

**ACTS**  
**OF THE**  
**FORTY-EIGHTH**  
**LEGISLATURE**  
**OF**  
**WEST VIRGINIA**

**REGULAR SESSION**

**1947**

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**EXTRAORDINARY SESSION**

**(June 23)**

**1947**

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**EXTRAORDINARY SESSION**

**(March 18-23)**

**1946**





## FOREWORD

This volume contains the acts of the 1947 Regular Session of the Forty-eighth West Virginia Legislature, the Extraordinary Session of 1947 (June 23), the Extraordinary Session of 1946 (March 18-23), and the resolutions adopted by the Legislature and the two Houses thereof during the Regular Session of 1947.

The 1947 Regular Session convened on January 8, and adjourned *sine die* March 8, thereby finishing its work within the sixty-day period prescribed by the State Constitution. During the session there was a total of 834 bills introduced—469 House Bills and 365 Senate Bills. The Legislature passed 83 House Bills and 101 Senate Bills.

Of the 184 enactments of the 1947 Regular Session, the Governor approved 167, vetoed 1, and permitted 15 to become laws without his approval. The Budget Bill does not require executive action. The act vetoed (H. B. No. 151), provided for a division of the City of Huntington's funds from the receipts of the Liquor Control Commission for aid to municipalities, between said city and the Huntington Board of Park Commissioners. Bills which became laws without the approval of the Governor were: House Nos. 131, 287, 338, 363, 393, and Senate Nos. 6, 46, 162, 215, 233, Com. Sub. for 263, 279, 291, 324 and 335.

During the Regular Session there were 26 House Concurrent, 9 House Joint and 34 House Resolutions offered, of which 14 House Concurrent, no House Joint and 22 House Resolutions were adopted. Thirteen Senate Concurrent, 5 Senate Joint and 13 Senate Resolutions were offered, of which 8 Senate Concurrent, 1 Senate Joint and 13 Senate Resolutions were adopted. The only Joint Resolution adopted by the Legislature was S. J. R. No. 5, proposing a \$50,000,000.00 bond issue for construction of secondary roads.

At the Regular Session, forty-six House Bills, passed by the House, failed of passage by the Senate; and 29 Senate Bills, passed by the Senate, failed of passage by the House.

The only free distribution of this volume authorized is to the members of the Legislature. Copies of this volume may be purchased from 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, 1947

#### SENATE

#### OFFICERS

*President*—ARNOLD M. VICKERS, Montgomery.

*President Pro Tempore*—DON J. EDDY, Morgantown.

*Clerk*—J. HOWARD MYERS, Martinsburg.

*Sergeant-at-Arms*—EDWARD T. MOLER, Martinsburg.

*Doorkeeper*—OSCAR WATTS, Huntington.

District	Name	Address
First.....	George L. Bambrick (D)..... *Wm. A. Hannig (R).....	New Cumberland Elm Grove
Second.....	Walter F. Burgess (R)..... *Donald Van Camp (R).....	Moundsville Middlebourne
Third.....	*H. S. Boreman (R)..... Thomas J. Davis, Sr., (R).....	Parkersburg Harrisville
Fourth.....	*Orton R. Karickhoff (R)..... Harlan F. Staats (R).....	Spencer Ripley
Fifth.....	C. H. McKown (D)..... *Andrew R. Winters (D).....	Wayne Huntington
Sixth.....	William Mitchell (D)..... *Glenn Taylor (D).....	Welch Matewan
Seventh.....	Glenn Jackson (D)..... *Lloyd G. Jackson (D).....	Logan Hamlin
Eighth.....	*Charles M. Love, Jr. (D)..... Charles C. Morris (D).....	Charleston Charleston
Ninth.....	*Eugene L. Scott (R)..... Ward Wylie (D).....	Breckley Mullens
Tenth.....	W. Broughton Johnston (D)..... *Forest L. McNeer (D).....	Princeton Hinton
Eleventh.....	*John H. Bowling (D)..... Arnold M. Vickers (D).....	White Sulphur Springs Montgomery
Twelfth.....	Fred C. Allen (D)..... *Henry J. McKinley (D).....	Marlinton Elkins
Thirteenth.....	Floyd D. Boner (D)..... *Hardin R. Harmer (R).....	Miletus Sbinnston
Fourteenth.....	*Don J. Eddy (D)..... C. Howard Hardesty (D).....	Morgantown Fairmont
Fifteenth.....	A. L. Reed (R)..... *Dayton R. Stemple (R).....	Newburg Philippi
Sixteenth.....	Ralph J. Bean (D)..... *Harvey D. Beeler (R).....	Moorefield Berkeley Springs

(D) Democrats .....	20
(R) Republicans .....	12
Total .....	32

(\*) Hold-over Senators, elected in 1946, 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*—HIRAM PHILLIPS, Sprigg.

*Doorkeeper*—GROVER C. COMBS, Man.

County	Name	Address
Barbour.....	Darrell A. Malone (R).....	Philippi
Berkeley.....	Charles R. Beard (R).....	Martinsburg
Boone.....	E. E. White (D).....	Madison
Braxton.....	Doyle F. McLaughlin (D).....	Gassaway
Brooke.....	Merrill F. Arbogast (D).....	Welleburg
Cabell.....	James Brady (D).....	Barboursville
	Mike Casey (D).....	Huntington
	J. Shelby Christian (R).....	Huntington
	Joe G. Gentry (D).....	Huntington
	Henry F. White (D).....	Huntington
Calhoun.....	Lewis E. Smith (D).....	Grantsville
Clay.....	Sylvester Mullins (D).....	Clay
Doddridge.....	F. E. Strickling (R).....	West Union
Fayette.....	P. H. Kelly (D).....	Montgomery
	R. L. Matthews (D).....	Montgomery
	J. Alex Tinsley (D).....	Montgomery
	Nell W. Walker (D).....	Winona
Gilmer.....	Paul H. Kidd (D).....	Glenville
Grant.....	Ralph P. Welton (R).....	Petersburg
Greenbrier.....	Claude E. McLaughlin (D).....	Lewisburg
	H. Rodgers McVey (D).....	Alderson
Hampshire.....	William H. Ansel, Jr. (D).....	Springfield
Hancock.....	Robert E. Roach (D).....	New Cumberland
Hardy.....	George C. Trumbo (D).....	Milam
Harrison.....	J. C. Burnside (R).....	Lost Creek, Rt. 1
	Harvey W. Harmer (R).....	Clarksburg
	Walter A. Holden (D).....	Salem
	Edgar S. White (R).....	Clarksburg
Jackson.....	Bradford Sayre (R).....	Cottageville
Jefferson.....	George R. McKee (D).....	Shepherdstown
Kanawha.....	John E. Amos (D).....	Charleston
	William F. Blue (R).....	Charleston
	Robert Lee Burgess (D).....	Charleston
	Dornl Chenoweth, Jr. (D).....	Charleston
	J. Horner Davis (D).....	Charleston
	Frank A. Knight (D).....	South Charleston
	James W. Loop (D).....	Charleston
	Carl N. Woodrum (R).....	Charleston
Lewis.....	Rush D. Holt (D).....	Weston
Lincoln.....	B. R. Osborne (R).....	Griffithsville
Logan.....	W. E. Flannery (D).....	Man
	Jerry E. Stidham (D).....	Holden
	Curtis B. Trent, Jr. (D).....	Logan
Marion.....	Fred L. Doring (D).....	Fairmont
	Clarence L. Hall (D).....	Fairmont
	Joseph Rosier (D).....	Fairmont
Marshall.....	William J. B. Miller (R).....	Moundsville
	Everett F. Moore (R).....	Moundsville

