Committee Substitute for

HOUSE CONCURRENT RESOLUTION NO. 4

(Originating in the House Committee on the Judiciary)

[Adopted February 15, 1945.]

Providing for the appointment of an interim committee to make a study, survey, and investigation of public health problems, institutional and civilian medical care, hospital service and medical education in West Virginia.

WHEREAS, The health of the people of the State of West Virginia is a matter of state concern; and

WHEREAS, The distribution of medical care for persons who cannot provide it for themselves and their families continues to be a matter of great public interest, calling for cooperative action on the part of public administrators and doctors in civilian practice to bring about a high order of medical care for the needy sick; and

WHEREAS, The Legislature feels that public health problems, including medical and hospital care for the needy, the operation of state hospitals and sanitariums, the distribution of medical care and hospital service through the medium of service plans, the extension of state and county health programs, and the continuance of a medical school at West Vir-

ginia University, should all receive careful study by a committee; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That an interim committee, consisting of five members of the Senate, to be appointed by the President thereof, and five members of the House of Delegates, to be appointed by the Speaker thereof, of which committee the Speaker of the House of Delegates and the President of the Senate shall be members and ex officio chairman and co-chairman, is hereby set up for the purpose of making a thorough study, survey and investigation of the following matters of public interest:

(a) The administration of state-owned hospitals and sanitariums, particularly with reference to medical care provided at such institutions;

(b) The enlargement of the present public health program so as to provide adequate medical care and hospital service for the needy in all areas, including industrial and agricultural;

(c) The operation of existing prepaid voluntary medical-hospital-surgical service plans and the desirability of or necessity for amendments to present statutes, or the enactment of additional laws in connection therewith;

(d) The development of prepaid voluntary or compulsory health insurance plans designed to provide adequate medical care and hospital service for all of the people;

(e) The continuance of a two-year school of medicine at West Virginia University; the need for an additional building or buildings for that purpose; the practicability of the establishment of a four-year school of medicine; and, the advisability of establishing a department of public health in connection with that school;

(f) The transfer of the supervision of superintendents of state hospitals and sanitariums from the Board of Control to the Public Health Council;

(g) Availability of hospital facilities in all areas of the State

compared with the need therefor, particularly with reference to bed-capacity;

(h) Such other matters concerning public health as may properly come before the committee for study, investigation and report. The committee shall elect a chairman and a vice chairman from the members of the committee, which is authorized to employ such assistance as may be needed and fix compensation within the amounts made available by the appropriation therefor. Such committee may meet anywhere in the State, may take testimony, subpoena witnesses, and require the production of books, records and papers, as may be necessary to carry out the spirit of this resolution.

There shall be appointed by the Governor a committee, not to exceed twenty-five persons, who shall act in an advisory capacity to the interim committee, of whom five shall be duly licensed doctors of medicine practicing in West Virginia, one a member of the Hospital Association of West Virginia, one a member of the West Virginia State Nurses' Association, one a representative of a medical, surgical or hospital service plan organization, functioning in West Virginia, one a member of the West Virginia State Dental Society, one a member of the West Virginia State Pharmaceutical Association, one a member of the West Virginia Osteopathic Society, Inc., and one a member of the West Virginia Medical Society.

Vacancies occurring for any cause in the membership shall be filled by the officer authorized to make the original appointments.

The committee is authorized to fix the amount to be paid the members of the interim and advisory committees as an allowance for their expenses, not to exceed fifteen dollars a day per member, and for their mileage.

Such committee shall make a report to the Legislature on or before January 10, 1947, and shall include in such report such amendments to our present statutes and such additional measures as may be deemed necessary to carry the recommendations of the committee into effect.

The sum of twenty-five thousand dollars (\$25,000), or so

much thereof as may be needed, is hereby appropriated for the expenses of the committee, one-half thereof to be paid from the contingent fund of the Senate, and one-half from the contingent fund of the House of Delegates, upon proper requisitions of the Clerks of the two Houses.

The Clerk of the Senate and the Clerk of the House of Delegates, upon the approval of the chairman of said committee, shall draw their requisitions upon the Auditor, payable equally out of the contingent fund of the House of Delegates and the contingent fund of the Senate for such expenditures and expenses of said committee as are authorized by this resolution. Requisitions to the Auditor for payment of expenses of said committee shall be accompanied by the signed approval of said expenses, signed by the chairman of said committee or by one authorized to do so by the committee.

HOUSE CONCURRENT RESOLUTION NO. 7

(By Mr. Davis)

[Adopted January 30, 1945.]

Providing for a joint assembly to hear an address by His Excellency, the Governor.

WHEREAS, His Excellency, the Governor, has informed the Legislature that he would be pleased to address a joint assembly; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That His Excellency, the Governor, is hereby invited to address a joint assembly at 2:30 o'clock P. M., Monday, February 5, 1945; and, be it

Further Resolved, That the Legislature meet in joint assembly in the hall of the House of Delegates at this hour to hear the address of His Excellency, the Governor; and, be it

Further Resolved, That the President of the Senate appoint three members of that body and that the Speaker of the House

of Delegates appoint three members of that body as a committee to wait upon His Excellency, the Governor, and escort him to the hall of the House of Delegates at 2:30 o'clock P. M., on this day.

HOUSE CONCURRENT RESOLUTION NO. 13

(By Mr. Matthews)

[Adopted February 19, 1945.]

Deploring the death of the Honorable Harry L. Van Sickler, a member of the House of Delegates.

WHEREAS, On last Saturday morning the Legislature learned with unfeigned sorrow of the death, which took place shortly before the two Houses convened on that day, of the Honorable Harry L. Van Sickler, late a Delegate from the County of Greenbrier; and

WHEREAS, The first legislative service of the deceased antedates that of any other member of the Legislature, he having been a member of the House of Delegates in the 1903 session of the Legislature; and since that time has served as a member of the House of Delegates in the first and second extraordinary sessions of 1933, and of the 1935, 1937, 1943, and 1945 sessions; and

WHEREAS, This distinguished Delegate was an able and conscientious legislator, a capable lawyer and wise counsellor, a faithful churchman, an ardent fraternalist, and a respected and worthy public official; and

WHEREAS, The deceased had been honored by his neighbors and fellow citizens in the Town of Lewisburg, West Virginia, in selecting him as a member of council and mayor of his home town on numerous occasions; and from 1937 to 1941 he served as a member of the Workmen's Compensation Appeal Board, displaying able and outstanding ability in this position, as reflected by the affirmation of the decisions of this board by the Supreme Court of Appeals; and

WHEREAS, During his service in the House of Delegates he

served as chairman and member of leading standing committees, having been a member of the House Committee on Rules in the forty-third, forty-sixth and forty-seventh Legislatures, and was chairman of the House Committee on the Judiciary and majority leader in that body during the forty-sixth Legislature, a position which he filled with distinction and ability, and as a result of his leadership and devotion to principle, as displayed in this position, he won great esteem and respect throughout the state; and

WHEREAS, The deceased was a man whose every action, manner, high principles and dealings with his fellowman typified the word gentleman, and characterized the highest attributes of exemplary citizenship; and

WHEREAS, This distinguished gentleman, although ever kind, courteous, tolerant, tactful and fair, never feared to take a position upon any public question, and having taken a position, he stood upon principle, and adhered strictly to principle, defending or advocating it with all his strength and ability, never faltering or wavering from the path of duty and right, no matter how rocky the road or how stormy the course; and

WHEREAS, Because of the ability, loyalty and devotion to principle, with which Delegate Van Sickler discharged his duties as a member of the House of Delegates, as well as his fundamental desire to serve and help others; the people of the State of West Virginia have suffered the loss of a true friend and a competent and honest advocate; and

WHEREAS, While he was an outstanding member of the Democratic party, he was loved and respected by members of all political groups; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the members of the forty-seventh Legislature of West Virginia, fully aware of the tragic loss suffered as a result of the death of this distinguished member of the House of Delegates, hereby extend their deepest and heartfelt sympathy to the members of the family of the deceased; and, be it

Further Resolved, That out of respect to the memory of the

deceased, that the Sergeants-at-Arms of the two Houses have the flags lowered to half-mast during today; and, be it

Further Resolved, That the members of the House Committee on Rules, and Senators Bowling, Allen and Morrison, heretofore appointed by the President of the Senate, are hereby designated the official committees of the House of Delegates and Senate to attend the funeral at Lewisburg, West Virginia, at 3:00 o'clock P. M., this day.

HOUSE CONCURRENT RESOLUTION NO. 14

(By Mr. Hansbarger)

[Adopted March 2, 1945.]

Requesting the Governor to limit the issuance and sale of seven million dollars' worth of West Virginia state road bonds, authorized by an act of the Legislature at its regular session, one thousand nine hundred forty-five, until such time as federal matching funds for highway construction may be available under acts of Congress.

Resolved by the House of Delegates, the Senate concurring therein:

That the Governor do defer issuance and sale of seven million dollars' worth of West Virginia state road bonds, authorized to be issued and sold by an act of the Legislature at its regular session, one thousand nine hundred forty-five, until such time as federal matching funds for highway construction may be available under acts of the Congress.

HOUSE CONCURRENT RESOLUTION NO. 16

(By Mr. Hartigan and Mr. Carder)

[Adopted March 2, 1945.]

Creating a committee to recommend a suitable marker for the birthplace of the founder of Mother's Day, and the location of an appropriate memorial in some public park or place.

WHEREAS, Miss Ann Jarvis, the founder of Mother's Day, is a native of West Virginia, having been born in Taylor County, near Grafton, on May 1, 1864; and

WHEREAS, Miss Jarvis lost her mother in 1906 and the following year appealed to some of her friends to observe with her the anniversary of her mother's death, which resulted in plans being made for the annual celebration of Mother's Day, and the response to this appeal being so immediate and general that on May 10, 1908, the City of Philadelphia, where Miss Jarvis then resided, observed Mother's Day, and in 1912 the Governor of Texas proclaimed the observation of the day and pardoned a number of prisoners at that time; and

WHEREAS, Interest in the movement continued to grow, and on May 10, 1913, a resolution was passed by the Congress declaring Mother's Day a national observation, and on May 9, 1914, President Wilson was the first President to issue a proclamation for the national observance of this day, which has since been observed nationally; and

WHEREAS, In addition to being the founder of Mother's Day, Miss Jarvis contributed much to West Virginia—music and literature claimed her interest at an early age, and to her belongs credit for the first literary clubs in the public schools of this State—and furthermore she organized the first industrial classes in the public schools of her native state, and has the honor of being responsible for the establishment of the first flag day through legislation; and

WHEREAS, Miss Jarvis is now advanced in years and confined to a sanitarium at West Chester, Pennsylvania; and

WHEREAS, It is only fitting and proper that the State of West Virginia recognize the outstanding achievements of this distinguished lady, and at the same time honor and pay tribute to all mothers of this State; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That a committee of five members of the Legislature, three members of the House of Delegates, to be appointed by the Speaker, and two members of the Senate, to be appointed by

the President thereof, be appointed to consider and make recommendation to the next regular session of the Legislature upon the following:

1. The design, location, and cost of an appropriate marker at the birthplace of Miss Ann Jarvis; and

2. The location and cost of an appropriate memorial in honor of West Virginia motherhood, and in recognition of the founder of Mother's Day and her contribution to the cultural and moral life of this great State, such memorial to be located in some public park or place; and, be it

Further Resolved, That the committee may consult and advise with historical societies, the Board of Control, and other public agencies or voluntary organizations upon the problems herein assigned said committee. The committee shall serve without cost to the State.

HOUSE CONCURRENT RESOLUTION NO. 17

(By Mr. Holt)

[Adopted February 27, 1945.]

Deploring the death of the Honorable John W. Johnson, the Delegate from the County of Braxton.

WHEREAS, The Legislature has learned with sincere sorrow of the death of the Honorable John W. Johnson, late a Delegate from the County of Braxton; and

WHEREAS, The deceased was serving his second consecutive term as a member of the House of Delegates from the County of Braxton, having been elected in the years 1942 and 1944; and

WHEREAS, This Delegate was one of Braxton County's leading citizens and prominent businessmen; and was an honest, capable and conscientious legislator; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the members of the forty-seventh Legislature of West Virginia, realizing the great loss suffered in the death of this beloved member of the House of Delegates, hereby extend their genuine and heartfelt sympathy to the members of the family of the deceased; and, be it

Further Resolved, That the President of the Senate and the Speaker of the House of Delegates appoint committees from the membership of the respective Houses to attend the funeral of the deceased; and, be it

Further Resolved, That the Clerks of the two Houses do procure appropriate floral emblems, and that out of respect to the memory of the deceased, the Sergeants-at-Arms of the two Houses have the flags lowered to half-mast until after the funeral.

HOUSE CONCURRENT RESOLUTION NO. 18

(By Mr. Davis)

[Adopted March 2, 1945.]

Providing for a joint assembly to hear a message by His Excellency, the Governor.

WHEREAS, His Excellency, the Governor, has informed the presiding officers of the Senate and House of Delegates that he would be pleased to address a joint assembly; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That His Excellency, the Governor, is hereby invited to address a joint assembly, and that the Legislature meet in joint assembly in the hall of the House of Delegates to hear an address by His Excellency, the Governor, at 2:30 o'clock P. M., Friday, March 2, 1945.

HOUSE CONCURRENT RESOLUTION NO. 20

(By Mr. Speaker, Mr. Amos)

[Adopted March 8, 1945.]

Authorizing the Governor to make the State of West Virginia a party to the Interstate Oil Compact Commission.