(†) Resigned June 27, 1947

## HOUSE OF DELEGATES

xxiii

County	Name	Address
Mason	J. G. F. Johnson (R)	Pt. Pleasant
McDowell	J. C. Hansbarger (D)	Welch
	Fleming A. Jones, Jr. (D)	Welch
	W. L. Mills (D)	Kimball
	E. B. Shannon (D)	Welch
	Bernard H. Woodyard (D)	Welch
Mercer	A. J. Lubliner (D)	Bluefield
	E. H. Martin (D)	Athens
	Walter Vergil Ross (D)	Bluefield
Mineral	John I. Rogers (R)	Keyser
Mingo	Toney E. Cline (D)	Baidsen
	George R. Floyd (D)	Delbarton
Monongalia	J. W. Hartigan (R)	Morgantown
	Roy F. Hayhurst (R)	Morgantown, Rt. 1
Monroe	Sherman H. Ballard (R)	Peterstown
Morgan	Ward M. Dawson, Sr. (R)	Berkeley Springs
Nicholas	O. J. Carroll (D)	Summersville
Ohio	George F. Beneke (R)	Wheeling
	William T. Embien (R)	Wheeling
	E. J. Flaccus (R)	Wheeling
	William C. Piper (R)	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	Opie L. Jeffries (R)	Red House
Raleigh	Robert C. Byrd (D)	Crab Orchard
	William H. Fife, Jr. (D)	Beckley
	Roy Lee Harmon (D)	Beckley
Randolph	Thomas P. Snelson (D)	Huttonsville
Ritchie	Robert Morris (R)	Harrisville
Roane	R. L. McCulty (R)	Spencer
Summers	Harold B. Eagle (R)	Hinton
Taylor	Fred H. Carder (R)	Grafton
Tucker	Cleon W. Raess (R)	Davis
Tyler	Cecil H. Underwood (R)	Sistersville
Upshur	H. Hayden Morgan (R)	Adrian
Wayne	Jonah Adkins (D)	Ceredo
	H. T. Tucker (D)	Huntington
Webster	Carp Robinson (D)	Webster Springs
Wetzel	Herbert Schupbach (D)	New Martinsville
Wirt	Roy I. Douglas (R)	Elizabeth
Wood	H. E. Clovis (R)	Parkersburg
	Spencer K. Creel (R)	Parkersburg, Rt. 5
	Richard C. Moore (R)	Parkersburg
Wyoming	C. A. Blankenship (D)	Pineville

(D) Democrats	56
(R) Republicans	38
Total	94

## STANDING COMMITTEES OF THE SENATE

### AERONAUTICS

Messrs. McKown (*Chairman*), Love, Johnston, Boreman and Davis.

### AGRICULTURE

Messrs. Bowling (*Chairman*), Allen, Bean, Morris, McKinley, Boner, Beeler, Reed and Boreman.

### BANKS AND CORPORATIONS

Messrs. Allen (*Chairman*), Bambrick, Hardesty, Love, Morris, McNeer, Reed, Boreman and Harmer.

### CLAIMS AND GRIEVANCES

Messrs. Love (*Chairman*), Bean, McKinley, Wylie, Jackson (of Lincoln), Boreman, Reed, Van Camp and Mitchell.

### COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Bean (*Chairman*), Hardesty, McKown, McKinley, Taylor, Eddy, Harmer, Karickhoff and Scott.

### EDUCATION

Messrs. McKown (*Chairman*), Hardesty, Jackson (of Logan), Love, Morris, McNeer, McKinley, Taylor, Winters, Bambrick, Harmer, Karickhoff, Stemple, Scott and Boreman.

### EXAMINE CLERK'S OFFICE

Messrs. Mitchell (*Chairman*), Love and Reed.

### FEDERAL RELATIONS

Messrs. Bambrick (*Chairman*), Winters, McKinley, Wylie, Jackson (of Lincoln), Johnston, Burgess, Van Camp and Staats.

### FINANCE

Messrs. Hardesty (*Chairman*), Allen, Bowling, Jackson (of Lincoln), Morris, Eddy, Jackson (of Logan), McKinley, Taylor, Winters, Bean, Stemple, Scott, Reed, Hannig, Beeler, Boreman and McNeer.

## FORESTRY AND CONSERVATION

Messrs. Bowling (*Chairman*), Allen, Bean, Jackson (of Logan), Morris, McKown, McKinley, Wylie, Karickhoff, Hannig, Reed and Scott.

## FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

Messrs. Bean (*Chairman*), Bowling, McNeer, Johnston, Eddy, Jackson (of Logan), Davis, Beeler and Staats.

## INSURANCE

Messrs. Eddy (*Chairman*), Bambrick, Boner, Hardesty, Morris, McNeer, Davis, Harmer and Karickhoff.

## INTERSTATE COOPERATION

Messrs. Jackson (of Logan) (*Chairman*), Johnston, Taylor, Burgess and Harmer.

## THE JUDICIARY

Messrs. Johnston (*Chairman*), Allen, Bambrick, Bowling, Bean, Eddy, Jackson (of Logan), Love, McKown, Mitchell, Wylie, Boner, Burgess, Davis, Harmer, Staats, Van Camp and Karickhoff.

## LABOR

Messrs. Morris (*Chairman*), Hardesty, McNeer, McKown, Boner, Wylie, Burgess, Hannig and Karickhoff.

## MEDICINE AND SANITATION

Messrs. Wylie (*Chairman*), Jackson (of Lincoln), McKinley, Mitchell, Love, Allen, Boreman, Stemple and Staats.

## MILITIA

Messrs. Wylie (*Chairman*), Mitchell, Boner, Jackson (of Lincoln), Morris, Bambrick, Davis, Harmer and Hannig.

## MINES AND MINING

Messrs. Jackson (of Lincoln) (*Chairman*), Love, Taylor, Morris, Winters, Hardesty, Reed, Staats and Beeler.

**PENITENTIARY**

Messrs. Mitchell (*Chairman*), Bambrick, Bean, McKinley, McKown, Love, Burgess, Hannig and Van Camp.

**PRIVILEGES AND ELECTIONS**

Messrs. Taylor (*Chairman*), Bowling, Mitchell, Eddy, McKown, Wylie, Van Camp, Karickhoff and Burgess.

**PUBLIC BUILDINGS AND HUMANE INSTITUTIONS**

Messrs. McKinley (*Chairman*), Jackson (of Logan), Johnston, Morris, Bambrick, Boner, McNeer, Scott, Stemple, Reed and Davis.

**PUBLIC LIBRARY**

Messrs. Jackson (of Lincoln) (*Chairman*), McKown, Taylor, Eddy, Mitchell, Bowling, Staats, Karickhoff and Davis.

**PUBLIC PRINTING**

Messrs. Morris (*Chairman*), Bowling, Boner, Eddy, Winters, Johnston, Van Camp, Stemple and Hannig.

**ROADS AND NAVIGATION**

Messrs. Winters (*Chairman*), Bambrick, Bean, Hardesty, Jackson (of Logan), Mitchell, McNeer, Jackson (of Lincoln), McKinley, Taylor, Allen, Bowling, Van Camp, Stemple, Staats, Beeler and Burgess.

**RAILROADS**

Messrs. Love (*Chairman*), Bean, Allen, Jackson (of Lincoln), Taylor, Winters, Boreman, Davis and Beeler.

**REDISTRICTING**

Messrs. Allen (*Chairman*), Eddy, Boner, Winters, Johnston, McNeer, Boreman, Harmer and Scott.

**RULES**

Messrs. Vickers (Mr. President) (*Chairman*), Johnston, Hardesty, Jackson (of Logan), Allen, McKown, Hannig, Harmer and Boreman.



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TEMPERANCE

Messrs. Taylor (*Chairman*), Bambrick, Winters, Jackson (of Logan), Love, Wylie, Hannig, Staats and Davis.

## VETERANS' AFFAIRS

Messrs. Eddy (*Chairman*), Allen, Bowling, Jackson (of Lincoln), Mitchell, McNeer, Scott, Stemple and Staats.

## JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE SENATE

Messrs. Vickers (Mr. President) (*Chairman*), Johnston and Boreman.

## JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE SENATE

Messrs. McNeer (*Chairman*), Boner, Wylie, Burgess and Hannig.

## STANDING COMMITTEES OF THE HOUSE OF DELEGATES

### AGRICULTURE

Messrs. Smith (*Chairman*), McLaughlin (of Greenbrier) (*Vice Chairman*), Adkins, Ansel, Brady, Byrd, Carroll, McCoy, McKee, Robinson, Snelson, Trumbo, Carder, Dawson, Douglas, Johnson, Rogers, Sayre, Strickling and Welton.

### BANKING

Messrs. McElwee (*Chairman*), White (of Cabell) (*Vice Chairman*), Blankenship, Burgess, Doringer, File, Flannery, Gentry, Hall, Hansbarger, Roach, White (of Boone), Beneke, Blue, Clovis, Emblen, Miller, Moore (of Marshall), Moore (of Wood), McCulty and Osborne.

### CLAIMS

Messrs. Matthews (*Chairman*), Brady (*Vice Chairman*), Chenoweth, File, Kidd, Schupbach, Ballard, Blue, Carder, Hartigan and Piper.

### COUNTIES, DISTRICTS AND MUNICIPALITIES

Messrs. Cline (*Chairman*), Tucker (*Vice Chairman*), Arbogast, Burgess, Doringer, Floyd, Hall, Hansbarger, Harmon, Kidd, McKee, McLaughlin (of Braxton), McLaughlin (of Greenbrier), Snelson, Woodyard, Blue, Creel, Emblen, Hayhurst, Malone, Morgan, Sayre, Underwood and White (of Harrison).

### DELINQUENT LANDS

Messrs. Kidd (*Chairman*), Trent (*Vice Chairman*), Davis, Lubliner, Matthews, McCoy, McLaughlin (of Braxton), McVey, Mrs. Walker, Messrs. Woodyard, Beneke, Harmer, Johnson, Miller, Mooré (of Wood) and Strickling.