Resolved by the House of Delegates, the Senate concurring therein:

That the Governor of the State of West Virginia is hereby authorized, for and in the name of the State of West Virginia, to join with other states in the interstate compact to conserve oil and gas, which was heretofore executed from the city of Dallas, Texas, on the 16th day of February, 1935, and is now deposited with the Department of State of the United States, and which has been extended with the consent of the Congress to September 1, 1947; and, be it

Further Resolved, That the Governor of West Virginia is further authorized and empowered for and in the name of the State of West Virginia, to execute agreements for the further extension of the expiration date of the said the interstate oil compact to conserve oil and gas, and to determine if and when it shall be for the best interest of the State of West Virginia to withdraw from said compact upon sixty days' notice as provided by its terms. In the event he shall determine that the State should withdraw from said compact, he shall have full power and authority to give necessary notice and to take any and all steps necessary and proper to effect the withdrawal of the State of West Virginia from said compact; and, be it

Further Resolved, That the Governor shall be the official representative of the State of West Virginia on "The Interstate Oil Compact Commission", provided for in the compact to conserve oil and gas, and shall exercise and perform for the State of West Virginia all the powers and duties as a member of "The Interstate Oil Compact Commission": *Provided*, That he shall have the authority to appoint an assistant representative who shall act in his stead as the official representative of the State of West Virginia as a member of said commission.

HOUSE CONCURRENT RESOLUTION NO. 22

(By Mr. Davis)

[Adopted March 10, 1945.]

Thanking Dr. Clyde L. Colson for assistance to the Legislature.

WHEREAS, Dr. Clyde L. Colson, technical adviser to His Excellency, the Governor, has been of great service to the members of the forty-seventh Legislature, in the drafting of bills and advising members and committees; and

WHEREAS, Dr. Colson has been courteous and accommodating to the members of the Legislature; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the members of this Legislature hereby express their appreciation and thanks to Dr. Colson for his courteous and valuable aid and assistance during this session of the Legislature.

HOUSE CONCURRENT RESOLUTION NO. 23

(By Mr. Hansbarger)

(Originating in the Committee on Rules)

[Adopted March 10, 1945.]

Authorizing the payment of expenses for services and supplies after the close of this session of the Legislature.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia hereby authorizes the payment of expenses for services and supplies incurred after the close of this 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 requisitions of the Clerk of the House of Delegates and the Clerk of the Senate,

drawn in favor of persons for services performed or supplies furnished, as authorized by either separate or concurrent action of the two Houses; and, be it

Further Resolved, That all extensions of per diem authorized by House Resolution No. 26 and Senate Resolution No. 16, for similar purposes, are hereby declared to be authorized by the Legislature and shall have the same force and effect as if they were incorporated herein.

HOUSE JOINT RESOLUTION NO. 7

(By Mr. Goff, by request)

[Adopted March 6, 1945.]

Proposing an amendment to the Constitution of the State, amending article six thereof by adding thereto a new section to be numbered section fifty-three, and to be known as the "Forestry Amendment".

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-six, 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-three, and to be known as the "Forestry Amendment", to read as follows:

Section 53. *Forestry Amendment*.—The Legislature may by general law define and classify forest lands and provide for cooperation by contract between the state and the owner in the planting, cultivation, protection, and harvesting thereof. Forest lands embraced in any such contract may be exempted from all taxation or be taxed in such manner, including the imposition of a severance tax or charge as trees are harvested, as the

Legislature may from time to time provide. But any tax measured by valuation shall not exceed the aggregate rates authorized by section one of article ten of this Constitution.

HOUSE RESOLUTION NO. 1

(By Mr. Davis)

[Adopted January 10, 1945.]

Adopting rules for the House of Delegates.

Resolved by the House of Delegates:

That the rules of the House of Delegates for the regular session, one thousand nine hundred forty-three, are hereby adopted and shall govern the proceedings of this House.

HOUSE RESOLUTION NO. 2

(By Mr. Lubliner)

[Adopted January 10, 1945.]

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 John E. Amos, of the County of Kanawha, 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. 3

(By Mr. Hansbarger)

[Adopted January 10, 1945.]

Raising a committee to wait upon the Governor.

Resolved by the House of Delegates:

That a committee of three members be appointed by the Speaker on the part of the House of Delegates to join with a similar committee on the part of the Senate to notify 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. 4

(By Mr. Van Sickler)

[Adopted January 10, 1945.]

Authorizing the Clerk to compile and publish a Legislative Manual.

Resolved by the House of Delegates:

That the Clerk is hereby authorized to compile and have printed without delay, a Legislative Manual containing the rules of the Senate and the House of Delegates, the joint rules of the Senate and House of Delegates, and such other matter and material as he may deem to be useful and convenient to the members of the Legislature. A sufficient number of copies of said manual to supply each member of the Legislature with ten copies thereof shall be printed.

HOUSE RESOLUTION NO. 5

(By Mr. Knight)

[Adopted January 18, 1945.]

Congratulating the West Virginia State Government Mileage Administration for its accomplishments in the reduction of state travel.

WHEREAS, At the request of the Office of Price Administration,

Washington, D. C., and the further request of the Governor, there was set up by the departmental heads of the state administration, in December, 1942, the office of the West Virginia State Government Mileage Administration; the primary object of which was to bring about a reduction of travel in automobiles by state employees, for the preservation of tires; and

WHEREAS, The West Virginia State Government Mileage Administration so set up and operated has, with the cooperation of the departmental heads and the state employees during the years 1943 and 1944, affected a reduction of auto travel by approximately thirty-five per cent each year as compared with state travel during the year 1941, the year 1941 being the last pre-war year; and

WHEREAS, Said reduction in travel saved the State of West Virginia for the year 1943 the sum of \$338,743.75 and for the first nine months of 1944 the sum of \$342,441.12, or a total saving from January 1, 1943, to September 30, 1944, of \$681,184.87, the reports for the last three months of 1944 not being completed at this time; therefore, be it

Resolved by the House of Delegates:

That the said mileage administration be congratulated for its efforts and accomplishments, and that the proper committee of the House of Delegates be requested to consider the advisability of legislation for the purpose of making permanent the Office of State Government Mileage Administration.

HOUSE RESOLUTION NO. 6

(By Mr. Davis)

(Originating in the Committee on Rules)

[Adopted January 17, 1945.]

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 eight

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 seven dollars, and that 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. Davis)

(Originating in the Committee on Rules)

[Adopted January 17, 1945.]

Providing for a mailing list for House Journals.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to have mailed from the House document room, copies of the daily Journal of the House to lists of persons to be furnished to the Clerk by the members of the House of Delegates, such lists not to exceed ten names from each Delegate; and the expenses of such mailing, including postage, shall be paid by the Auditor out of the contingent fund of the House of Delegates, in advance of the appropriation therefor, upon proper requisitions of the Clerk. All such mail shall bear the stamp of the Clerk of the House of Delegates, and the Clerk shall designate such persons as are to deliver such mail to the Central Mailing Office and notify the postmaster of such designation, and said office shall not accept such mail from any person or persons other than those so designated by the Clerk; and, be it

Further Resolved, That upon the approval of the Committee on Rules, the Clerk is authorized to mail copies of Journals, bills and other documents printed by the House to persons requesting the same.

HOUSE RESOLUTION NO. 9

(By Mr. Davis)

(Originating in the Committee on Rules)

[Adopted January 17, 1945.]

Authorizing the appointment of attaches for the House of Delegates for the 1945 regular session of the Legislature.

Resolved by the House of Delegates:

That the Speaker of the House of Delegates be, and he is hereby, authorized to appoint attaches and other employees to receive the per diem as herein provided, during this session of the Legislature:

(1) For the Clerk's office the following:

- Two record clerks at eight dollars per day each;
- Two roll-call clerks at eight dollars per day each;
- Four proofreaders at nine dollars per day each;
- Four copyholders at eight dollars per day each;
- One supervisor of printing at ten dollars per day;
- One payroll and supply clerk at ten dollars per day;
- One clerk to the Committee on Enrolled Bills at nine dollars per day;
- One messenger at eight dollars per day;
- One file clerk at eight dollars per day;
- Two typists at eight dollars per day each;
- One receptionist-telephone operator at eight dollars per day;
- One Journal clerk at twelve dollars per day;
- One Journal stenographer at ten dollars per day;
- One stenographer at nine dollars per day;

(2) For other offices and positions, the following:

One clerk, one assistant clerk and one stenographer to the Committee on Taxation and Finance at twelve, ten and nine dollars per day, respectively;

One clerk, one assistant clerk and one stenographer to the Committee on the Judiciary at twelve, ten and nine dollars per day, respectively;

Eleven committee clerks, to be assigned by the Speaker, at nine dollars per day each;

One secretary to the minority and one clerk to the minority at twelve and ten dollars per day, respectively;

Five stenographers for the minority room at nine dollars per day each;

One supervisor of stenographers at ten dollars per day;

Twelve stenographers at nine dollars per day each;

Four typists at eight dollars per day each;

One superintendent of document and mailing rooms at twelve dollars per day;

One assistant superintendent of document and mailing rooms at ten dollars per day;

Six document room clerks at eight dollars per day each;

Four mailing room clerks at eight dollars per day each;

Four pages at six dollars per day each;

One messenger to the Speaker at eight dollars per day;

Three assistants to the Sergeant-at-Arms at nine dollars per day each;

One clerk to the Sergeant-at-Arms at nine dollars per day;

Six assistant doorkeepers at eight dollars per day each;

One mimeograph supervisor at ten dollars per day;

Two mimeograph operators at eight dollars per day each;

One custodian of offices and property at eight dollars per day;

Two ladies' cloak room attendants at seven dollars per day each;

Two men's cloak room attendants at seven dollars per day each;

One voting machine technician at thirteen dollars per day;

One night watchman at eight 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 during the session, but shall not receive the compensation provided in Account No. 102, chapter one, acts of the Legislature, regular session, one thousand nine hundred forty-three; that the Sergeant-at-Arms and Doorkeeper shall receive ten dollars per day; and that the three assistant clerks provided for by section nine, article one, chapter four of the code, 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 their employment, 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 there shall be entered in the Journal of the House of Delegates a list of the names of the persons appointed under authority of this resolution, which list shall show the postoffice address and county of which such persons are residents and the positions to which they have been appointed; and, be it

Further Resolved, That no person appointed under authority of this resolution, and receiving pay hereunder, shall concurrently receive compensation from any other department of state, or agency thereof.

HOUSE RESOLUTION NO. 10

(By Mr. Davis)

[Adopted January 22, 1945.]

Fixing per diem of House Chaplain.

Resolved by the House of Delegates:

That the per diem of any official Chaplain who may be appointed by the Speaker under authority of the rules of the House shall be five dollars.

HOUSE RESOLUTION NO. 11

(By Mr. Matthews)

[Adopted January 25, 1945.]

Relating to service and care of patients at Weston State Hospital and other state institutions.

WHEREAS, From information which seems credible, patients at some of our humane institutions, especially Weston State Hospital, are not receiving proper service and care; and

WHEREAS, It is the duty of the Legislature to provide for the proper care of the wards of the State, who live tragic lives at best, and the members of this body are anxious that these persons receive adequate care and service and that they shall not be neglected; therefore, be it

Resolved by the House of Delegates:

That this body, through its committee on Humane Institutions and Public Buildings, or otherwise, take immediate steps to determine the true conditions that exist at these institutions, and that a full and complete report, giving the true facts as determined by such committee as may be authorized to make a study of conditions in these institutions, be made to this House as soon as possible, together with the recommendations of the committee.

HOUSE RESOLUTION NO. 12

(By Mr. Holt)

[Adopted January 29, 1945.]

Creating a standing Committee on Veterans' Affairs.

Resolved by the House of Delegates:

That a standing committee of the House, to be known as the Committee on Veterans' Affairs, be and it is hereby created; and, be it

Further Resolved, That the Speaker of the House be, and he is hereby, authorized to appoint the membership of such committee.

HOUSE RESOLUTION NO. 13

(Originating in the Committee on Rules)

[Adopted January 29, 1945.]

Amending the rules of the House of Delegates to provide for a Committee on Veterans' Affairs.

Resolved by the House of Delegates:

That Rule No. 76 be amended by adding thereto a new standing committee to be known as the Committee on Veterans' Affairs.

HOUSE RESOLUTION NO. 14

(By Mr. Doring)

[Adopted January 30, 1945.]

Thanking the Inwood Fruit Growers for apples sent House of Delegates.

WHEREAS, The Inwood Fruit Growers, Inwood, West Virginia, has treated the members of the House to several bushels of choice Stayman Winesap apples; and

WHEREAS, This delicious fruit was shipped prepaid freight by this organization; therefore, be it

Resolved by the House of Delegates:

That the appreciation and thanks of the members of this body are hereby extended to the Inwood Fruit Growers for this very fine gift; and that the Clerk transmit a copy of this resolution to said organization.

HOUSE RESOLUTION NO. 16

(By Mr. Matthews and Mr. McClung)

[Adopted February 7, 1945.]

Extending birthday congratulations to the only feminine member of the forty-seventh session of the Legislature of West Virginia.

WHEREAS, Today, February 7, our charming lady member of the forty-seventh Legislature of West Virginia, Mrs. Nell W. Walker of Winona, Fayette County, celebrates her birthday; and

WHEREAS, The remaining ninety-three members of the House are well aware of the sterling qualities of the conscientious, intelligent and well-informed representative now serving her fifth consecutive term from the County of Fayette; therefore, be it

Resolved by the House of Delegates:

That we denote our affectionate and sincere congratulations to Mrs. Walker, the lady from Fayette, and that a fitting tribute be manifested by the presentation of a floral token from the House of Delegates; and, be it

Further Resolved, That a certified copy of this resolution be transmitted to Mrs. Walker for her personal files.

HOUSE RESOLUTION NO. 18

(By Mr. Hugus)

[Adopted February 15, 1945.]

Extending to the family of the late John Guy Prichard, former Clerk of the House of Delegates, the sympathy of this House.

WHEREAS, Word has been received of the untimely death of John Guy Prichard of Fairmont, West Virginia, who passed away on February twelfth, one thousand nine hundred forty-five, in Phoenix, Arizona; and

WHEREAS, The late Mr. Prichard served this honorable body as Clerk of the House of Delegates from the county of Marion in the years one thousand nine hundred thirteen—one thousand nine hundred fifteen, and for many years was a friendly and familiar figure in these legislative halls; therefore, be it

Resolved by the House of Delegates:

That the Delegates to this forty-seventh session of the Legislature extend to Mrs. Prichard and other members of his family their sympathy; and, be it

Further Resolved, That a copy of this resolution be forwarded to the widow, Mrs. John Guy Prichard, and a copy to the eldest remaining member of the deceased's family in Fairmont, Miss Dorcas Prichard, dean of women at Fairmont State College; both documents to bear the certification of the Clerk of the House of Delegates, and be transmitted forthwith by him.

HOUSE RESOLUTION NO. 19

(By Mr. Davis)

(Originating in the Committee on Rules)

[Adopted February 16, 1945.]

Amending House Rule No. 42.

Resolved by the House of Delegates:

That rule No. 42 of the rules of the House of Delegates for this session of the Legislature be amended to read as follows:

42. On the passage of every bill and joint resolution, and when the yeas and nays on any question are called for by one-tenth of those present, the Speaker shall direct a yea and nay vote to be taken, and every member present shall vote, unless excused. On all roll-calls, when the voting machine is not used, before the result is announced, the Clerk shall read to the House the names of those who voted in the affirmative or in the negative, whichever is the smaller number, and announce the names of those absent and not voting, at which time any

member may correct a mistake committed in taking down his vote. The result shall then be announced, and the yeas and nays entered on the Journal, but if the House so orders, the announcement of the result and the entry of the yeas and nays upon the Journal may be postponed to the succeeding day, with liberty to absent members at any time before the result is announced by the Speaker, to appear and vote "Aye" or "No", in the presence of the House; and any member may, in the presence of the House, change his vote before the result is announced. The Journal shall also show those absent and not voting.

When the yeas and nays are called for by a member on any question, the Speaker shall hold this demand in abeyance until debate has closed upon the question under consideration, or until the previous question has been moved and sustained. Then the Speaker shall ascertain if the demand is sustained, and if sustained by one-tenth of the members present, the yeas and nays shall be taken.

Upon calls of the House, in taking the yeas and nays, the names of the members shall be called alphabetically, except the name of the Speaker shall be called last.

HOUSE RESOLUTION NO. 20

(By Mr. Schupbach)

[Adopted February 16, 1945.]

Authorizing payment of expenses of the House Committee on Penitentiary.

WHEREAS, The House Committee on Penitentiary has visited both the Penitentiary, at Moundsville, and the Medium Security Prison, at Huttonsville, during this session of the Legislature, and incurred certain expenses for hotel, transportation, meals, stenographic service and other miscellaneous expenses in connection with these visits; therefore, be it

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized

to draw his requisition upon the Auditor, payable from the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, in favor of the Chairman of the Committee on Penitentiary, in the amount of five hundred four dollars and nine cents (\$504.09), to reimburse him for moneys expended in the payment of the various expenses incurred in the visiting and inspecting of said Penitentiary and Medium Security Prison by the House Committee on Penitentiary.

HOUSE RESOLUTION NO. 21

(By Mr. Davis)

(Originating in the Committee on Rules)

[Adopted February 21, 1945.]

Authorizing the Committee on Rules to arrange a Special Calendar.

Resolved by the House of Delegates:

That effective Monday, February 26, 1945, 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 ninth 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. 22 ·

(By Mrs. Walker)

[Adopted February 22, 1945.]

An expression of appreciation to the registered nurses of West Virginia for their patriotic service with the uniformed forces of the United States.

WHEREAS, The registered nurses of West Virginia have made an outstanding contribution to the cause of freedom and, as volunteers for service with the uniformed forces of the United States, exceeded all quotas assigned to this state from the first call for nurses until July 1, 1944, when misunderstanding, misconception and over-optimism caused the dissipation of an adequate reserve pool of registered nurses, the basic misunderstanding being advice from the Federal Government that after July 1, 1944, only nurses' replacements would be needed; and

WHEREAS, More than 878 of West Virginia's daughters are now serving in the Nurses Corps of our national military services, while scores of other qualified nurses have volunteered, passed their examinations, proved their qualifications, and have been awaiting their call to duty since the latter part of December, 1944; and

WHEREAS, The registered nurses in this State, as well as in the nation, conducted, largely at their own expense, their own recruitment program which resulted in the enrollment of at least fifty per cent of their available professional colleagues, a record no other profession can match; and

WHEREAS, Out of the enrolled national membership of registered nurses of 178,000, more than 81,000 volunteered, of whom 66,300 were accepted, though more than 11,000 have been separated from the services for physical or other reasons; and

WHEREAS, The registered nurses of this State and this nation feel that a competent federal agency with an adequately implemented program, with sufficient personnel, with authority to act, and with sufficient funds for proper expenses, can secure sufficient registered nurses for the military forces and provide, as well, adequate nursing services on the home front; therefore, be it

Resolved by the House of Delegates:

That we do express our pride in the patriotic services of our West Virginia daughters in the Army and Navy Nurse Corps; and our confidence that the patriotism of our nurses will assure the voluntary filling of every quota assigned to this State, and their prompt response to every call by the nation to duty.

HOUSE RESOLUTION NO. 23

(By Mr. Postalwait)

[Adopted February 22, 1945.]

Authorizing the payment of expenses of the Committee on Humane Institutions and Public Buildings.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates, upon the approval of the Chairman of the Committee on Humane Institutions and Public Buildings, shall draw his requisitions upon the Auditor, payable out of the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, for expenses of members of said committee incurred in visiting state institutions, and for stenographic services and other expenses. The Auditor shall honor such requisitions as are presented to him under authority of this resolution, and draw upon the Treasurer for the payment thereof.

HOUSE RESOLUTION NO. 25

(By Mr. Hansbarger and Mr. Hugus)

[Adopted March 7, 1945.]

Expressing appreciation and thanks to Latelle M. LaFollette, Jr., for services during this session of the Legislature.

WHEREAS, During this session of the Legislature, Mr. Latelle M. LaFollette, Jr., has given valuable and outstanding services

to the chairmen and members of the Committees on Taxation and Finance, Game and Fish, and Forfeited, Delinquent and Unappropriated Lands, as well as to the members of the House of Delegates generally; and

WHEREAS, Mr. LaFollette has given generously of his time in counselling and advising members and committees; and

WHEREAS, This able lawyer and capable and conscientious member of the 1943 House of Delegates has unstintingly given of his knowledge and experience, without cost to the State of West Virginia, and has refused to be compensated for this invaluable service; therefore, be it

Resolved by the House of Delegates:

That the sincere thanks and gratitude of the members of this House of Delegates are hereby extended to Mr. LaFollette; and, be it

Further Resolved, That as an expression of the appreciation of this body of the services and assistance of Mr. LaFollette, the Rules Committee is hereby authorized to procure and present him with an appropriate gift or present on behalf of the members of this body.

HOUSE RESOLUTION NO. 26

(By Mr. Davis)

(Originating in the Committee on Rules)

[Adopted March 10, 1945.]

Authorizing the printing and distribution of the Acts of this session of the Legislature, providing for the printing of corrected Journals and Bills, and for the completion of the other work of the session.

Resolved by the House of Delegates:

That under the 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, headnoted in accordance with the form and style of headnoting used in the code of West Virginia, one thousand nine hundred thirty-one, and with a full table of contents, and in paper binding, for distribution among the members of the Legislature, judges of the Supreme Court of Appeals, circuit, criminal and intermediate courts, and 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 the same shall be mailed to each member of the Legislature.

The Clerk of the House is also authorized and directed to have printed in signature form for advance sheets, any general law which he may deem to be of sufficient importance to be issued and distributed in this form.

For the work required in printing and distributing advance copies of the acts, and for the proofreading, indexing and printing the bound volumes of the acts of this session of the Legislature, and for the purpose of completing the other work of this session in arranging and filing of all bills, resolutions and other official papers in the Clerk's office, and for indexing and proofreading of the corrected Journals and bills of the House of Delegates, and printing thereof, the time of the fol-

lowing 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:

One assistant clerk, a journal clerk, a journal stenographer, and a secretary to the clerk is extended for one hundred eighty days; a superintendent of document and mailing rooms is extended for one hundred twenty days; three proofreaders, three copyholders, and two file clerks is extended for ninety days; the secretary to the minority is extended for ninety days, and the clerk to the minority is extended for thirty days; two assistant clerks, an assistant superintendent of document and mailing rooms, a supervisor of the mimeograph room, two mail room clerks, two document room clerks, and four stenographers is extended for thirty days; the time of the clerk, assistant clerk, and stenographer to the Committee on the Judiciary is extended for ten days; the time of the clerk, assistant clerk, and stenographer to the Committee on Taxation and Finance is extended for ten days; the time of the Clerk to the Committee on Enrolled Bills is extended for fifteen days; the time of a custodian of offices and property is extended for fifteen days; the time of one payroll and supply clerk is extended for fifteen days; the time of the stenographer to the Clerk is extended for fifteen days; the time of the supervisor of stenographers is extended for twenty days; and the time of eight janitors is extended for five days; and, be it

Further Resolved, That the time of the secretary to the Speaker is extended for one hundred eighty days; the time of the stenographer to the Speaker is extended for thirty days; and the time of the messenger to the Speaker is extended for forty-five days; and, be it

Further Resolved, That the Speaker is hereby authorized to employ a full-time stenographer at a salary not to exceed one hundred seventy-five dollars per month and a full-time messenger-janitor for the House of Delegates at a salary not to exceed one hundred forty dollars per month, said salaries to be payable from the contingent fund of the House of Delegates upon requisitions of the Clerk of the House of Delegates; and, be it

Further Resolved, That for the purpose of arranging the offices and committee rooms and performing the other duties of their office, the time of the Sergeant-at-Arms, Doorkeeper, and clerk to the Sergeant-at-Arms is extended for ten days, and an assistant sergeant-at-arms is extended for thirty days.

The Clerk shall draw his requisitions upon the Auditor in favor of the persons entitled to per diems under this resolution, for consecutive days until such time as their services cease, and the Auditor shall honor and pay such requisitions when presented and charge the same to the contingent fund of the House of Delegates.

The Speaker shall have authority to remove any person given an extension of per diem under authority of this resolution, except elective officers of the House of Delegates, and to appoint another in his place or to fill any vacancy that may occur.

The Clerk shall have printed not more than six hundred copies each of the corrected House Journals and House Bills. Of this number, one copy of each shall be mailed to each member of the Legislature, and after retaining a sufficient number of copies to supply the officers in the House of Delegates, the remainder shall be turned over to the supervisor of public printing.

To pay postage or expressage on Acts, Journals and Bills, and other matter to be mailed by the House of Delegates, the Clerk is hereby authorized to draw his requisitions upon the Auditor, payable from the contingent fund of the House of Delegates, for such purposes.

HOUSE RESOLUTION NO. 27

(By Mr. Ward)

[Adopted March 10, 1945.]

Notifying the Senate that the House of Delegates is ready to adjourn *sine die*.

Resolved by the House of Delegates:

That a committee of three be appointed by the Speaker to notify the Senate that the House of Delegates has completed its labors and is ready to adjourn *sine die*.

HOUSE RESOLUTION NO. 28

(By Mr. Davis)

[Adopted March 10, 1945.]

Raising a committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn *sine die*.

Resolved by the House of Delegates:

That a committee of three be appointed by the Speaker to join with a similar committee of the Senate to notify His Excellency, the Governor, that the Legislature has completed its labors, is ready to adjourn *sine die*, and inquire of him if he has any further communication to make to the Legislature.

SENATE CONCURRENT RESOLUTION NO. 1

(By Mr. Johnston)

[Adopted January 10, 1945.]

Relating to joint rules of the Senate and House of Delegates.

Resolved by the Senate, the House of Delegates concurring therein:

That the joint rules of the Senate and House of Delegates for the regular session of the Legislature, one thousand nine hundred forty-three, are hereby adopted and shall govern the proceedings of this session.

SENATE CONCURRENT RESOLUTION NO. 2

(By Mr. Jackson)

[Adopted January 10, 1945.]

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 requisitions 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 may become due.

SENATE CONCURRENT RESOLUTION NO. 4

(By Mr. Vickers, Mr. President, Messrs. Johnston, Morrison and Harmer)

[Adopted February 8, 1945.]

Commending the Congress of the United States on its action in affirming the world-wide right of interchange of news.

The Legislature of the State of West Virginia at its forty-seventh regular session thereof, being advised of the unanimous action of the Congress of the United States in adopting Senate Resolution No. 53, September 21, 1944, which reads as follows:

“That the Congress of the United States expresses its belief in the world-wide right of interchange of news by news gathering and distributing agencies, individual or associate, by any means, without discrimination as to sources, distribution, rates, or charges; and that this right should be perfected by international compact.”; and

The Legislature of the State of West Virginia, fully subscribing to the principles enunciated by said resolution; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature of the State of West Virginia hereby extends its commendation to the Congress of the United States for its affirmance of the principles of the freedom of speech and press as guaranteed in this country by the Constitution of the United States of America, advocates the adoption of the same principles upon a world-wide basis, in freedom and equality of access to the truth and the facts, and urges upon the delegates of this country to the peace conference the adoption of an international compact in accordance with the mandate from the Congress of the United States; and, be it

Further Resolved, That a copy of this resolution be sent to the Secretary of State of the United States, to the Chairman of the Committee on Foreign Affairs of the United States Senate and to the Chairman of the Committee on Foreign Affairs of the House of Representatives of the United States.