### EDUCATION

Messrs. Flannery (*Chairman*), Blankenship (*Vice Chairman*), Ansel, Cline, Hansbarger, Holden, Holt, Jones, Kidd, Loop, Mullins, McVey, Rosier, Schupbach, Smith, Trent, White (of Cabell), Blue, Emblen, Jeffries, Malone, Maness, Miller and Morgan.

## ELECTIONS

Messrs. Brady (*Chairman*), McVey (*Vice Chairman*), Ansel, Casey, Chenoweth, Harmon, Holden, Jones, Kelly, McKee, Mills, Mullins, Ross, Tinsley, Burnside, Christian, Clovis, Dawson, Powell, Rogers, Sayre and Welton.

## FINANCE

Messrs. Hansbarger (*Chairman*), McElwee (*Vice Chairman*), Brady, Cline, File, Holt, Kidd, Lubliner, Matthews, McKee, McLaughlin (of Greenbrier), Rosier, Schupbach, Smith, White (of Boone), Ballard, Clovis, Hartigan, Maness, McCulty, Osborne, Piper, Powell, Underwood and White (of Harrison).

## FORESTRY AND CONSERVATION

Messrs. Trumbo (*Chairman*), Arbogast (*Vice Chairman*), Cline, Floyd, Hall, Harmon, Martin, Mullins, McCoy, McElwee, McVey, Snelson, Clovis, Creel, Dawson, Douglas, Jeffries, Welton, White (of Harrison) and Woodrum.

## GAME AND FISH

Messrs. Hall (*Chairman*), McCoy (*Vice Chairman*), Ansel, Burgess, Harmon, Kidd, Knight, Matthews, Mullins, McLaughlin (of Greenbrier), Robinson, Schupbach, Tinsley, Trumbo, Tucker, Baillard, Beneke, Burnside, Creel, Maness, Osborne, Sayre and Woodrum.

## HEALTH

Mrs. Walker (*Chairman*), Messrs. Doringier (*Vice Chairman*), Arbogast, Blankenship, Burgess, Byrd, Chenoweth, Cline, Davis, Harmon, Holden, Holt, Kelly, Mullins, White (of Cabell), Beard, Clovis, Douglas, Emblen, Hartigan, McCulty, Moore (of Marshall) and Rogers.

## HUMANE INSTITUTIONS

Messrs. Doringier (*Chairman*), Byrd (*Vice Chairman*), Brady, Burgess, Carroll, Holden, Holt, Loop, Shannon, Smith, Snelson, Tucker, White (of Cabell), Carder, Hartigan, Hayhurst, Malone, McCulty, Osborne, Welton and White (of Harrison).

## INSURANCE

Messrs. Kidd (*Chairman*), File (*Vice Chairman*), Ansel, Burgess, Carroll, Davis, Jones, McVey, Roach, Trent, Trumbo, Tucker, Blue, Eagle, Harmer, Jeffries, Johnson, McCulty, Raese and Underwood.

## JUDICIARY

Messrs. Davis (*Chairman*), Flannery (*Vice Chairman*), Ansel, Casey, Doring, Gentry, Jones, Knight, McCoy, Ross, Trent, Tucker, Mrs. Walker, Messrs. Beneke, Blue, Eagle, Flaccus, Harmer, Johnson, Moore (of Marshall), Moore (of Wood) and Morris.

## LABOR AND INDUSTRY

Messrs. Knight (*Chairman*), Shannon (*Vice Chairman*), Adkins, Ansel, Casey, Davis, File, Loop, Martin, McLaughlin (of Braxton), Robinson, Ross, Smith, Stidham, Mrs. Walker, Messrs. Beneke, Creel, Hayhurst, Malone, McCulty, Moore (of Marshall), Moore (of Wood), Powell, Strickling and Welton.

## MILITARY AFFAIRS

Messrs. Jones (*Chairman*), Kelly (*Vice Chairman*), Adkins, Brady, Chenoweth, Floyd, Harmon, McVey, Mills, Stidham, Tinsley, Carder, Creel, Dawson, Eagle, Hayhurst, Jeffries, McCulty, Morgan and Powell.

## MINING

Messrs. White (of Boone) (*Chairman*), Adkins (*Vice Chairman*), Blankenship, Doring, Holt, Kelly, Kidd, Lubliner, McLaughlin (of Greenbrier), Mills, Mullins, Robinson, Shannon, Stidham, Creel, Dawson, Emblen, Hayhurst, Malone, Moore (of Marshall), Osborne, White (of Harrison) and Woodrum.

## PENAL AND CORRECTIONAL INSTITUTIONS

Messrs. Schupbach (*Chairman*), Snelson (*Vice Chairman*), Arbogast, Blankenship, Burgess, Casey, Carroll, Chenoweth, Floyd, Jones, McLaughlin (of Braxton), Shannon, Stidham, Tinsley, Trent, Burnside, Carder, Hayhurst, Malone, Miller, Raese, Underwood and Woodrum.

## RAILROADS

Messrs. Ansel (*Chairman*), White (of Cabell) (*Vice Chairman*), Carroll, Davis, Gentry, Hansbarger, Holden, Holt, McElwee, McKee, McLaughlin (of Braxton), McLaughlin (of Greenbrier), White (of Boone), Ballard, Beard, Christian, Flaccus, Moore (of Marshall), Moore (of Wood), Osborne, Raese and Rogers.

**REDISTRICTING**

Messrs. Lubliner (*Chairman*), Byrd (*Vice Chairman*), Blankenship, Burgess, Floyd, Loop, Matthews, Mills, Mullins, McKee, McLaughlin (of Braxton), Roach, Stidham, White (of Cabell), Ballard, Carder, Eagle, Emblen, Johnson, Moore (of Wood), Morgan and White (of Harrison).

**ROADS**

Messrs. Brady (*Chairman*), Carroll (*Vice Chairman*), Blankenship, Byrd, Floyd, Holden, Kidd, Martin, McKee, McLaughlin (of Greenbrier), Mills, Mullins, Roach, Robinson, Stidham, Tinsley, Trumbo, Beard, Burnside, Dawson, Douglas, Flaccus, Morris, Osborne and Raese.

**RULES**

Messrs. Amos (*Chairman ex officio*), Davis, Flannery, Gentry, Hansbarger, McCoy, Ballard, Flaccus, Moore (of Marshall) and Powell.

**TEMPERANCE**

Messrs. McCoy (*Chairman*), Roach (*Vice Chairman*), Arbogast, Chenoweth, File, Gentry, Knight, Martin, Mills, McLaughlin (of Braxton), Ross, Stidham, Mrs. Walker, Messrs. Burnside, Eagle, Emblen, Harmer, Hayhurst, Maness, Miller and Morris.

**\*VETERANS' AFFAIRS**

Messrs. Ross (*Chairman*), Woodyard (*Vice Chairman*), Arbogast, Byrd, Casey, Chenoweth, File, Jones, McKee, Mills, Smith, Snelson, Tinsley, Trent, Mrs. Walker, Messrs. White (of Boone), Ballard, Christian, Eagle, McCulty, Miller, Moore (of Wood), Powell, Raese and Strickling.

**JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE HOUSE**

Messrs. Matthews (*Chairman*), Holden, McVey, Jeffries and White (of Harrison).

**JOINT COMMITTEE ON JOINT RULES ON THE PART OF THE HOUSE**

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

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\*The chairman and vice chairman were selected by the committee.



# LEGISLATURE OF WEST VIRGINIA

## ACTS OF 1947

### REGULAR SESSION

### CHAPTER 1

(Senate Bill No. 286—By Mr. Love)

AN ACT to amend and reenact section eight, article ten, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to disbursements and expenditures by guardians from income and corpus of estates of infant wards.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

#### Article 10. Guardians and Ward.

##### Section

8. Disbursements and expenditures by guardians from income and corpus of estates of infant wards.

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

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

- Section 8. *Disbursements and Expenditures by Guardians from Income and Corpus of Estates of Infant Wards.*—No disbursements, beyond the annual income of the ward's estate, shall be allowed to any guardian where the deed or will, under which the estate is derived, does not authorize it, unless the same shall have been author-

7 ized by the circuit court of the county in which the guar-  
8 dian was appointed or qualified. Any guardian, who may  
9 desire to spend more than the annual income of his ward's  
10 estate for any purpose, shall file in such circuit court a  
11 petition, verified by his oath, setting forth the reasons  
12 why it is necessary to make such expenditures, to which  
13 petition the ward shall be made defendant. The court  
14 shall appoint a guardian ad litem for the ward, who shall  
15 answer such petition, be present at the hearing, and rep-  
16 resent the infant. Five days' notice shall be given to the  
17 defendant before such petition can be heard. At the hear-  
18 ing the evidence may be taken orally, and the court, if  
19 satisfied that such expenditure would be judicious and  
20 proper, may grant the prayer of the petition. Such peti-  
21 tion may be filed and heard before the judge of such court  
22 in vacation as well as in term time. In the settlement of  
23 the guardian's accounts no credit shall be allowed him by  
24 the commissioner of accounts or the court for expenditures  
25 for his ward, except for expenditures of the annual in-  
26 come of his ward's estate and for expenditures of such  
27 amounts of the principal of the ward's personal estate as  
28 shall have been authorized by the court as provided by  
29 this section: *Provided, however,* That, if the personal  
30 estate in the hands of the guardian does not exceed in  
31 amount the sum of one thousand dollars, disbursement  
32 may be made by the guardian from the corpus of such  
33 personal estate for the ward's maintenance and education,  
34 after first securing the written approval so to do of and  
35 from the commissioner of accounts to whom the settle-  
36 ment of the ward's estate was referred.