SENATE CONCURRENT RESOLUTION NO. 6

(By Mr. Vickers, Mr. President)

[Adopted February 26, 1945.]

Creating an interim committee of the Legislature for the purpose of studying and making recommendations for the solution of important problems of government in West Virginia.

WHEREAS, Major problems of state government require more extensive research and more detailed study than the demands of a regular legislative session will permit; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That an interim committee be created for the purpose of

studying the following subjects, and such others as may be agreed upon by the committee, on its own motion or at the request of the Governor:

(1) The educational system of West Virginia, including the institutions of higher learning, with particular reference to: (a) finances, sources of revenue, and the administration of state aid; (b) the elimination of duplicate or overlapping facilities; (c) the creation of incentives for the assumption by counties of greater local responsibility for the financing and administration of the public schools; (d) the nomination and election of members of boards of education; and (e) such other matters as would aid in the formulation of a financial, administrative and functional plan for the educational system of the State, that will guarantee to the taxpayers and the public generally a minimum of waste and a maximum of efficiency and service in our school system, which is at present absorbing approximately sixty per cent of the total state appropriations.

(2) All problems connected with the government and operation of state institutions, other than state medical institutions, with a view to their more efficient administration and their more effective service to the people of the State.

That prior to the convening of the next regular session of the Legislature the committee make and issue reports to the Governor and to the Legislature concerning its studies, together with such recommendations and proposed legislation as may, in the opinion of the committee, aid in the solution of the problems considered.

That the membership of the committee be composed of the President of the Senate, as co-chairman, and four members of the Senate to be appointed by him; the Speaker of the House of Delegates, as co-chairman, and four members of the House of Delegates to be appointed by him.

That in connection with any particular problem under consideration, the Governor be authorized to appoint an advisory committee of not more than fifteen representative citizens of the state to consult and advise with the interim committee concerning the best solution of the problem.

That the committee be authorized to meet in Charleston, or elsewhere, as it may determine.

That in order to make possible the procurement of the necessary information to carry out the intent and spirit of this resolution, the committee be empowered to call upon any of the departments of the state government, to summon witnesses, and to take testimony and to cause the production of such papers, documents, records, and the like as the committee may deem pertinent.

That the committee be empowered to employ such advisory, clerical and stenographic assistants as may be necessary in the proper execution of its duties.

That the committee be authorized to fix the amount to be paid the members of the interim and advisory committees as an allowance for their expenses, not to exceed fifteen dollars a day per member, and for their mileage, and to fix the amount to be paid to such assistants as it may employ for their compensation and expenses.

That the expenses incurred, not to exceed seventy-five thousand dollars, be paid from the contingent funds of the Senate and the House of Delegates in as nearly equal proportions, as may be practicable.

SENATE CONCURRENT RESOLUTION NO. 9

(By Mr. Winters)

[Adopted March 5, 1945.]

Granting permission to introduce a bill relating to the construction of a county-city hospital at Huntington.

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 and empower the county court of Cabell county, in conjunction with the city of Huntington, or alone, to construct, acquire, equip, operate and maintain a general hospital in said county for the treatment and care of patients, charitable and otherwise; to appoint a board of trustees to control, manage and operate the said hospital, and to use in connection therewith such existing facilities or property as may be available."

SENATE CONCURRENT RESOLUTION NO. 10

(By Mr. Vickers, Mr. President)

[Adopted March 8, 1945.]

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 provide for the submission to the voters of the state of an amendment to the constitution of the State of West Virginia, amending section one, article ten thereof, such amendment to be known as the "Special Levy Amendment".

SENATE CONCURRENT RESOLUTION NO. 11

(By Mr. Vickers, Mr. President)

[Adopted March 10, 1945.]

Relating to the Dumbarton Oaks and San Francisco Conferences.

WHEREAS, It is clearly apparent that in order to win and preserve the peace at the conclusion of the present wars, it will be necessary to perfect and maintain an international organi-

zation in which the United States of America should be an active participant; therefore, be it

Resolved by the Senate of West Virginia, the House of Delegates concurring therein:

That the Legislature of West Virginia congratulates the Department of State and the Congress of the United States upon their support of, and active participation in, the work of the Dumbarton Oaks Conference and its enunciation of principles, so essentially necessary, to prevent future aggressions against the freedoms of the peace-loving peoples of the world under whatever names such aggressions may occur, and expresses the hope that the deliberations of the forthcoming conference at San Francisco in which the Department of State, and the Congress will have an important part, will eventually lead to the establishment of such an international organization in order that stable and lasting political and economic relations among all the sovereign states of the world may be firmly established and effectually maintained; and, be it

Further Resolved, That a copy of this resolution be sent to the Secretary of State of the United States, to the Chairman of the Committee on Foreign Relations of the United States Senate, and to the Chairman of the Committee on Foreign Affairs of the House of Representatives.

SENATE CONCURRENT RESOLUTION NO. 12

(By Mr. Vickers, Mr. President)

[Adopted March 10, 1945.]

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 ten, article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to expenditures by the state department of health and to its authority to accept federal funds."

SENATE RESOLUTION NO. 1

(By Mr. Allen)

[Adopted January 10, 1945.]

Raising a committee to notify the House of Delegates that the Senate is organized.

Resolved by the Senate:

That the President of the Senate be and he is hereby authorized to appoint a committee of three to inform the House of Delegates that the Senate is organized by the election of the Honorable Arnold M. Vickers as President and Mr. J. Howard Myers as Clerk, and is ready to proceed with the business of the session.

SENATE RESOLUTION NO. 2

(By Mr. McKown)

[Adopted January 10, 1945.]

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. Bowling)

[Adopted January 10, 1945.]

Relating to the mailing of Journals and Bills.

Resolved by the Senate:

That the Clerk of the Senate be and he is hereby authorized to have mailed from the Senate document room, copies of the Bills and daily Journals of the Senate to addresses to be furnished to the Clerk by the members of the Senate, twenty of which such addresses may be submitted by each member of the Senate, 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 requisition drawn by the Clerk of the Senate.

SENATE RESOLUTION NO. 4

(By Mr. Johnston)

[Adopted January 16, 1945.]

Adopting rules of the Senate.

Resolved by the Senate:

That the rules of the Senate, regular session, one thousand nine hundred forty-three, be adopted as the rules of the Senate for this session.

SENATE RESOLUTION NO. 5

(By Mr. Vickers, Mr. President)

[Adopted January 18, 1945.]

Authorizing the appointment of attaches and other employees for the one thousand nine hundred forty-five regular session of the Legislature.

Resolved by the Senate:

That the Clerk of the Senate be, and he is hereby authorized to appoint attaches and other employees to receive the per diem, as herein provided during this session of the Legislature, viz:

One mimeograph supervisor, at ten dollars per day;

One mail clerk, at eight dollars per day;

One stenographer to the Finance Committee, at nine dollars per day;

One stenographer to the Judiciary Committee, at nine dollars per day;

One assistant to the Sergeant-at-Arms, at nine dollars per day;

One assistant journal room supervisor, at ten dollars per day;

Two committee clerks-at-large, at nine dollars per day, each;

Four committee clerks, at nine dollars per day, each;

One clerk on enrolled bills, at nine dollars per day;

One assistant sergeant-at-arms, at eight dollars per day;

Four assistant doorkeepers, at eight dollars per day, each;

Five journal and mailing room clerks, at eight dollars per day, each;

One receptionist to the President, at eight dollars per day;

Ten floor stenographers, at nine dollars per day, each;

Ten typists, at eight dollars per day, each;

- One secretary to the minority, at eighteen dollars per day;
 - One journal stenographer, at fifteen dollars per day;
 - One bill editor, at twelve dollars per day;
 - One secretary to the Clerk, at twelve dollars per day;
 - One secretary to the President, at twelve dollars per day;
 - One clerk to the minority, at twelve dollars per day;
 - One supervisor printing, at fifteen dollars per day;
 - Three mimeograph operators, at eight dollars per day, each;
 - One messenger to the President, at seven dollars per day;
 - One proofreader, at nine dollars per day;
 - One proofreader, at ten dollars per day;
 - Two copyholders, at eight dollars per day, each;
 - One journal room supervisor, at ten dollars per day;
 - One chaplain, at five dollars per day;
 - One clerk to the Finance Committee, at twelve dollars per day;
 - One assistant clerk to the Finance Committee, at ten dollars per day;
 - One clerk to the Judiciary Committee, at twelve dollars per day;
 - One assistant clerk to the Judiciary Committee, at ten dollars per day;
 - One messenger for the clerk's office, at eight dollars per day;
 - Ten clerk-stenographers, at nine dollars per day, each;
 - Ten janitors at seven dollars per day, each; and, be it
- Further Resolved*, That the Clerk of the Senate is authorized to appoint a court reporter, at twelve dollars per day for each day the Senate is in session; and, be it
- 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 requisitions upon the Auditor in favor of the officers and attaches herein appointed for consecutive days from the date of the opening of this session at the per diems, herein set out, and the Auditor shall honor and pay such requisitions in advance of the appropriation for the purpose when presented, and charge same to the "per diem of officers and attaches" fund of the Senate.

The Clerk shall assign duties to the said employees and require them to perform the duties assigned to them, and he is authorized and directed to remove any of such employees whose work is not satisfactory and to appoint another in his place.

SENATE RESOLUTION NO. 6

(By Mr. Allen)

[Adopted January 24, 1945.]

Authorizing the appointment of a standing committee to be designated "Committee on Veterans' Affairs".

Resolved by the Senate:

That there be, and is hereby created, a standing committee of the Senate to be designated "Committee on Veterans' Affairs"; and, be it

Resolved Further, That the President of the Senate is authorized to appoint forthwith the membership of such committee.

SENATE RESOLUTION NO. 8

(By Mr. Staats)

[Adopted January 25, 1945.]

Concerning the death of the Honorable William Woodyard.

WHEREAS, The Senate has learned of the sudden death of the Honorable William Woodyard, a former member of this body; and

WHEREAS, In his passing, the State, his county and city have lost a valued statesman and esteemed public-spirited citizen, and many of the members of this body a much prized friend; therefore, be it

Resolved by the Senate:

That the Senate deplores the untimely death of Senator Woodyard, and expresses its sincere sympathy to his loved ones; and, be it

Resolved Further, That the Clerk of this body is directed to send a suitable floral emblem, on behalf of the Senate, to the family of our deceased friend and former member, together with a copy of this resolution.

SENATE RESOLUTION NO. 9

(By Mr. Hardesty)

[Adopted January 29, 1945.]

Concerning leave of absence for Senator Don J. Eddy.

WHEREAS, The Honorable Don J. Eddy, a member of the Senate from the Fourteenth District, will be prevented from attending any of the meetings of the Senate during this session, by reason of his services abroad in the armed forces of our country; therefore, be it

Resolved by the Senate:

That Senator Eddy be granted an indefinite leave of absence for this session.

SENATE RESOLUTION NO. 10

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted February 7, 1945.]

Relative to the appointment of assistant janitors.

WHEREAS, Howard N. Martin, 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 the said Howard N. Martin, is fixed at two dollars, as the Senate's one-half of his per diem.

SENATE RESOLUTION NO. 11

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted February 7, 1945.]

Relating to the payment of expenses for services preparatory to and at the beginning of the session.

Resolved by the Senate:

That the Auditor, upon proper requisition of the Clerk of the Senate and in advance of the appropriation for the purpose, is authorized to pay the following amounts for services rendered preparatory to and at the beginning of this session of the Senate:

Fred B. Watkins, Clerk, 10 days at \$20.00.....	\$200.00
M. L. Jackson, Supervisor of Printing, 10 days at \$15.00	150.00
Fern Runion, Journal Stenographer, 10 days at \$15.00	150.00

SENATE RESOLUTION NO. 12

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted February 23, 1945.]

Authorizing the Committee on Rules to arrange a special calendar.

Resolved by the Senate:

Beginning February twenty-sixth, and for the remainder of the session, the committee on rules is authorized to arrange a "Special Calendar" and, until the business on the special calendar is disposed of each day no item of business on the regular calendar shall be considered or take precedence over any item of business on the special calendar, except as provided by Senate rule number sixty-eight.

SENATE RESOLUTION NO. 13

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted February 23, 1945.]

Relative to the per diem of the Superintendent of Capitol Building and Grounds.

Resolved by the Senate:

That the per diem of Howard N. Martin, Superintendent of Capitol Building and Grounds, is fixed at one dollar, as the Senate's part of his per diem allowed by section twenty-two, article one, chapter five of the code.

SENATE RESOLUTION NO. 14

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 3, 1945.]

Authorizing the payment of expenses of Committee on the Penitentiary.

Resolved by the Senate:

That the Auditor, in advance of the appropriation for the purpose, shall pay out of the contingent fund of the Senate the following items of expense incurred by the Senate Committee on the Penitentiary on its visit of inspection to the penitentiary and the medium security prison:

W. C. Perry, meals and expenses for all the members of the committee, advanced by him, \$12.90.

Raymond Allman, for transcript (original and six carbons) of hearings before the joint meetings of the House and Senate Committees on the Penitentiary, held on February 9th and 10th, at Charleston and Moundsville, \$394.08.

SENATE RESOLUTION NO. 15

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 10, 1945.]

Commending members of the press who have reported the proceedings of this session of the Legislature.

WHEREAS, This has been an important session of the Legislature, resulting in the consideration and enactment of many laws of great moment; and

WHEREAS, The representatives of the press have been in constant attendance upon the session of the Senate and have made comprehensive reports to the people of the State through the press of the actions of this body; therefore, be it

Resolved by the Senate:

That the representatives of the press who have been in attendance upon the sessions of the Senate be commended for their efforts in reporting said actions and for their courteous and extremely fair presentation of the same to the reading public.