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## CHAPTER 2

(Senate Bill No. 284—By Mr. Love)

AN ACT to amend article ten, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be des-



ignated section fifteen, relating to the disbursement of funds of infant wards.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

#### Article 10. Guardians and Ward.

##### Section

15. Disbursements of funds of infant wards.

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

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

##### Section 15. *Disbursements of Funds of Infant Wards.*

2 —In any such settlement, pursuant to the next preceding  
3 section, wherein the amount paid the guardian does not  
4 exceed the sum of one thousand dollars, the court or  
5 judge approving the settlement may, in its or his dis-  
6 cretion, dispense with, or withdraw a reference to a com-  
7 missioner of accounts, authorize the disbursement of the  
8 fund so created by the settlement and may discharge  
9 the guardian and the surety on his bond. In all such  
10 cases a certified copy of the order of the court or judge,  
11 as the case may be, shall be recorded in the office of the  
12 clerk of the county court wherein the guardian was ap-  
13 pointed.

## CHAPTER 3

(House Bill No. 136—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section twelve, article fifteen, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the disbursement of income by committees of mentally ill veterans and by guardians of the minor children of veterans, who have heretofore or may hereafter receive benefits from the United States, or any bureau or agency thereof.

[Passed March 6, 1947; in effect ninety days from passage. Approved by the Governor.]

## Article 15. Veterans Guardianship and Commitment.

### Section

#### 12. Disbursements.

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

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

Section 12. *Disbursements.*— A committee shall not  
2 apply any portion of the income or the estate for the sup-  
3 port or maintenance of any person other than the ward,  
4 the spouse and the minor children of the ward, and a  
5 guardian of an infant shall not apply any portion of the  
6 income of the estate for the support or maintenance of  
7 any person other than the ward, except upon petition to  
8 and prior order of the court after a hearing. A signed  
9 duplicate or certified copy of such petition shall be fur-  
10 nished the proper office of the United States or any  
11 bureau or agency thereof and notice of hearing thereon  
12 shall be given such office, bureau, or agency, as provided  
13 in the case of a hearing on a committee's account or other  
14 pleading: *Provided, however,* That all periodic payments  
15 which have been heretofore or shall be hereafter made  
16 pursuant to any law of the United States or regulation of  
17 any bureau or agency thereof shall constitute income and  
18 may be expended in accordance with the provisions of  
19 this section without authority of the court.

## CHAPTER 4

(Senate Bill No. 161—By Mr. Johnston)

AN ACT to amend article one, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as

amended, by adding thereto a new section to be designated section twenty-eight, relating to payment of small sums due employees from the state of West Virginia, and of its political subdivisions, the United States, or employers, to distributees of decedents upon whose estates there have been no qualifications.

[Passed March 1, 1947; in effect from passage. Approved by the Governor.]

## **Article 1. Personal Representatives.**

### **Section**

28. Payment of small sums due employees to distributees of decedents upon whose estates there have been no qualifications.

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

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

Section 28. *Payment of Small Sums Due Employees to Distributees of Decedents Upon Whose Estates There Have Been No Qualifications.*—When there is due from the state of West Virginia, any of its political subdivisions, the United States, or any employer, as pension or money allowed for burial expenses, or money, wages or salary due from any employer to a deceased employee, upon whose estate there has been no qualification, a sum of not exceeding three hundred dollars, it shall be lawful for the state of West Virginia, any of its political subdivisions, the United States, or such employer, after one hundred and twenty days from the death of said person to whom such money is due, to pay said sum to his or her surviving consort, if any; if none such, then to the distributees of the said decedent under the laws of the state of West Virginia, whose receipt therefor shall be a full discharge and acquittance to all persons whomsoever on account of such sum.

## CHAPTER 5

(Senate Bill No. 85—By Mr. Beeler and Mr. Bean, by request)

AN ACT to amend chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be numbered article twelve-a, relating to apples; to create the West Virginia state apple commission and to prescribe its powers and duties; to promote the sale and consumption of West Virginia apples by providing for campaigns of education, advertising, publicity, sales promotion and research; to levy an excise tax on apples entering the channels of commerce, to provide for its collection, and to appropriate the revenue derived from it; and to provide penalties for violations of this act.

[Passed February 24, 1947; in effect from passage. Approved by the Governor.]

### Article 19. West Virginia State Apple Commission.

#### Section

1. Definitions.
2. West Virginia state apple commission.
3. Powers and duties of the commission.
4. Excise tax levied.
5. Report of apples sold.
6. Time and manner of payment of excise tax.
7. Records.
8. How unpaid excise tax and interest thereon shall be collected.
9. Apple merchandising fund created; how administered.
10. How moneys to be expended.
11. Penalty for violating article.
12. Enforcement of article; state and county officers shall assist.
13. Invalidity of part of article not to affect remainder.

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

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

Section 1. *Definitions.*—For the purpose of this article:

- 2 (a) The word "commission" shall mean the West Vir-
- 3 ginia state apple commission; (b) the word "grower"
- 4 shall mean any person who first sells commercial apples

5 as defined herein, and shall include individuals, corpora-  
6 tions, partnerships, trusts, associations, cooperatives and  
7 any and all other business units, devices and arrange-  
8 ments; (c) the word "bushel" shall mean the bushel as  
9 commonly used in the apple industry, the amount of  
10 apples that can be contained in not less than two thou-  
11 sand one hundred and forty cubic inches and not more  
12 than two thousand five hundred cubic inches, or, by  
13 weight, fifty pounds more or less; (d) "commercial apples"  
14 shall mean fresh apples meeting the specifications of U. S.  
15 one canner grade or better grades.

Sec. 2. *West Virginia State Apple Commission.*—There  
2 is hereby created within the department of agriculture,  
3 an agency to be known as the West Virginia state apple  
4 commission, consisting of seven members representing as  
5 nearly as possible the commercial apple producing sec-  
6 tions of the state. Such commission shall be appointed by  
7 the governor, by and with the advice and consent of the  
8 Senate, from a list of two eligible growers for each mem-  
9 ber to be appointed, which list shall be supplied the gov-  
10 ernor by the West Virginia state horticultural society.  
11 Members of this commission shall hold office until their  
12 successors are installed.

13 Each member must be a citizen of, and engaged in pro-  
14 ducing apples in West Virginia. The members of the  
15 commission shall serve for a term of four years, except  
16 that beginning with the first appointments, one member  
17 shall be appointed for one year, two members for two  
18 years, two members for three years and two members for  
19 four years. The commission shall elect one of its members  
20 as chairman. The members of the commission shall be  
21 reimbursed for actual expenses incurred and shall be paid  
22 each the sum of ten dollars per diem from the apple mer-  
23 chandising fund when attending meetings of the com-  
24 mission.

Sec. 3. *Powers and Duties of the Commission.*—(a) All  
2 funds levied and collected under this article shall be ad-  
3 ministered by the commission; (b) It shall be the duty  
4 of the commission to plan and conduct campaigns of edu-

5 cation, advertising, publicity, sales promotion, and con-  
6 sumption of West Virginia apples, and the commission  
7 may make contracts, expend moneys of the apple mer-  
8 chandising fund and do whatever else may be necessary  
9 to effectuate the purposes of this article; (c) The commis-  
10 sion shall have authority to cooperate with other state, re-  
11 gional and national agricultural and horticultural organi-  
12 zations and state and federal agencies in research on pro-  
13 duction, packaging and marketing, advertising, publicity,  
14 education and other means of promoting the sale and use  
15 of apples and to expend moneys of the apple merchan-  
16 dising fund for such purposes; (d) The commission shall  
17 have authority to appoint a secretary and such other em-  
18 ployees as may be necessary, at salaries to be fixed by the  
19 commission. All employees handling money under this  
20 article shall be required to furnish corporate surety bonds  
21 in such amounts as may be fixed by the commission and  
22 in form to be approved by the attorney general.