SENATE RESOLUTION NO. 16

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 10, 1945.]

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 is hereby extended for one hundred and eighty 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 clerk to Finance Committee for five days at twelve dollars per diem; one clerk to Judiciary Committee for five days at twelve dollars per diem; one stenographer to Finance Committee for five days at nine dollars per diem; two stenographers to the Judiciary Committee for five days at nine dollars each; one clerk on enrolled bills for ten days at nine dollars per diem; one journal room supervisor for fifteen days at ten dollars per diem; one journal room clerk for twenty days at nine dollars per diem; one secretary to the Clerk for one hundred and eighty days at twelve dollars per diem; one stenographer for thirty days at ten dollars per diem; two journal stenographers for thirty days at ten dollars per diem each; one journal clerk for one hundred and eighty days at fifteen dollars per diem; one journal editor for one hundred and eighty days at eighteen dollars per diem; one senior stenographer for fifteen days at nine dollars per diem; one printing clerk for one hundred and eighty days at fifteen dollars per diem; one proofreader for one hundred and fifty days at ten

dollars per diem; one proofreader for one hundred and fifty days at nine dollars per diem; two copyholders for ninety days each at eight dollars per diem each; one clerk to the minority for ninety days at twelve dollars per diem; one supervisor of supplies for ten days at ten dollars per diem; one secretary to the President for thirty days at twelve dollars per diem; one supervisor of janitors for sixty days at eight dollars per diem; two assistant janitors for thirty days each at seven dollars per diem each; one assistant janitor for thirty days at seven dollars per diem.

SENATE RESOLUTION NO. 17

(By Mr. Hardesty)

[Adopted March 10, 1945.]

Raising a committee to notify the House of Delegates that the Senate is ready to adjourn *sine die*.

Resolved by the Senate:

That the President be authorized to appoint a committee of three, to notify the House of Delegates, that the Senate has completed its labors and is ready to adjourn *sine die*.

SENATE RESOLUTION NO. 18

(By Mr. Bowling)

[Adopted March 10, 1945.]

Raising a committee to notify the Governor that the Legislature is ready to adjourn *sine die*.

Resolved by the Senate:

That the President is authorized to appoint a committee of three, to meet with a like committee on the part of the House of Delegates to inform the Governor that the Legislature has completed its labors and is ready to adjourn *sine die*, and to inquire if he has any further communications he desires to make.

DISPOSITION OF BILLS ENACTED

The following table shows the disposition of Senate and House Bills passed at the regular session of the 1945 Legislature. The first column gives the number of the bill and the second column the chapter assigned to it. House Bills appear first, followed by Senate Bills.

HOUSE BILLS

Bill No.	Chapter	Bill No.	Chapter	Bill No.	Chapter
1	11	110	159	241	17
2	68	112	139	242	12
9	101	113	125	254	10
12	98	116	109	267	53
15	92	117	111	269	144
25	122	119	16	271	115
29	2	121	75	272	34
30	107	132	121	282	70
36	124	135	150	289	110
42	141	141	64	293	84
45	36	147	38	295	66
48	19	149	7	300	93
50	118	152	147	301	148
51	99	153	55	302	89
56	168	155	52	308	41
57	112	156	1	309	67
58	71	159	48	318	42
64	39	161	23	321	100
66	105	162	61	325	151
67	90	169	58	332	35
78	87	178	174	334	175
81	8	191	25	340	163
82	44	194	173	343	18
96	30	195	21	348	165
101	117	204	169	352	170
102	79	208	62	356	136
103	81	215	95	361	22
104	78	226	134	364	13
105	80	227	132		
106	9	228	133		

SENATE BILLS

Bill No.	Chapter	Bill No.	Chapter	Bill No.	Chapter
9	135	96	160	166	47
10	146	97	20	168	5
29	33	107	26	170	6
31	162	108	167	172	88
32	116	114	120	179	83
37	166	117	91	181	82
38	171	118	155	182	130
43	4	120	32	183	131
44	27	121	31	186	54
47	140	122	164	188	153
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ACTS
AND
RESOLUTIONS
OF THE
FORTY-SIXTH
LEGISLATURE

EXTRAORDINARY SESSION
January 3-7, 1944



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HOUSE OF DELEGATES

OFFICERS

Speaker—JOHN E. AMOS, Charleston

Clerk—J. R. ALIFF, Fayetteville

Sergeant-at-Arms—FRANK E. LEMON, Beckley

Doorkeeper—AZEL McCURDY, Huntington

County	Name	Address
Barbour.....	William Janes (R).....	Philippi
Berkeley.....	Charles R. Beard (R).....	Martinsburg
Boone.....	M. L. Postalwait (D).....	Seth
Braxton.....	J. W. Johnson (D).....	Sutton
Brooke.....	Francis Freshwater (D).....	Follansbee
Cabell.....	Mike Casey (D).....	Huntington
	John G. Hudson (D).....	Huntington
	Clyde M. Slater (D).....	Huntington
	Fred F. Rotroff (D).....	Huntington
	Henry F. White (D).....	Huntington
Calhoun.....	O. C. Hathaway (R).....	Grantsville
Clay.....	E. G. Pierson (R).....	Clay
Doddridge.....	P. Douglass Farr (R).....	West Union
Fayette.....	Lacy Neely (D).....	Oak Hill
	J. Alfred Taylor, Jr. (D).....	Fayetteville
	J. Alex Tinsley (D).....	Montgomery
	Nell W. Walker (D).....	Winona
Gilmer.....	Arlan W. Berry (D).....	Glenville
Grant.....	Owen S. Schaeffer (R).....	Petersburg
Greenbrier.....	J. E. Baas (D).....	Lewisburg
	H. L. Van Sickler (D).....	Lewisburg
Hampshire.....	William H. Ansel, Jr. (D).....	Springfield
Hancock.....	Scott Brown (R).....	New Cumberland
Hardy.....	George C. Trumbo (D).....	Milam
Harrison.....	*Harvey W. Harmer (R).....	Clarksburg
	Thomas Franklin Mills (D).....	Clarksburg
	W. Frank Stout (R).....	Clarksburg
	Leonard G. Williams (R).....	Clarksburg
Jackson.....	Harlan Staats (R).....	Ripley
Jefferson.....	M. S. R. Moler (D).....	Shepherdstown
Kanawha.....	John E. Amos (D).....	Charleston
	L. J. Callinan (R).....	Charleston
	J. Hornor Davis (D).....	Charleston
	Boyd C. Holley (R).....	East Bank
	Ray L. Hope (R).....	Charleston
	Frank A. Knight (D).....	So. Charleston
	Latelle M. LaFollette, Jr. (R).....	Charleston
	Roy Stuart Samms, Jr. (R).....	Charleston
Lewis.....	Rush D. Holt (D).....	Weston
Lincoln.....	B. R. Osborne (R).....	Griffithsville
Logan.....	Wallace E. Ferrell (D).....	Chapmanville
	Glenn Jackson (D).....	Logan
	Hugh Paul (D).....	Holden
Marion.....	Haymond A. Alltop (D).....	Fairmont
	K. C. Currey (D).....	Fairmont
	Fred L. Doring (D).....	Fairmont

HOUSE OF DELEGATES

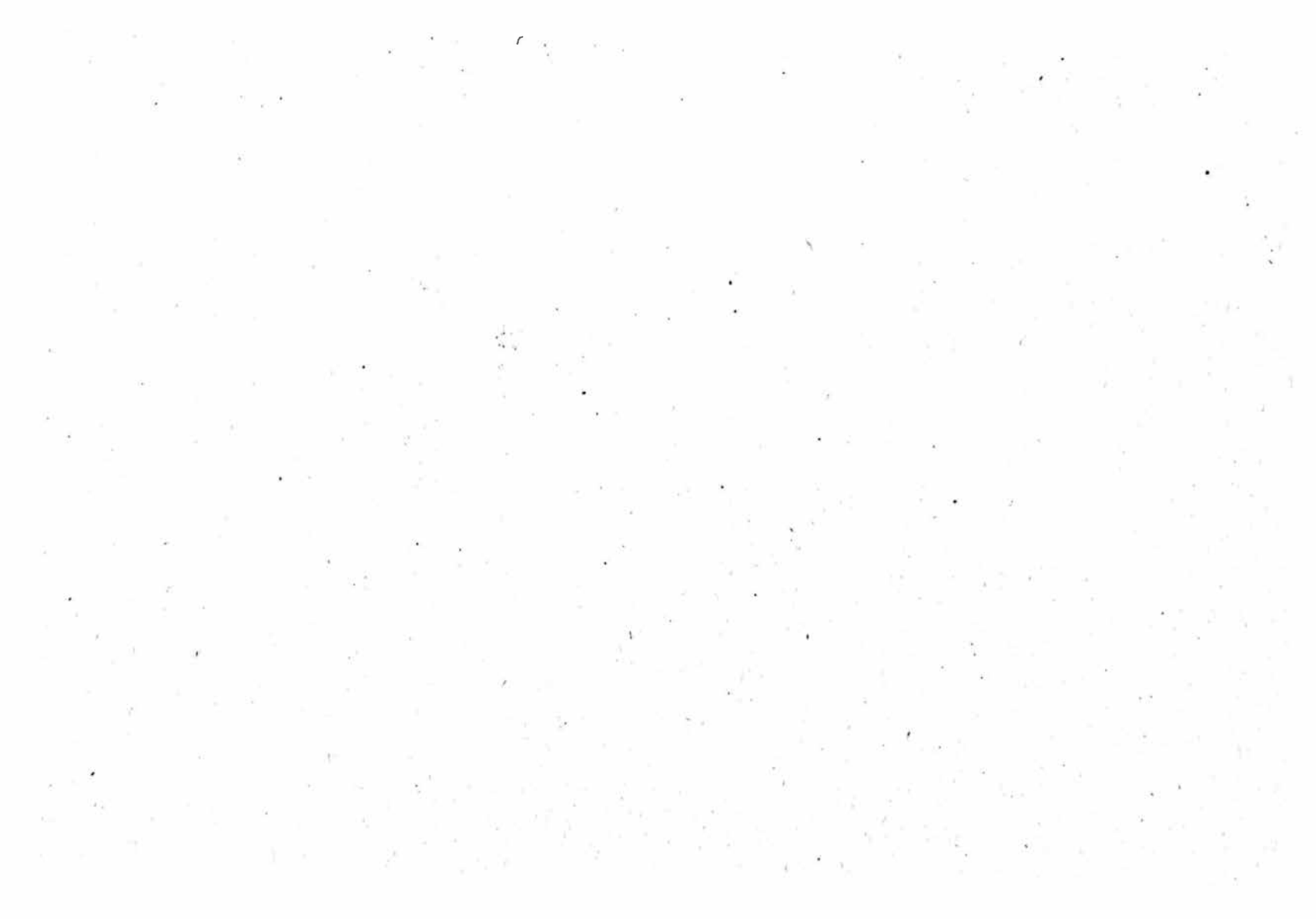
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County	Name	Address
Marshall.....	Everett F. Moore (R).....	Moundsville
	Floyd R. Yoho (R).....	Moundsville
Mason.....	George A. Raiden (R).....	Leon
Mercer.....	J. C. Fanning (D).....	Princeton
	Walter V. Ross (D).....	Bluefield
	P. T. Saunders (D).....	Bluefield
Mineral.....	John I. Rogers (R).....	Keyser
Mingo.....	Toney E. Cline (D).....	War Eagle
	Glenn Taylor (D).....	Matewan
Monongalia.....	Franklin M. Brand (R).....	Morgantown
	J. W. Hartigan (R).....	Morgantown
Monroe.....	Sherman Ballard (R).....	Peterstown
Morgan.....	Harvey D. Beeler (R).....	Berkeley Springs
McDowell.....	William T. Blankenship (D).....	Eckman
	George Evans (D).....	Iaeger
	J. C. Hansbarger (D).....	Welch
	E. B. Shannon (D).....	Welch
	Bernard H. Woodyard (D).....	Welch
Nicholas.....	Wendell H. Holt (D).....	Richwood
Ohio.....	William Callahan (R).....	Wheeling
	Edward James Flaccus (R).....	Wheeling
	Dan Herd (R).....	Wheeling
	Wright Hugus (R).....	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.....	James K. Arnett (R).....	Winfield
Raleigh.....	O. C. Flint (D).....	Beckley
	Cecil L. Miller (R).....	Beckley
	John C. Ward (D).....	Beckley
Randolph.....	N. T. Downs (D).....	Mill Creek
Ritchie.....	Robert Morris (R).....	Harrisville
Roane.....	R. L. McCulty (R).....	Spencer
Summers.....	O. E. Garten (D).....	Talcott
Taylor.....	† Louise Goudy Potts (R).....	Grafton
Tucker.....	Cleon W. Raese (R).....	Davis
Tyler.....	Cecil L. Nichols (R).....	Alma
Upshur.....	Perce J. Ross (R).....	Buckhannon
Wayne.....	Max F. Carey (D).....	Kenova
	Emmett G. Staley (D).....	Wayne
Webster.....	Boyd Dotson (R).....	Webster Springs
Wetzel.....	Herbert Schupbach (D).....	New Martinsville
Wirt.....	Roy I. Douglas (R).....	Elisabeth, Rt. 4
Wood.....	Spencer K. Creel (R).....	Parkersburg, Rt. 5
	Blaine M. Miller (R).....	Parkersburg
	Robert Evans Stealey (R).....	Parkersburg
Wyoming.....	Wallace Morgan (D).....	Hanover

(D) Democrats.....	50
(R) Republicans.....	44
Total.....	94

(*) Appointed January 15, 1943, to fill the vacancy caused by the death of Delegate-elect Edward J. Kella

(†) Appointed January 18, 1943, to fill the vacancy caused by the death of her husband, the Honorable Herman Lee Potts



LEGISLATURE OF WEST VIRGINIA

ACTS OF 1944

EXTRAORDINARY SESSION

CHAPTER 1

(Senate Bill No. 2—Originating in the Senate Committee on the Judiciary)

AN ACT to amend chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be numbered article six-a, relating to the establishment, until June thirtieth, one thousand nine hundred forty-seven, of a practicable system of absentee voting by West Virginia citizens who are members of the armed services of the United States.

[Passed January 7, 1944; in effect from passage. Approved by the Governor.]

Article 6-a. Absentee Voting by Service Men and Women.

Section

1. Declaration of legislative purpose.
2. Announcement of candidacy.
3. Certification and posting of candidacies.
4. Appointment of ballot commissioners.
5. Compensation of ballot commissioners.
6. Nominations by party conventions.
7. Preparation, printing and delivery of absent voters' ballots.
8. Persons entitled to vote under the provisions of this article.
9. Temporary registration.
10. Request for absent voters' ballot.
11. Mailing of absent voters' ballots.
12. Ballot envelope.
13. Affidavit of absent voter; marking and return of ballot.
14. Filing of voted ballots.
15. Canvass of ballots.
16. Details not covered by this article.
17. Duration of article.
18. Temporary suspension of inconsistent provisions; revival.
19. Separability.

Be it enacted by the Legislature of West Virginia:

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

Section 1. *Declaration of Legislative Purpose.*—In the enactment of this article, it is the purpose of the Legislature to make only such temporary changes or modifications in existing election laws as may be necessary to provide a practicable means whereby West Virginians in the armed services may be afforded an opportunity to vote during the period of time covered by this article.

Sec. 2. *Announcement of Candidacy.*—While this article is in effect, the fourteenth Saturday rather than the fifth Saturday preceding the day fixed for the primary election shall be the last day on which a person may file announcement of his candidacy for nomination to any office. In all other respects, an announcement of candidacy shall be governed by the provisions of sections five-a and six, article four, chapter three of the code.

Sec. 3. *Certification and Posting of Candidacies.*—The secretary of state shall, on the Monday following the fourteenth Saturday preceding the day fixed for the primary election, proceed with the certification and posting of candidacies. Such certification and posting shall in all other respects be governed by the provisions of section eight, article four, chapter three of the code.

Sec. 4. *Appointment of Ballot Commissioners.*—Between the fifteenth and thirty-first days of January in each year in which a general election is to be held, the clerk of each circuit court shall appoint two ballot commissioners for a term of two years beginning on the first day of February following. In all other respects, including the customary notice to the county executive committees of the two political parties and the appointment of the person duly designated by the respective chairmen of such committees, the appointment of ballot commissioners shall be governed by the provisions of section two, article five, chapter three of the code.

2 Sec. 5. *Compensation of Ballot Commissioners.*—The
3 existing five-day limitation on the number of days for
4 which each ballot commissioner may be paid for his serv-
5 ices at any election shall, for the duration of this article,
6 be raised to seven days. The compensation of ballot com-
7 missioners and other election officials shall, in all other
8 respects, be governed by the provisions of section forty,
9 article five, chapter three of the code.

2 Sec. 6. *Nominations by Party Conventions.*—The party
3 conventions provided for in section twenty-seven, article
4 four, chapter three of the code shall be held between the
5 fifteenth and twenty-fifth days of July. All nominations
6 which, since the enactment of section five, article four,
7 chapter forty-eight, acts of the Legislature, regular ses-
8 sion, one thousand nine hundred forty-three, are still
9 made at such conventions shall be certified to the secre-
10 tary of state or to the clerk of the circuit court, as the case
11 may be, within twenty-four hours after they are made,
12 and the secretary of state, within twenty-four hours after
13 receipt of any such certification, shall certify the nomi-
14 nations to the clerks of the proper circuit courts. In all
15 other respects, such nominations shall be governed by the
16 provisions of section twenty-seven, article four, chapter
17 three of the code.

2 Sec. 7. *Preparation, Printing and Delivery of Absent*
3 *Voters' Ballots.*—Upon receipt by the circuit clerk of the
4 list of candidates certified by the secretary of state as
5 provided in sections three and six of this article, the ballot
6 commissioners shall immediately proceed with the pre-
7 paration of a sample official ballot for each political party,
8 shall estimate and determine the number of absent voters'
9 ballots of each kind which will be required, and shall
10 print and deliver such ballots to the clerk of the circuit
11 court as soon as possible, but not later than the twelfth
12 Saturday preceding the day fixed for the primary election.
13 Between the twenty-fifth day of July and the tenth day
14 of August, both inclusive, for the general election to be
15 held in the year one thousand nine hundred forty-four,
16 and between the tenth and twenty-fifth days of August,

16 both inclusive, for the general election to be held in
17 the year one thousand nine hundred forty-six, the ballot
18 commissioners shall prepare, print and deliver to the
19 clerk of the circuit court such absent voters' ballots as
20 will, in their opinion, be required for such elections.

21 In order to lessen the burden of the armed forces in re-
22 spect to the transportation and distribution of absentee
23 ballots, such ballots may be printed on lightweight paper,
24 if it is available, to the end that the total weight of the
25 ballot and the two envelopes provided for in section
26 twelve of this article shall not exceed eight-tenths of an
27 ounce, if possible, and such ballots shall be valid without
28 regard to other provisions of law respecting weight and
29 quality of paper.

30 If, after the ballots are printed but before they are dis-
31 tributed as provided in the following sections, any change
32 in the names printed thereon should become necessary,
33 the ballot commissioners shall make the necessary
34 changes by the use of stickers or by the printing of addi-
35 tional ballots.

36 Except as otherwise specified in this section, prepara-
37 tion, printing and delivery of absent voters' ballots shall
38 be governed by the provisions of section nine, article four,
39 section three, article five, and section fifteen, article six,
40 of chapter three of the code.

Sec. 8. *Persons Entitled to Vote Under the Provisions*
2 *of This Article.*—Any person, man or woman, who is reg-
3 istered as a voter in any county of this state, who is a
4 member of any branch of the armed services of the
5 United States, and who in the performance of his
6 duties expects to be absent on election day from the
7 county in which he is registered, may vote by absent
8 voter's ballot as provided in this article, whether such
9 person at the time of voting is within or without the terri-
10 torial limits of the United States.

11 Any other person may vote by absent voter's ballot only
12 as provided in article six, chapter three of the code.

Sec. 9. *Temporary Registration.*—Any person who is
2 not registered as a voter, and who is entitled to be regis-
3 tered under the provisions of general law, but who is

4 otherwise entitled to vote under the provisions of this
5 article, may apply to the clerk of the county court of the
6 county in which such person resides for permanent registra-
7 tion as provided in other sections of the code or for
8 temporary registration as provided in this section.

9 Application for temporary registration shall be made
10 upon a simplified form to be furnished by the county court.
11 Request for such a form may be made by mail or other-
12 wise by the applicant himself or by any other person.
13 The form shall be substantially as follows:

14 TEMPORARY REGISTRATION FORM

15 Name _____

16 (Last Name) (First Name) (Middle Name)

17 Home Address _____

18 (Give street number or as specific
19 location as possible)

20 _____

21 _____

22 Political Party Affiliation _____

23 I, _____, do solemnly swear (or
24 affirm), to the best of my knowledge and belief, that
25 though not registered I am legally qualified to vote; that
26 I am in the armed service of the United States; that I
27 am now at least twenty-one years of age, or will have
28 reached that age by the date of the next general election;
29 that I live at the above address in _____

30 County, West Virginia; and that on the basis of these state-
31 ments I desire to be registered as a voter of the proper
32 precinct in the county.

33 _____

34 (Signature of Applicant)

35 Subscribed and sworn to (or affirmed) before me this
36 _____ day of _____, 19_____.

37 _____

38 _____

39 (Signature of Officer, Rank,

40 Branch of Service and

41 Identification Number)

42 Note: This application shall be certified by a com-
43 missioned officer, warrant officer, or noncommissioned of-
44 ficer no lower in rank than sergeant or the equivalent

45 navy rating, of any branch of the armed services of the
46 United States, or by some other person qualified to ad-
47 minister oaths. The certificate need not state the place
48 where it is made and no seal shall be necessary.

49 * * * *

50 Please send an absent voter's ballot, for the next elec-
51 tion, to me at the following address:

52 _____

53 _____

54 _____

55 The applicant shall make the necessary affidavit before
56 a commissioned officer, warrant officer or noncommission-
57 ed officer no lower in rank than sergeant or the equivalent
58 navy rating, of any branch of the armed services of the
59 United States, or before some other person qualified to ad-
60 minister oaths, at any place either within or without the
61 territorial limits of the United States. The certificate need
62 not state the place where it is made and shall require no seal.

63 Upon receipt by the clerk of the county court of such
64 an application, duly executed, it shall be his duty to regis-
65 ter the applicant as a temporarily qualified voter of the
66 proper precinct in the county. If the applicant has filled
67 in that part of the form containing the request for an ab-
68 sent voter's ballot, the clerk of the county court shall
69 transmit such request to the clerk of the circuit court.

70 The temporary registration form, signed by the voter,
71 shall constitute his registration record and shall be de-
72 livered by the clerk of the county court to the proper
73 election commissioners at the same time that he delivers
74 to them the permanent registration records.

75 Temporary registration as provided in this section may
76 be made at any time except during the ten days preceding
77 an election. Such registration shall be valid only for the
78 duration of this article.

2 Sec. 10. *Request for Absent Voter's Ballot.*—At any
3 time except during the ten days preceding an election,
4 a request that an absent voter's ballot be sent to any
5 person, entitled to vote under the provisions of this article,
may be made to the clerk of the circuit court of the county.

6 in which such person is registered, by such person him-
7 self or by any other person.

8 Such request need not be by certified application. If
9 the request is by the person himself, it may be made
10 informally, by mail or otherwise; if by anyone else, it
11 shall be made upon a printed form to be signed by the
12 person making the request. Such form shall be sub-
13 stantially as follows:

14 REQUEST FOR ABSENT VOTER'S BALLOT

15

16

Date

17 TO THE CIRCUIT CLERK OF _____ COUNTY:

18

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Please send an absent voter's ballot to _____
_____, who is on active duty in the
armed services of the United States.

Address to which ballot shall be sent:

Absent voter's home address:

The absent voter is registered as a qualified elector of
precinct No. _____, magisterial district of _____,
county of _____. His political party
affiliation (to be stated only in the case of a primary
election) is _____.

(Signature of person making request)

Upon receipt of a request for an absent voter's ballot,
the clerk of the circuit court shall send the request to the
clerk of the county court, who shall then check such
information as may be stated in the request with the in-
formation appearing on the registration records filed in his
office. After inserting on the request necessary correc-

44 tions and such of the required information as may not
45 have been given, the clerk of the county court shall
46 return the request to the clerk of the circuit court.

47 The circuit clerk shall keep a separate list of such re-
48 quests similar in all respects to the list of other appli-
49 cations for absent voters' ballots which is provided for
50 in section four, article six, chapter three of the code.

Sec. 11. *Mailing of Absent Voters' Ballots.*—Upon de-
2 livery of the ballots to the clerk of the circuit court as
3 provided in section seven of this article, the clerk shall
4 proceed with the mailing of the ballots. In such mailing,
5 priority shall be given to ballots which are to be sent to
6 absent voters outside the territorial limits of the United
7 States. The ballots may be sent by air mail, postage pre-
8 paid. In no event shall more than one ballot be sent to
9 any absent voter.

Sec. 12. *Ballot Envelopes.*—The clerk of the circuit
2 court shall inclose the ballot in an unsealed envelope
3 to be furnished by him, which envelope shall have printed
4 on one side the name, official title and return address of
5 such clerk and on the other side an affidavit in sub-
6 stantially the following form:

7 IN THE ARMED SERVICE OF THE UNITED
8 STATES:

9 I, _____, do solemnly
10 swear (or affirm), to the best of my knowledge and belief,
11 that I am registered as a voter in _____
12 County, West Virginia; that I shall in the performance
13 of my duties be absent from such county on election day;
14 and that I am duly qualified to vote the inclosed ballot,
15 which I have personally marked and sealed in this enve-
16 lope without exhibiting it to any other person, or which,
17 in the case of my physical incapacity, has been marked
18 for me and sealed in the envelope under my personal
19 direction.

20

21

(Signature of Absent Voter)

22 Subscribed and sworn to (or affirmed) before me this
23 _____ day of _____, 19____.

24

25

26 (Signature of Officer, Rank, Branch
27 of Service and Identification Number)

28 NOTE: This affidavit shall be certified by a commis-
29 sioned officer, warrant officer or noncommissioned of-
30 ficer no lower in rank than sergeant or the equivalent
31 navy rating, of any branch of the armed services of the
32 United States, or by some other person qualified to ad-
33 minister oaths. The certificate need not state the place
34 where it is made and no seal shall be necessary. If the
35 voter, because of physical incapacity, is unable to sign
36 the affidavit, his name may be signed for him by the
37 officer who makes the certificate, who shall state on the
38 affidavit that he did sign for the voter.

39 Only the ballot, the ballot envelope and such instruction
40 sheet as may be prepared and furnished by the board
41 of ballot commissioners, and nothing else, shall be en-
42 closed in a sealed carrier envelope addressed to the absent
43 voter. Both envelopes may be made of lightweight paper
44 and the outer dimensions of the carrier envelope (num-
45 ber 10 size) may not exceed four and one-eighth inches
46 by nine and one-half inches. Each envelope shall have
47 printed on its face in large type the words, "OFFICIAL
48 WEST VIRGINIA WAR BALLOT".