Sec. 4. *Excise Tax Levied.*—There is hereby levied on  
2 all commercial apples grown in West Virginia and moved  
3 into the channels of commerce, beginning with the har-  
4 vest of one thousand nine hundred forty-seven, an excise  
5 tax of one cent per bushel. Such excise tax shall be paid  
6 by the grower of such apples at the time and in the  
7 manner hereinafter provided. The first five hundred  
8 bushels of apples sold by any person in any one crop sea-  
9 son shall be exempt from the provisions of this section.

Sec. 5. *Report of Apples Sold.*—Every grower of com-  
2 mercial apples shall submit to the commission not later  
3 than fourteen days after December thirty-first of each  
4 year, a signed statement of all apples sold by him be-  
5 tween July first and December thirty-first of said year.  
6 Such reports shall be made on forms prescribed and fur-  
7 nished by the commission. Any grower who sells apples  
8 of the preceding year's production after December thirty-  
9 first shall file a signed statement with the commission not  
10 later than June thirtieth, showing such apples so sold by  
11 him and the tax paid thereon.

**Sec. 6. *Time and Manner of Payment of Excise Tax.*—**

2 The excise tax levied by this act shall be due and payable  
3 as follows: Fifty per cent not later than December thirty-  
4 first of each year and the balance not later than June  
5 thirtieth of the following year. Any commercial apples of  
6 a crop season which are sold after June thirtieth of the  
7 following year shall be reported to the commission and the  
8 excise tax paid thereon within twenty days after the end  
9 of the month in which such sale was made. Such excise  
10 tax shall be paid to the West Virginia apple commission  
11 and the commission shall promptly pay said moneys to  
12 the state treasurer, who shall promptly pay them into the  
13 state treasury to the credit of the apple merchandising  
14 fund.

**Sec. 7. *Records.*—**The grower shall keep a complete rec-

2 ord of apples sold by him and shall preserve such record  
3 for a period of not less than two years from the time such  
4 apples are sold. Such record shall be open to the inspec-  
5 tion of the commission and its duly authorized agents.

**Sec. 8. *How Unpaid Excise Tax and Interest Thereon***

2 ***Shall Be Collected.*—**The tax imposed by this article and  
3 unpaid on the date on which such tax was due and pay-  
4 able shall bear interest at the rate of one per cent per  
5 month from and after such due date until payment. If  
6 any grower defaults in any payment of the tax or interest  
7 thereon, the amount shall be collected by civil action in  
8 the name of the state of West Virginia at the relation of  
9 the commission, and the person adjudged in default shall  
10 pay the cost of such action. The attorney-general, at the  
11 request of the commission, shall forthwith institute action  
12 in the proper court for the collection of the amount of  
13 any tax past due under this article, including interest  
14 thereon.

**Sec. 9. *Apple Merchandising Fund Created; How Ad-***

2 ***ministered.*—**All moneys levied and collected under the  
3 provisions of this article shall be credited on the state  
4 treasurer's books to a fund to be known as the "Apple  
5 Merchandising Fund," which is hereby created. All mon-

6 eys credited to the apple merchandising fund shall be ap-  
7 propriated by the Legislature for the purpose herein set  
8 forth, and shall be used exclusively for the administra-  
9 tion and enforcement of this article, including the collec-  
10 tion of taxes, the payment for personal services and  
11 expenses of employees and agents of the commission and  
12 the payment of rent, service, materials and supplies nec-  
13 essary to effectuate the purposes and objects of this arti-  
14 cle. The unexpended balance of the apple merchandising  
15 fund at the end of each biennium shall not be transferred  
16 to the general fund of the state treasury.

Sec. 10. *How Moneys to Be Expended.*—All moneys  
2 collected under this article shall be expended by the West  
3 Virginia apple commission by warrants on the state treas-  
4 urer issued on vouchers signed by the duly authorized  
5 officer of the commission.

Sec. 11. *Penalty for Violating Article.*—It shall be a  
2 misdemeanor for any grower knowingly to report falsely  
3 to the commission the quantity of apples sold by him  
4 during any period, or to falsify the records of the apples  
5 sold by him during any period; and upon conviction  
6 thereof shall pay a fine of not more than one hundred  
7 dollars.

Sec. 12. *Enforcement of Article; State and County  
2 Officers Shall Assist.*—It shall be the duty of all state and  
3 county law-enforcing officers to assist in the enforcement  
4 of this article.

Sec. 13. *Invalidity of Part of Article Not to Affect Re-  
2 mainder.*—If any clause, sentence or section of this article  
3 shall for any reason be adjudged by a court of competent  
4 jurisdiction to be invalid, such adjudication shall not  
5 affect, impair or invalidate the remainder thereof, but  
6 shall be confined in its operation to the clause, sentence  
7 or section of this article directly involved in the con-  
8 troversy in which said adjudication shall have taken  
9 place.



## CHAPTER 6

(Senate Bill No. 212—By Mr. Bowling)

AN ACT to amend and reenact article sixteen, chapter nineteen, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, pertaining to the sale and distribution of agricultural and vegetable seeds in the state of West Virginia.

[Passed March 3, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 16. Agricultural Seeds.

#### Section

1. Definitions.
2. Label requirements.
3. Certificate of registration; fee stamps.
4. Prohibitions.
5. Exemptions.
6. Duties and authority of commissioner of agriculture.
7. Seizure.
8. Violations and prosecutions.
9. Invalidity of part of article not to affect remainder; inconsistent acts repealed.

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

That article sixteen, chapter nineteen 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.*—When used in this article:

- 2 (a) The term "person" shall include any individual,
- 3 partnership, corporation, company, society or association;
- 4 (b) The term "agricultural seeds" shall include the
- 5 seeds of grass, forage, cereal and fiber crops and any other
- 6 kinds of seeds commonly recognized within this state as
- 7 agricultural or field seeds and mixtures of such seeds;
- 8 (c) The term "vegetable seeds" shall include the seeds
- 9 of those crops which are grown in gardens or on truck
- 10 farms, and are generally known and sold under the name
- 11 of vegetable seeds in this state;
- 12 (d) The term "seed potato" shall refer to the Irish po-
- 13 tato (*Solanum tuberosum*);

14 (e) The term "weed seeds" shall include the seeds of  
15 all plants generally recognized as weeds within this state;

16 (f) Noxious weed seeds shall be divided into two clas-  
17 ses, "prohibited weed seeds" and "noxious weed seeds,"  
18 as defined in (1) and (2) of this subsection: *Provided*,  
19 That the commissioner of agriculture may, through pro-  
20 mulgation of regulations, add to or subtract from the list  
21 of seeds included under either definition whenever he  
22 finds that such additions or subtractions are within the  
23 respective definitions;

24 (1) "Prohibited weed seeds" are the seeds of perennial  
25 weeds such as not only reproduce by seed, but also spread  
26 by underground roots or stems, and which when estab-  
27 lished are highly destructive and difficult to control in  
28 this state by ordinary cultural practice;

29 "Prohibited weed seeds" in this state are the seeds of  
30 dodder (*Cuscuta* spp.), wild onion (*Allium vineale*),  
31 quack grass (*Agropyron repens*), Johnson grass (*Sorg-  
32 hum halapense*), Canada thistle (*Carduus arvensis*), per-  
33 ennial sow thistle (*Sonchus arvensis*);

34 (2) "Noxious weed seeds" are the seeds of such weeds  
35 as are very objectionable in fields, lawns or gardens of  
36 this state, but can be controlled by good cultural practice.  
37 "Noxious weed seeds" in this state are the seeds of hawk  
38 weed (*Heiracium* spp.), buckhorn (*Plantago lanceolata*),  
39 English charlock or wild mustard (*Brassica arvensis*),  
40 corn cockle (*Agrostemma gilthago*), ox-eye daisy (*Chry-  
41 santhemum leucanthemum*), Indian mustard (*Brassica  
42 juncea*), star thistle (*Centurea solstitialis*), wild carrot  
43 (*Daucus carota*), horse nettle (*Solanum carolinas*), field  
44 pepper grass (*lepidium compestre*), wild morning glory  
45 (*Ipomea purpurea*), bindweed (*Convolvulus arvensis*);

46 (g) The term "labeling" includes all labels and other  
47 written, printed or graphic representation, in any form  
48 whatsoever, accompanying and pertaining to any seed  
49 whether in bulk or in containers, and includes invoices;

50 (h) The term "advertisement" means all representa-  
51 tions, other than those on the label, disseminated in any  
52 manner or by any means, relating to seed within the scope  
53 of this article.