Sec. 13. *Affidavit of Absent Voter; Marking and Re-
2 turn of Ballot.*—The absent voter shall, upon receipt of
3 a ballot, mark it in secret and seal it in the envelope fur-
4 nished for that purpose. He shall then execute the
5 affidavit appearing on the back of the envelope, after
6 which the ballot shall be sent by any available mail
7 service to the circuit clerk who issued it.

8 The absent voter shall make the necessary affidavit
9 before a commissioned officer, warrant officer or non-
10 commissioned officer no lower in rank than sergeant or
11 the equivalent navy rating, of any branch of the armed
12 services of the United States or before some other person

13 qualified to administer oaths, at any place either within
14 or without the territorial limits of the United States.
15 The certificate need not state the place where it is made
16 and shall require no seal.

17 If the voter, because of his physical incapacity, is
18 unable to mark his ballot, it may be marked for him by
19 some other person acting under his personal direction.
20 In such case, the person making the certificate may sign
21 the affidavit for the voter, and if so, shall so state on the
22 affidavit.

Sec. 14. *Filing of Voted Ballots.*—Upon receipt of
2 an envelope on which the affidavit has been properly
3 executed and certified as provided in the preceding sec-
4 tion, the clerk of the circuit court shall indorse thereon the
5 following statement: "This envelope contains an absent
6 voter's ballot to be voted at precinct No. in
7 district in County, and must be
8 opened only at the polls on election day while such polls
9 are open." The clerk shall insert the name of the district
10 and the number of the precinct in which the absent voter
11 is registered. He shall thereafter keep the sealed envelope
12 securely in his office until delivered by him to the election
13 commissioners of the proper precinct. The clerk shall
14 deliver such ballot at the same time as is required by
15 section nine, article six, chapter three of the code, for
16 the delivery of other absent voters' ballots.

Sec. 15. *Canvass of Ballots.*—At any time between the
2 opening and closing of the polls on election day the elec-
3 tion commissioners to whom any such absent voters'
4 ballots have been delivered shall, in the presence of each
5 other, announce the absent voter's name and compare the
6 signature upon the affidavit on the sealed envelope with
7 the signature on his registration record. If the election
8 commissioners find that the signatures correspond and
9 that the affidavit was properly executed and certified
10 as required by section thirteen of this article, they shall,
11 with the exception of those matters mentioned in the
12 following paragraph, then proceed in all other respects

13 as is provided in section ten, article six, chapter three of
14 the code.

15 No such absent voter's ballot as is provided for in this
16 article shall be challenged because of the fact that the bal-
17 lot envelope has been opened and resealed if it clearly
18 appears on the ballot envelope that the opening and re-
19 sealing was done by the proper authorities for the pur-
20 pose of military censorship. In the event of a challenge
21 of any such absent voter's ballot as is provided for in this
22 article, it shall not be necessary for the clerk of the county
23 court to send a notice of the challenge to those absent
24 voters who are outside the territorial limits of the United
25 States. Notwithstanding any other provision of the
26 code, the election officials shall not reject such an absent
27 voter's ballot as is provided for in this article by reason
28 of the fact that the absent voter, because of physical
29 incapacity, was unable to sign the affidavit on the ballot
30 envelope, if the affidavit was signed for him by the per-
31 son making the certificate as provided in section thirteen
32 of this article.

Sec. 16. *Details Not Covered by This Article.*—The
2 provisions of article six, chapter three of the code, in so
3 far as they are not in conflict with the provisions of this
4 article, shall apply as well to voting by members of the
5 armed services as to voting by other absentees.

Sec. 17. *Duration of Article.*—Unless sooner amended
2 or repealed, this article shall expire on June thirtieth, one
3 thousand nine hundred forty-seven.

Sec. 18. *Temporary Suspension of Inconsistent Pro-
visions; Revival.*—All provisions of the code which are
2 inconsistent herewith shall be temporarily suspended for
3 the duration of this article. Upon the expiration of this
4 article, however, all such provisions shall again become
5 of full force and effect as if this article had never been
6 passed.
7

Sec. 19. *Separability.*—If any part of this article shall
2 be declared unconstitutional, such declaration shall not
3 affect any other part thereof.

CHAPTER 2

(House Bill No. 3—By Mr. Hansbarger)

a Bill
AN ACT making appropriations of public moneys out of the treasury to pay the expenses of this extraordinary session of the Legislature.

[Passed January 7, 1944; in effect from passage. Approved by the Governor.]

Appropriations for Expenses of Session.

Section

1. Senate
2. House of Delegates.
3. Joint expenses.
4. Payment of bills after adjournment.

Be it enacted by the Legislature of West Virginia:

That there be and hereby is appropriated out of the treasury for the fiscal year ending June thirtieth, one thousand nine hundred forty-four, the following sums of money for the following named purposes:

Section 1. *Senate*.—Compensation and per

- | | | |
|---|---|-------------|
| 2 | diem of officers and attaches..... | \$ 1,500.00 |
| 3 | Mileage of members | 685.50 ✓ |
| 4 | Current expenses and contingent fund..... | 5,000.00 |

Sec. 2. *House of Delegates*.—Compensation

- | | | |
|---|--|-------------|
| 2 | and per diem of officers and attaches..... | \$ 1,500.00 |
| 3 | Mileage of members | 2,514.60 |
| 4 | Current expenses and contingent fund | 5,000.00 |

Sec. 3. *Joint Expenses*.—Printing and station-

- | | | |
|---|-----------|-------------|
| 2 | ery | \$ 7,500.00 |
|---|-----------|-------------|

Sec. 4. *Payment of Bills After Adjournment*.—The Clerk

- | | |
|---|--|
| 2 | of the Senate, with approval of the President of the Sen- |
| 3 | ate, and the Clerk of the House of Delegates, with the ap- |
| 4 | proval of the Speaker, are authorized to draw their war- |
| 5 | rants upon the Auditor, payable out of the contingent |
| 6 | fund of the respective houses, for any bills for supplies |

7 and services that may have been incurred by the Senate
8 and House of Delegates and not included in the appropria-
9 tion bill, and for bills and services incurred after adjourn-
10 ment, the requisition for same to be accompanied by a
11 bill for same to be filed with the Auditor.



RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 1

(By Mr. Davis)

[Adopted January 3, 1944.]

Providing for a joint assembly.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 12:00 o'clock, noon, this day, to hear an address by His Excellency, the Governor.

HOUSE CONCURRENT RESOLUTION NO. 2

(By Mr. Holt, of Lewis)

[Adopted January 7, 1944.]

Raising a joint committee to study the problem of economic and physical rehabilitation of West Virginians now in military service.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of six, consisting of three on the part of the House of Delegates, to be appointed by the Speaker thereof, and three on the part of the Senate, to be appointed by the President thereof, be named to study the problem of rehabilitation of the United States' veterans of the present war, most particularly the task of restoring those now in service to as good or better jobs than those they left upon donning the uniform of the United States government; and, be it

Further Resolved, That this committee shall have the power to request the assistance of representatives or committees from

the ranks of industry, labor and government, in the study of this problem, leading toward a concerted drive for physical and economic rehabilitation of West Virginians in the armed forces.

The committee shall select a chairman, and if deemed advisable, a co-chairman from its membership, and is authorized to employ such clerical assistance as may be determined to be necessary by a majority vote of the full membership of the committee.

The committee is granted authority to hold hearings at any place in the state of West Virginia, and is authorized to sit during the recess of the Legislature.

The Clerk of the House of Delegates and the Clerk of the Senate, upon the approval of the chairman of said committee, shall draw their requisitions upon the Auditor, payable out of the contingent fund of the two houses, respectively, for the actual expenses of said committee, which expenses shall not exceed one thousand dollars. Requisitions to the Auditor for payment of expenses of said committee shall be accompanied by a signed approval of said expenses, signed by the chairman of said committee or by one authorized to do so by the committee.

The Auditor is authorized, upon the presentation of the requisitions of the clerks of the Senate and House of Delegates, to draw his warrants upon the treasury in payment of same.

Said committee shall report its findings to the next extraordinary or regular session of the Legislature.

HOUSE CONCURRENT RESOLUTION NO. 4

(By Mr. Davis)

[Adopted January 7, 1944.]

Extending the appreciation of the Legislature to Mr. Clyde Colson, and the Attorney General's office for their services in drafting of legislation providing for absentee voting for persons in military service.

Resolved by the House of Delegates, the Senate concurring therein:

That the appreciation of the Legislature is hereby extended to Mr. Clyde Colson and the office of the Attorney General, for their services to the Legislature in the drafting and preparation of legislation providing for absentee voting for persons in military service.

HOUSE CONCURRENT RESOLUTION NO. 5

(By Mr. Van Sickler)

[Adopted January 7, 1944.]

Raising a joint committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn *sine die*.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of six, consisting of three on the part of the Senate, to be appointed by the President thereof, and three on the part of the House of Delegates, to be appointed by the Speaker thereof, be appointed to notify His Excellency, the Governor, that the Legislature has completed its labors for which it was convened in extraordinary session, is ready to adjourn *sine die*, and inquire of him if he has any further communication to make to the Legislature.

HOUSE RESOLUTION NO. 1

(By Mr. Paul)

Adopting rules for the House of Delegates.

[Adopted January 3, 1944.]

Resolved by the House of Delegates:

That the rules of the House of Delegates for the regular session, one thousand nine hundred forty-three, are hereby adopted.

ted as the rules to govern the proceedings of this extraordinary session, insofar as the same are applicable.

HOUSE RESOLUTION NO. 2

(By Mr. Hansbarger)

[Adopted January 3, 1944.]

Raising a committee to inform the Senate that the House of Delegates has assembled in extraordinary session.

Resolved by the House of Delegates:

That the Speaker appoint a committee of three to inform the Senate that the House of Delegates has assembled in its chamber in extraordinary session, pursuant to the proclamation of His Excellency, the Governor, issued on the 23rd day of December, one thousand nine hundred forty-three, with a quorum present, and is ready to proceed with the business for which this extraordinary session of the Legislature has been convened.

HOUSE RESOLUTION NO. 3

(By Mr. Van Sickler)

[Adopted January 3, 1944.]

Raising a committee to wait upon the Governor.

Resolved by the House of Delegates:

That a committee of three members be appointed by the Speaker, on the part of the House of Delegates, to join with a similar committee on the part of the Senate, to notify His Excellency, the Governor, that the Legislature has assembled in extraordinary session, pursuant to his proclamation, issued on the 23rd day of December, one thousand nine hundred forty-three, with a quorum of each house present, and is ready to receive any communication or message that he may be pleased to present.

HOUSE RESOLUTION NO. 4

(By Mr. Van Sickler)

[Adopted January 3, 1944.]

Authorizing payment of mileage to members of the House of Delegates.

Resolved by the House of Delegates:

That the Clerk be, and he is hereby, authorized to draw his requisitions upon the Auditor in favor of each member of the House of Delegates attending this session and entitled to mileage at the rate of ten cents per mile for the number of miles as set forth in House Resolution No. 9, regular session, one thousand and nine hundred forty-three; and, be it

Further Resolved, That the Clerk draw his requisition on the Auditor in favor of Mrs. Louise Goudy Potts, the Delegate from the County of Taylor, for mileage in the amount of \$35.20 for 352 miles.

HOUSE RESOLUTION NO. 5

(By Mr. Van Sickler)

[Adopted January 3, 1944.]

Authorizing the appointment of attaches for the House of Delegates for this extraordinary session.

Resolved by the House of Delegates:

That the Speaker of the House of Delegates be, and he is hereby authorized to appoint not to exceed twenty attaches and other employees, for this extraordinary session of the Legislature, to receive per diems as set forth in House Resolution No. 5, regular session, one thousand nine hundred forty-three, for like or similar positions; and, be it

Further Resolved, That all 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 their employment 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 services of any attache or attaches for any such time or number of days as their services shall not be needed during the session and they shall not be paid for such time, nor shall other persons be appointed in their places for any such time as they may be suspended when not needed; and, be it

Further Resolved, That the Speaker is hereby authorized to assign attaches and employees to such positions and duties as he may deem proper to secure the most efficient and expeditious work during this extraordinary session; and, be it

Further Resolved, That the Sergeant-at-Arms and Doorkeeper shall receive the same per diem as paid during the regular session, one thousand nine hundred forty-three.

HOUSE RESOLUTION NO. 6

(By Mr. Janes)

[Adopted January 3, 1944.]

Concerning death of the Honorable Herman Lee Potts.

WHEREAS, Since the adjournment of the 1943 regular session of the Legislature, the Delegate from the County of Taylor has departed this life; and

WHEREAS, Delegate Potts was one of Taylor County's leading citizens; a prominent business man and a leader in civic and business affairs in his community; and

WHEREAS, He was a conscientious and hard-working mem-

ber of the Legislature and a devoted and trusted servant of the people; and

WHEREAS, In the passing of Delegate Potts this body and the county which he represented well and faithfully lost a capable and faithful legislator; therefor, be it

Resolved by the House of Delegates:

That this body deplores the loss of this distinguished member and extends to his family the heartfelt sympathy of the members of the House of Delegates; and, be it

Further Resolved, That the Clerk transmit a copy of this resolution to the widow of Delegate Potts.

HOUSE RESOLUTION NO. 7

(By Mr. Fanning)

[Adopted January 5, 1944.]

Authorizing payment of mileage to a member of the House of Delegates.

WHEREAS, Walter V. Ross, a member of the House of Delegates from Mercer County, has certified to the Clerk that he is 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:

Miles	Amount
264	\$26.40

Therefore; be it

Resolved by the House of Delegates:

That the Clerk be, and he is hereby, directed to draw his requisition upon the Auditor in favor of this member of the body entitled to mileage at the rate of ten cents per mile as set forth herein, in advance of the appropriation for the purpose.

HOUSE RESOLUTION NO. 8

(By Mr. Davis)

[Adopted January 6, 1944.]