Sec. 2. *Label Requirements.*—Each container of agricultural or vegetable seed which is sold, offered for sale, or exposed for sale within this state for sowing purposes, shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information:

(a) For agricultural seeds—

(1) Commonly accepted name of

(a) Kind and variety of each agricultural seed component in excess of five per cent of the whole, and the percentage by weight of each in the order of its predominance. Where more than one component is required to be named, the word "mixture" or the word "mixed" shall be shown conspicuously on the label.

(b) If the variety is unknown, that fact shall be stated for each agricultural seed component in excess of five per cent of the whole.

(2) Lot number or other lot identification

(3) Origin, if known, of alfalfa, red clover and field corn (except hybrid corn). If the origin is unknown that fact shall be stated.

(4) Percentage by weight of all weed seeds.

(5) The name and approximate number of each kind of noxious weed seed: (a) Per ounce in *Agrostis* spp., *Poa* spp., *Rhodes* grass, *Bermuda* grass, *timothy*, *orchard* grass, *fescues*, *alsike* and *white clover*, *reed canary grass*, *Dallis* grass, *ryegrass*, *foxtail millet*, *alfalfa*, *red clover*, *sweet clovers*, *lespedezas*, *smooth brome*, *crimson clover*, *Brassica* spp., *flax*, *Agropyron* spp., and other agricultural seeds of similar size and weight, or mixtures within this group.

(b) Per pound in *proso*, *sudan grass*, *wheat*, *oats*, *rye*, *barley*, *buckwheat*, *sorghums*, *vetches*, and other agricultural seeds of a size and weight similar to or greater than those within this group, or any mixtures within this group.

All determinations of noxious weed seeds shall be subject to tolerances and methods of determination prescribed in the rules and regulations under this article.

(6) Percentage by weight of agricultural seeds (which

41 may be designated as "crop seeds"), other than those  
42 required to be named on the label.

43 (7) Percentage by weight of inert matter.

44 (8) For each named agricultural seed: (a) Percent-  
45 age of germination exclusive of hard seed; (b) Percent-  
46 age of hard seed, if present; (c) The calendar month  
47 and year the test was completed to determine such per-  
48 centages.

49 Following (a) and (b) the "total germination and  
50 hard seeds" may be stated as such, if desired.

51 (9) Name and address of the person who labeled said  
52 seed, or who sells, offers, or exposes said seed for sale  
53 within this state.

54 (10) For agricultural seeds which germinate less than  
55 the standard last established by the commissioner of ag-  
56 riculture under this article, the label shall show in addi-  
57 tion to the previous requirements of this section, the  
58 words "germination below standard" in not less than  
59 eight point type.

60 (b) For vegetable seeds—

61 (1) Name of kind and variety;

62 (2) For seeds which germinate less than the standard  
63 last established by the commissioner of agriculture under  
64 this article: (a) Percentage of germination, exclusive of  
65 hard seed; (b) Percentage of hard seed, if present; (c)  
66 The calendar month and year the test was completed to  
67 determine such percentages; (d) The words "below stan-  
68 dard" in not less than eight point type; and

69 (3) Name and address of the person who labeled said  
70 seed, or who sells, offers or exposes said seed for sale  
71 within this state.

72 (c) For seed potatoes—

73 Only "certified" seed potatoes which grade from the  
74 standpoint of physical defects better than the minimum  
75 requirements of U. S. No. 1 may be offered for sale as  
76 seed. There shall be attached to each bag or container a  
77 tag showing by whom certified, the standard or conditions  
78 under which said certification is made, and the name of  
79 the official state or governmental agency making the in-  
80 spection upon which the certification is made.

Sec. 3. *Certificate of Registration; Fee Stamps.*—Every

2 producer or distributor of agricultural or vegetable seeds  
3 or seed potatoes who shall sell, offer or expose for sale  
4 or distribution in this state any seeds, shall before the  
5 same is offered or exposed for sale obtain from the com-  
6 missioner of agriculture a certificate of registration show-  
7 ing that he has registered with the commissioner of  
8 agriculture to sell seeds in West Virginia. The commis-  
9 sioner of agriculture shall have full power and is hereby  
10 authorized and required to cancel and withdraw any  
11 certificate upon satisfactory evidence that any provi-  
12 sions of this article or any rules and regulations covering  
13 the sale of any seed have been violated. The commis-  
14 sioner shall not issue any certificate of registration ex-  
15 cept upon filing with the commissioner of agriculture a  
16 statement of the name and address of the seedsman,  
17 importer, dealer, or agent, or other person, firm or cor-  
18 poration, selling, offering or exposing for sale or distribu-  
19 tion any seeds in this state; a list of the seeds to be offered  
20 for sale, and accompanied by a registration fee of one  
21 dollar. Certificates so issued by the commissioner shall  
22 become null and void on December thirty-first next after  
23 date of issue unless sooner revoked as herein provided.

24 For the purpose of defraying the cost of inspection  
25 and analyses of seeds and the enforcement of this article,  
26 every producer or distributor of agricultural or vege-  
27 table seeds or seed potatoes who shall sell, offer or ex-  
28 pose for sale or distribution in this state any such seed  
29 shall, before the same is offered or exposed for sale or  
30 distribution, obtain from the commissioner of agriculture  
31 fee stamps to be attached to each package or container of  
32 seeds at the following rates:

33 (a) For alfalfa, sweet clover and all grass and clover  
34 seeds or mixtures of any of these, and all vegetable seeds  
35 except those contained in sampler or display units, the  
36 following rates: Eight cents for each one hundred pounds;  
37 six cents for each seventy-five pounds; four cents for  
38 each fifty pounds; two cents for each twenty-five pounds.

39 (b) For all other agricultural seeds the following rates:  
40 Four cents for each one hundred pounds; three cents

41 for each seventy-five pounds; two cents for each fifty  
42 pounds; one cent for each twenty-five pounds.

43 (c) For vegetable seeds packed in primary consumer  
44 containers: Fifty cents for each sampler or unit display.

45 (d) For seed potatoes: One cent for each container.

46 (e) For all seeds, not otherwise specified, in packages  
47 of ten pounds or less: One cent for each container.

48 The distributor of any agricultural or vegetable seed  
49 or seed potato shall not be required to register or place  
50 fee stamps on the containers of seeds if the seed has al-  
51 ready been registered and properly stamped under this  
52 article by a person entitled to do so, and such registra-  
53 tion is then in effect.

54 All moneys collected in the enforcement of this article  
55 shall be deposited in a special revenue fund with the  
56 state treasurer, and shall be expended on order of the  
57 commissioner of agriculture.

Sec. 4. *Prohibitions.*—(a) It shall be unlawful for  
2 any person to sell, offer or expose for sale any agricul-  
3 tural or vegetable seed within this state:

4 (1) Unless the test to determine the percentage of  
5 germination required by section two shall have been  
6 completed within a nine month period, exclusive of the  
7 calendar month in which the test was completed, immedi-  
8 ately prior to sale, exposure for sale or offering for sale  
9 or transportation;

10 (2) Not labeled in accordance with the provisions of  
11 this article or having a false or misleading labeling;

12 (3) Pertaining to which there has been a false or  
13 misleading advertisement;

14 (4) Containing prohibited weed seeds, subject to tol-  
15 erances and methods of determination prescribed in the  
16 rules and regulations under this article;

17 (5) Containing more than two per cent by weight of  
18 weed seeds.

19 (b) It shall be unlawful for any person within this  
20 state:

21 (1) To detach, alter, deface or destroy any label pro-  
22 vided for in this article or the rules and regulations made  
23 and promulgated thereunder, or to alter or substitute seed

24 in a manner that may defeat the purposes of this article;

25 (2) To disseminate any false or misleading adver-  
26 tisement concerning agricultural, vegetable or potato seed  
27 in any manner or by any means;

28 (3) To hinder or obstruct in any way any author-  
29 ized person in the performance of his duties under this  
30 article;

31 (4) To fail to comply with a "stop-sale" order.

Sec. 5. *Exemptions.*—(a) The provisions of sections  
2 two and three shall not apply:

3 (1) To grain or potatoes not intended for seeding  
4 purposes;

5 (2) To seed in storage in or consigned to a seed clean-  
6 ing or processing establishment for cleaning or process-  
7 ing: *Provided*, That any labeling or other representation  
8 which may be made with respect to the uncleaned or  
9 unprocessed seed shall be subject to this article;

10 (b) No person shall be subject to the penalties of this  
11 article for having sold or offered or exposed for sale in  
12 this state any agricultural, vegetable or potato seeds  
13 which were incorrectly labeled or represented as to kind,  
14 variety, type, or origin, which seeds cannot be identified  
15 by examination thereof, unless he has failed to obtain an  
16 invoice or grower's declaration giving kind, or kind and  
17 variety, or kind and type, and origin, if required, and to  
18 take such other precautions as may be necessary to in-  
19 sure the identity to be that stated.

Sec. 6. *Duties and Authority of Commissioner of Agri-  
2 culture.*—(a) The duty of enforcing this article and  
3 carrying out its provisions and requirements shall be  
4 vested in the commissioner of agriculture. It shall be his  
5 duty:

6 (1) To establish germination standards for agricul-  
7 tural and vegetable seeds;

8 (2) To sample, inspect, make analysis of, and test  
9 agricultural, vegetable and potato seeds transported, sold  
10 or offered or exposed for sale within this state for seed-  
11 ing purposes, at such time and place and to such extent  
12 as he may deem necessary to determine whether such  
13 seeds are in compliance with the provisions of this ar-

14 ticle, and to notify promptly the person who transported,  
15 sold, offered or exposed the seed for sale, of any viola-  
16 tion;

17 (3) To prescribe and adopt rules and regulations gov-  
18 erning the methods of sampling, inspecting, analysis,  
19 tests and examination of agricultural and vegetable seed,  
20 and the tolerances to be followed in the administration  
21 of this article, which shall be in general accord with offi-  
22 cially prescribed practice in interstate commerce, and  
23 such other rules and regulations as may be necessary to  
24 secure the efficient enforcement of this article.

25 (b) Further for the purpose of carrying out the pro-  
26 visions of this article the commissioner of agriculture,  
27 individually or through his authorized agents, is author-  
28 ized:

29 (1) To enter upon any public or private premises  
30 during regular business hours in order to have access  
31 to seeds subject to this article and the rules and regula-  
32 tions thereunder;

33 (2) To issue and enforce a written or printed "stop-  
34 sale" order to the owner or custodian of any lot of seed  
35 which the commissioner of agriculture finds is in viola-  
36 tion of any provisions of this article, which order shall  
37 prohibit further sale or movement of such seed until the  
38 commissioner has released the same;

39 (3) To establish and maintain or make provisions for  
40 seed testing facilities, to employ qualified persons, and to  
41 incur such expenses as may be necessary to comply with  
42 these provisions;

43 (4) To make or provide for making purity and ger-  
44 mination tests of seeds for farmers and dealers on re-  
45 quest; to prescribe rules and regulations governing such  
46 testing; and to fix and collect charges for the tests made.  
47 Such fees shall be deposited with the state treasurer in  
48 a special revenue fund and may be expended on order of  
49 the commissioner of agriculture.

50 (5) To cooperate with the United States department  
51 of agriculture in seed law enforcement;

52 (6) To establish a certifying agency for seed grown  
53 in this state.



Sec. 7. *Seizure*.—Any lot of seed not in compliance  
2 with the provisions of this article shall be subject to  
3 seizure on complaint of the commissioner of agriculture  
4 to a court of competent jurisdiction. In the event that the  
5 court finds the seed to be in violation of this article and  
6 orders the condemnation of said seed, it shall be dena-  
7 tured, processed, destroyed, relabeled, or otherwise dis-  
8 posed of in compliance with the laws of this state.

Sec. 8. *Violations and Prosecutions*.—Any person vio-  
2 lating any of the provisions of this article shall be deemed  
3 guilty of a misdemeanor, and upon conviction thereof  
4 shall be fined not less than one hundred dollars nor more  
5 than two hundred fifty dollars for the first offense, and not  
6 less than two hundred dollars nor more than five hun-  
7 dred dollars for each subsequent offense.

8 When the commissioner of agriculture shall find that  
9 any person has violated any of the provisions of this ar-  
10 ticle, he or his duly authorized agent or agents may insti-  
11 tute proceedings in a court of competent jurisdiction:  
12 *Provided, however,* That no prosecution under this article  
13 shall be instituted without the defendant first having  
14 been given an opportunity to appear before the commis-  
15 sioner of agriculture or his duly authorized agent to in-  
16 troduce evidence, either in person or by agent or at-  
17 torney, at a hearing. If, after such hearing, or without  
18 such hearing in case the defendant or his agent or at-  
19 torney fails or refuses to appear, the commissioner of  
20 agriculture is of the opinion that the evidence warrants  
21 prosecution, he shall proceed according to law.

Sec. 9. *Invalidity of Part of Article Not to Affect Re-  
2 mainder; Inconsistent Acts Repealed*.—If any provision  
3 of this article is declared unconstitutional, or the applic-  
4 ability thereof to any person or circumstance is held in-  
5 valid, the constitutionality of the remainder of the article  
6 and the applicability thereof to other persons and cir-  
7 cumstances shall not be affected thereby.

8 Any acts or parts of acts inconsistent with this act are  
9 hereby repealed.

## CHAPTER 7

(House Bill No. 235—By Mr. Smith)

AN ACT to amend and reenact section three and section nine, article fourteen, chapter nineteen, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, pertaining to the sale and distribution of commercial feeding stuffs in the state of West Virginia.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 14. Commercial Feeding Stuffs.

#### Section

3. Certificate of registration; tonnage fee.
9. Commissioner of agriculture to enforce article; rules and regulations; set standards; issue and enforce "stop sale" order; authority to enter on premises.

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

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

#### *Section 3. Certificate of Registration; Tonnage Fee.—*

- 2 Every manufacturer who shall sell, offer or expose for sale
- 3 or distribute in this state any commercial feeding stuff,
- 4 shall, before the same is sold, offered or exposed for sale
- 5 or distributed, obtain from the commissioner of agricul-
- 6 ture a certificate of registration for each brand of such
- 7 commercial feeding stuffs. The commissioner of agricul-
- 8 ture shall have full power, and is hereby authorized and
- 9 required to cancel and withdraw any certificate upon
- 10 satisfactory evidence that the law or any rules and regu-
- 11 lations covering the sale of commercial feeding stuffs have
- 12 been violated by the holder of the same. The commis-
- 13 sioner shall not issue any certificate of registration except
- 14 upon the filing with the commissioner of a certified copy
- 15 of the statement specified in section two, of this article,
- 16 for each brand of commercial feeding stuffs, accompan-

17 ied by a fee of one dollar for each brand: *Provided, how-*  
18 *ever, That any change shall require a new registration.*

19 For the purpose of defraying the expense of sampling,  
20 inspection, laboratory analyses and the enforcement of  
21 this article, a fee of fifteen cents per ton shall be paid to  
22 the commissioner of agriculture on all commercial feed-  
23 ing stuffs sold, offered or exposed for sale in this state  
24 in bulk or enclosed in primary packages or containers  
25 of ten pounds or more. In primary packages of less than  
26 ten pounds the fee shall be five cents per hundred pounds.  
27 The commissioner of agriculture shall furnish suitable  
28 forms on which each person, firm, corporation or manu-  
29 facturer shall make a sworn statement setting forth the  
30 net weight by brand names and kinds of all commercial  
31 feeding stuffs sold in this state. The payment of the fees  
32 and the sworn statement herein provided shall be made  
33 to the commissioner of agriculture on or before the twen-  
34 tieth day of January and July of each year, covering the  
35 preceding six months period. The commissioner of agri-  
36 culture shall and he is hereby authorized to exempt any  
37 commercial feeding stuffs on which satisfactory evidence  
38 has been submitted that the tonnage fee as herein pro-  
39 vided has been paid. In lieu of the foregoing manner of  
40 collecting fees, the commissioner may, and he is hereby  
41 authorized to permit any person, firm, corporation or  
42 manufacturer to use fee stamps or tags, or to require any  
43 person, firm, corporation or manufacturer to use fee  
44 stamps or tags to be obtained from the commissioner and  
45 attached to each package or container of commercial feed-  
46 ing stuffs before the same is sold, offered or exposed for  
47 sale or distributed in this state.

48 All moneys collected under the provisions of this ar-  
49 ticle shall be deposited with the state treasurer in a "Spe-  
50 cial Revenue Account", and shall be expended upon order  
51 of the commissioner of agriculture.

Sec. 9. *Commissioner of Agriculture to Enforce Article;*  
2 *Rules and Regulations; Set Standards; Issue and Enforce*  
3 *"Stop Sale" Order; Authority to Enter on Premises.—The*  
4 *commissioner of agriculture is hereby charged with the*

5 enforcement of the provisions of this article, and is em-  
6 powered to prescribe and enforce rules and regulations  
7 consistent with this article in carrying out its provisions.  
8 The commissioner is hereby authorized to fix minimum  
9 and/or maximum standards or requirements covering all  
10 nutritive values and elements affecting nutrition, and to  
11 prohibit and to prevent the use of worthless, deleterious  
12 or harmful ingredients. A certification by the United  
13 States department of agriculture indicating federal in-  
14 spection at source may be accepted by the commissioner  
15 as meeting West Virginia requirements.