Fixing per diem of legislative employees.

Resolved by the House of Delegates:

That two assistant clerks appointed under authority of section nine, article one, chapter four of the code, a secretary to the Speaker, and a secretary and stenographer to the Clerk, appointed as provided for by the rules of the House, shall be paid the same per diem during this extraordinary session as paid during the regular session, one thousand nine hundred forty-three. A chaplain shall be paid at the rate of five dollars per day.

The Clerk of the House of Delegates shall continue to receive compensation at the rate provided in Account No. 102, chapter one, Acts of the Legislature, regular session, one thousand nine hundred forty-three.

The persons appointed under authority of this resolution shall be paid as provided by House Resolution No. 5 of this session.

HOUSE RESOLUTION NO. 9

(By Mr. Harmer)

[Adopted January 6, 1944.]

Authorizing payment of mileage to Delegate Stout.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized to draw his requisition upon the Auditor in favor of W. Frank Stout, a Delegate from the County of Harrison, in the amount of thirty-two dollars and forty cents for three hundred twenty-four miles.

HOUSE RESOLUTION NO. 10

(By Mr. Davis)

[Adopted January 7, 1944.]

Authorizing the printing and distribution of the act providing for absentee voting for persons in military service, providing for printing of the Journal, and for the completion of the work of the session.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby directed to have printed sufficient copies of the act to provide for absentee voting for persons in military service to supply ten copies to each clerk of the circuit court and each clerk of the county court, a copy to all judges and county officials, and to supply all persons requesting the same. Copies of the act shall be mailed to clerks of the circuit court and clerks of the county courts not later than January 10, 1944. The public printer shall hold the type for this act and other acts of this session, and the same shall be included with the bound volume of acts of the next regular session of the Legislature.

The Journal of this session shall be printed and held in signature form by the public printer to be bound with the House Journal of the next regular session of the Legislature.

For completing the work of the session the per diem of all attaches and employees heretofore appointed during this extraordinary session is extended for one day; and the per diem of the following is extended for seven days additional, beginning January 9, 1944: The two assistant Clerks, the Secretary to the Speaker, the Secretary to the Clerk and the Journal Clerk.

The Clerk of the House of Delegates shall mail to all persons on the members' mailing list for the regular session, one thousand nine hundred forty-three, a copy of the act providing for absentee voting for persons in military service and the daily Journals of the first and last day of this session.

All expenses authorized, except printing cost, by this resolution, shall be paid out of the contingent fund of the House

of Delegates upon proper requisition of the Clerk. The printing costs shall be paid from the legislative printing fund.

HOUSE RESOLUTION NO. 11

(By Mr. Paul)

[Adopted January 7, 1944.]

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 for which it was convened in extraordinary session, and is ready to adjourn *sine die*.

SENATE CONCURRENT RESOLUTION NO. 1

(By Mr. Young)

[Adopted January 4, 1944.]

Adopting joint rules for 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, one thousand nine hundred forty-three, are hereby adopted and shall govern the proceedings of this extraordinary session insofar as applicable.

SENATE CONCURRENT RESOLUTION NO. 2

(By Mr. Bowling)

[Adopted January 4, 1944.]

Authorizing the Auditor to pay mileage and contingent and other expenses of this extraordinary session of the Legislature.

Resolved by the Senate, the House of Delegates concurring therein:

That the Auditor, in advance of the appropriation for the purpose, is hereby authorized, upon proper requisitions of the Clerk of the Senate and the Clerk of the House of Delegates, to pay mileage of the members of the Senate and the House of Delegates; bills incurred for services furnished to the Legislature for this extraordinary session, including contingent expenses; the per diem of officers and attaches of the Senate and House of Delegates; and bills for legislative printing, as the accounts for same may become due.

SENATE CONCURRENT RESOLUTION NO. 4

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 7, 1944.]

Commending members of the press who have reported the proceedings of this extraordinary session of the Legislature.

WHEREAS, The West Virginia Legislature, in extraordinary session, has had before it business of great importance to the citizens of our State, and particularly the men and women of our Armed Services; and

WHEREAS, It is necessary that the citizenry receive accurate information of the acts of the Legislature; and

WHEREAS, The members of the press galleries of both Houses have been in constant attendance at all sessions, preparing information on the acts of the Legislature for the benefit of the people of West Virginia; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature commends the members of the press for their untiring efforts to disseminate all proceedings of this body, their courteous and wholehearted cooperation with

officers and members of the Legislature and the fair and comprehensive manner in which said proceedings have been presented to the public.

SENATE RESOLUTION NO. 1

(By Mr. Jimison)

[Adopted January 3, 1944.]

Adopting rules for the Senate.

Resolved by the Senate:

That the rules of the Senate, regular session, one thousand nine hundred forty-three, be adopted as the rules of the Senate for this session.

SENATE RESOLUTION NO. 2

(By Mr. Johnston)

[Adopted January 3, 1944.]

Raising a committee to inform the House of Delegates that the Senate has assembled in extraordinary session.

Resolved by the Senate:

That a committee of three be appointed by the President to inform the House of Delegates that the Senate has assembled in extraordinary session pursuant to the proclamation of his Excellency, Governor Matthew M. Neely, with a quorum present, and is ready to proceed with the business of the extraordinary session.

SENATE RESOLUTION NO. 3

(By Mr. Pelter)

[Adopted January 3, 1944.]

Raising a committee to wait upon the Governor.

Resolved by the Senate:

That a committee of three be appointed by the President, on the part of the Senate, to join with a similar committee on the part of the House of Delegates, to notify His Excellency, the Governor, that the Legislature has assembled in extraordinary session, pursuant to his proclamation, issued on the twenty-third day of December, one thousand nine hundred forty-three, with a quorum of each house present, and is ready to receive any communication or message that he may be pleased to present.

SENATE RESOLUTION NO. 4

(By Mr. Fleming)

[Adopted January 3, 1944.]

Relating to mailing of Journals and Bills.

Resolved by the Senate:

That the Clerk of the Senate is authorized to have mailed from the Senate document room, copies of the bills and daily Journals of the Senate to addresses to be furnished to the Clerk by the members of the Senate, twenty of which such addresses may be submitted by each member of the Senate, and that the expense of such mailing, including postage, be paid out of the contingent fund of the Senate by the Auditor, in advance of the appropriation therefor, upon proper requisition drawn by the Clerk of the Senate.

SENATE RESOLUTION NO. 5

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 4, 1944.]

Relating to the payment of expenses for services preparatory to and at the beginning of this extraordinary session.

Resolved by the Senate:

That the Auditor, upon proper requisition of the Clerk of the Senate and in advance of the appropriation for the purpose, is authorized to pay the following amounts for services rendered preparatory to and at the beginning of this extraordinary session of the Senate:

Fred B. Watkins, Clerk, 10 days at \$20.00.....	\$200.00
One assistant janitor, 10 days at \$6.00.....	60.00
Two assistant janitors, 14 days at \$5.00, each.....	140.00

SENATE RESOLUTION NO. 6

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 4, 1944.]

Relating to the appointment of assistant janitors.

WHEREAS, Howard N. Martin, Superintendent of Capitol Building and Grounds, under authority of section twenty-two, article one, chapter five of the code, has designated six assistants for the janitor work of the Senate for this extraordinary session; therefore, be it

Resolved by the Senate:

That the per diem of one of said assistant janitors is fixed at six dollars, the per diem of the remaining five assistant janitors at five dollars, and that of the said Howard N. Martin, is fixed at two dollars, as the Senate's one-half of his per diem.

SENATE RESOLUTION NO. 7

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 4, 1944.]

Authorizing the appointment of attaches for the Senate for the one thousand nine hundred and forty-four extraordinary session of the Legislature.

Resolved by the Senate:

That the Clerk of the Senate be, and he is hereby authorized to appoint attaches and other employees to receive the per diem as herein provided during this extraordinary session of the Legislature, viz:

One secretary to the Clerk, at \$12.00 per day;

One printing clerk, at \$12.00 per day;

One journal stenographer, at \$12.00 per day;

One secretary to the minority, at \$15.00 per day;

One clerk to the minority, at \$10.00 per day;

One secretary to the President, at \$12.00 per day.

One proofreader, at \$8.00 per day;

One clerk to the Judiciary Committee, at \$12.00 per day;

One secretary to the Judiciary Committee, at \$8.00 per day;

Three journal room clerks, at \$7.00 per day, each;

Five floor stenographers, at \$7.00 per day, each;

One assistant Sergeant-at-Arms, at \$7.00 per day;

One chaplain, at \$5.00 per day; and, be it

Further Resolved, That the Clerk of the Senate is authorized to appoint a Court reporter, at \$12.00 per day for each day the Senate is in session; and, be it

Further Resolved, That the Sergeant-at-Arms shall receive \$10.00 per day; the Doorkeeper \$10.00 per day, and the Clerk \$20.00 per day.

The Clerk shall draw his warrants upon the Auditor in favor of the officers and attaches herein appointed for consecutive days from the date of the opening of this session at the per diem herein set out, and the Auditor shall honor and pay such warrants in advance of the appropriation for the purpose when presented, and charge same to the "per diem of officers and attaches" fund of the Senate.

The Clerk shall assign duties to the said employees and require them to perform the duties assigned to them, and he is authorized and directed to remove any of such employees whose work is not satisfactory and to appoint another in his place.

SENATE RESOLUTION NO. 8

(By Mr. Hardesty)

[Adopted January 6, 1944.]

Concerning the absence of Senator George R. Jackson and Senator Don J. Eddy from this session.

Resolved by the Senate:

The Senate expresses its appreciation of the services Senator Jackson and Senator Eddy are rendering our Country in these hours of confusion, turmoil and war by their active participation as members of its armed forces, even though such service deprives the Senate of the benefit of their wise counsel in its present deliberation, and wishes for each of them a safe return to their homes and loved ones.

Further Resolved, That the Clerk of the Senate is directed to mail a copy of this resolution to the absent Senators.

SENATE RESOLUTION NO. 9

(By Mr. Johnston)

[Adopted January 6, 1944.]

Extending the thanks of the Senate to Mr. C. Howard Hardesty, Jr.

WHEREAS, Mr. C. Howard Hardesty, Jr., son of the Senator from Marion, is spending his last few days before induction as a member of the United States armed forces, here as the guest of his distinguished father, and has volunteered to, and is gratuitously serving the Senate as assistant clerk; therefore, be it

Resolved by the Senate:

That the Senate expresses its appreciation of the fine spirit of this young man, accepts his services in the spirit in which they were offered and wishes for him a tour of duty free from casualty or disease and, upon its completion, a safe and happy return to his family.

SENATE RESOLUTION NO. 10

(By Mr. Young)

[Adopted January 6, 1944.]

Concerning the absence of Senator Helmick.

Resolved by the Senate:

That the Senate has learned with regret that Senator Abraham Lincoln Helmick will not be able to attend this session, the first he will have missed in his long service as the Senator from Tucker continuously since his first election in one thousand nine hundred twenty, and wishes for him both a speedy and a complete recovery.

Further Resolved, That the Clerk of the Senate is directed to send to Senator Helmick a copy of this resolution.

SENATE RESOLUTION NO. 11

(By Mr. Perry)

[Adopted January 6, 1944.]

Relating to the illness of Senator George Williams.

Resolved by the Senate:

That the Senate extends to Senator Williams its sincere condolences upon his sudden illness while in attendance upon this session, necessitating his hospitalization, and wishes for him that it may be of short duration and his recovery complete.

SENATE RESOLUTION NO. 12

(By Mr. Johnston)

[Adopted January 6, 1944.]

Relating to Lt. (j. g.) A. Hale Watkins, former Clerk of the Senate.

Resolved by the Senate:

That the Senate sends its warmest greetings to Lt. (j.g.) A. Hale Watkins, Clerk of the Senate during the sessions of one thousand nine hundred forty-one and one thousand nine hundred forty-three, and applauds his patriotic action in resigning the clerkship and voluntarily entering the naval service of our country, knowing that he will bring into such service, the same energy, efficiency and diplomacy he showed while Clerk of the Senate.

Further Resolved, That the Senate wishes for him, after his services are no longer needed by our country, a safe return to his family and his many friends.

Further Resolved, That the Clerk of the Senate is directed to send a copy of this resolution to Lt. (j.g.) A. Hale Watkins.

SENATE RESOLUTION NO. 13

(By Mr. Paull, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 7, 1944.]

Printing of the Journal and completing the work of the extraordinary session.

Resolved by the Senate:

That in order to complete the work of the extraordinary 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 in completing the work in the document and mailing rooms and in performing other services incident to the closing of this extraordinary session of the Legislature, the per diem of the Clerk at twenty dollars is hereby extended for thirty 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 secretary to the Clerk at twelve dollars per diem for thirty days; one printing clerk at twelve dollars per diem for fifteen days; one journal stenographer at twelve dollars per diem for fifteen days; one secretary to the minority at fifteen dollars per diem for fifteen days; one clerk to the minority at ten dollars per diem for eight days; one secretary to the President at twelve dollars per diem for eight days; one proof-reader at eight dollars per diem for fifteen days; one clerk to the Judiciary Committee at twelve dollars per diem for one day; one secretary to the Judiciary Committee at eight dollars per diem for one day; three journal room clerks at seven dollars per diem for one day each; one floor stenographer at seven dollars per diem for one day; one assistant Sergeant-at-Arms at seven dollars per diem for one day; one court reporter at twelve dollars per diem for four days; one Sergeant-at-Arms at ten dollars per diem for one day; one Doorkeeper at ten dollars per diem for one day; one assistant janitor at six dollars per diem for four days; and three assistant janitors at five dollars per diem for four days.

SENATE RESOLUTION NO. 14

(By Mr. Allen)

[Adopted January 7, 1944.]

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*.

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