16 Whenever it appears that any commercial feeding stuff  
17 is being offered or exposed for sale in this state in viola-  
18 tion of any of the provisions of this article, the commis-  
19 sioner is hereby authorized to issue a written or printed  
20 "Stop Sale" order or "Embargo", and it shall be unlawful  
21 for any person, firm, corporation or manufacturer to per-  
22 mit any such commercial feed to be moved or disposed of  
23 in any manner except upon written order of the commis-  
24 sioner of agriculture or by court order. The commis-  
25 sioner shall cause notice of such violation to be given  
26 to the person affected thereby, and any person so notified  
27 shall be given an opportunity to be heard under such  
28 rules and regulations as the commissioner may prescribe.  
29 After such hearing if it still further appears that any of  
30 the provisions of this article have been violated, the com-  
31 missioner may institute proceedings in any court of com-  
32 petent jurisdiction for the disposal of such commercial  
33 feeding stuffs.

34 Nothing contained in this act shall prevent any person  
35 from appealing from the commissioner's decision, and  
36 the circuit court of the county in which the alleged in-  
37 fraction occurred shall have jurisdiction thereof.

38 The commissioner or his agent shall have free access  
39 to all places of business, mills, buildings and conveyances  
40 of any kind used in the transportation, importation, man-  
41 ufacture, sale or storage of any commercial feeding stuffs,  
42 with power and authority to open any parcel containing  
43 or supposed to contain any commercial feeding stuffs, and  
44 upon full payment of the selling price, to take therefrom

- 45 samples for analyses, and to examine the books and all  
46 records pertaining to the shipment, manufacture, sale or  
47 distribution of any commercial feeding stuffs.

## CHAPTER 8

(House Bill No. 237—By Mr. Smith)

AN ACT to amend and reenact article fifteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, pertaining to the sale and distribution of mixed fertilizers and fertilizer materials in the state of West Virginia.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 15. Commercial Fertilizers.

#### Section

1. Title.
2. Enforcing official.
3. Definitions of words and terms.
4. Registration.
5. Labeling.
6. Tonnage fee.
7. Inspection.
8. Plant food deficiency.
9. Commercial value.
10. Minimum plant food content.
11. Grade list.
12. False or misleading statements.
13. Statistics.
14. Publications.
15. Rules, regulations and standards.
16. Cancellation of registrations.
17. "Stop sale" orders.
18. Seizure, condemnation, and sale.
19. Violations.
20. Exchanges between manufacturers.
21. Constitutionality; repeal of inconsistent acts.

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

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

Section 1. *Title.*—This article shall be known as the  
2 “West Virginia Fertilizer Law of 1947.”

Sec. 2. *Enforcing Official.*—This article shall be ad-  
2 ministered by the commissioner of agriculture of the  
3 state of West Virginia, hereinafter referred to as the  
4 “commissioner.”

Sec. 3. *Definitions of Words and Terms.*—When used  
2 in this article:

3 (a) The term “person” includes individuals, partner-  
4 ships, firms, associations and corporations.

5 (b) Words importing the singular number may ex-  
6 tend and be applied to several persons or things, and  
7 words importing the plural number may include the  
8 singular.

9 (c) The term “distributor” means any person who  
10 offers for sale, sells, or otherwise supplies mixed fertil-  
11 izers or fertilizer materials.

12 (d) The term “sell” or “sale” includes exchange.

13 (e) The term “fertilizer material” means any sub-  
14 stance containing nitrogen, phosphoric acid, potash, or  
15 any other recognized plant food element or compound  
16 which is used primarily for its plant food content or for  
17 compounding mixed fertilizers except unmanipulated  
18 animal and vegetable manures.

19 (f) The term “mixed fertilizer” means any combina-  
20 tion or mixture of fertilizer materials designed for use  
21 or claimed to have value in promoting plant growth.

22 (g) The term “grade” means the minimum percentage  
23 of total nitrogen, available phosphoric acid, and soluble  
24 potash stated in the order given in this paragraph and,  
25 when applied to mixed fertilizers, phosphates and potash  
26 salts, shall be in whole numbers only.

27 (h) The term “brand” means the name, grade, and  
28 other designations under which mixed fertilizers or  
29 fertilizer materials are offered for sale, sold or distribu-  
30 ted in this state.

31 (i) The term “official sample” means any sample of  
32 mixed fertilizer or fertilizer material taken by the com-

33 missioner or his agents according to the methods pre-  
34 scribed by the commissioner.

35 (j) The term "ton" means a net ton of two thousand  
36 pounds avoirdupois.

37 (k) The term "per cent" or "percentage" means the  
38 percentage by weight.

Sec. 4. *Registration.*—(a) Each brand of mixed fer-  
2 tilizer or fertilizer material shall be registered before  
3 being offered for sale, sold or distributed in this state.  
4 The application for registration shall be submitted in  
5 duplicate to the commissioner on forms furnished by the  
6 commissioner, and shall be accompanied by a remittance  
7 of one dollar per brand for a registration fee. Upon ap-  
8 proval by the commissioner a copy of the registration  
9 shall be furnished to the applicant. The application shall  
10 include the following information in the following order:

11 (1) The name and address of the person guaranteeing  
12 registration.

13 (2) The brand.

14 (3) The guaranteed analysis showing the minimum  
15 percentage of plant food in the following order and form:

16 Total nitrogen .....per cent

17 Available phosphoric acid .....per cent

18 Soluble potash .....per cent

19 In the case of bone, tankage, and other organic phos-  
20 phate materials on which the chemist makes no deter-  
21 mination of available phosphoric acid, the total phosphoric  
22 acid shall be guaranteed: *Provided*, That unacidulated  
23 material, phosphatic materials and basic slag shall be  
24 guaranteed as to both total and available phosphoric  
25 acid.

26 (4) The commissioner may permit or require the po-  
27 tential basicity or acidity (expressed in terms of calcium  
28 carbonate equivalent in multiples of one hundred pounds  
29 per ton) to be registered and guaranteed.

30 (5) The commissioner may permit or require mixed  
31 fertilizers and fertilizer materials to be registered and  
32 guaranteed with additional information if the foregoing  
33 does not adequately describe the fertility value of the

34 product. Whenever such guarantees are for plant food  
35 elements other than phosphorus and potassium, they  
36 shall be stated in their elemental form.

37 (b) The distributor of any brand of mixed fertilizer  
38 or fertilizer material shall not be required to register  
39 the same if it has already been registered under this  
40 article by a person entitled to do so and such registration  
41 is then outstanding.

42 (c) Each and every brand of mixed fertilizer or  
43 fertilizer material filed with the commissioner must re-  
44 main uniform for the period of registration, and in no  
45 case, even at a subsequent registration, shall the grade  
46 or quality be lowered.

Sec. 5. *Labeling.*—(a) Any mixed fertilizer or ferti-  
2 zer material offered for sale or sold or distributed in this  
3 state in bags, barrels, or other containers commonly used,  
4 shall have placed on or affixed to the container the net  
5 weight and the data, in written or printed form, required  
6 by paragraph (a) of section four, printed either (1) on  
7 tags to be affixed to the end of the package, or (2) direct-  
8 ly on the package: *Provided*, That the grade appears on  
9 the end of the package for identification when piled.

10 (b) If transported in bulk, the net weight and the  
11 data, in written or printed form, as required by para-  
12 graph (a) of section four, shall accompany delivery and  
13 be supplied to the purchaser.

Sec. 6. *Tonnage Fee.*—(a) There shall be paid to the  
2 commissioner for all mixed fertilizers or fertilizer ma-  
3 terials offered for sale, sold or distributed in this state  
4 an inspection fee at the rate of twenty-five cents per  
5 ton: *Provided*, That sales to manufacturers or ex-  
6 changes between them are hereby exempted. Fees so  
7 collected shall constitute a special revenue fund for the  
8 payment of the costs of inspection, sampling, and an-  
9 alysis, and other expenses necessary for putting into  
10 effect this article, and may be expended therefor upon  
11 order of the commissioner of agriculture.

12 (b) Payment of the fee levied by paragraph (a) of  
13 this section shall be based on a statement under oath in



14 due form of law which shall be filed with the commis-  
15 sioner of agriculture on or before the fifteenth day of July  
16 and January, which shall set forth the number of net  
17 tons of such fertilizers sold or distributed in this state  
18 during the preceding six months' period; and upon such  
19 statement each and every manufacturer shall pay to  
20 the commissioner of agriculture the sum of twenty-five  
21 cents per net ton of two thousand pounds. Each appli-  
22 cant for a certificate of registration shall include in such  
23 application a permit granting to the commissioner or  
24 his duly designated representative permission to verify  
25 from applicants' records such applicants' statement of  
26 tonnage.

Sec. 7. *Inspection.*—(a) It shall be the duty of the  
2 commissioner, who may act through his authorized agent,  
3 to sample, inspect, make analyses of, and test mixed  
4 fertilizers and fertilizer materials offered for sale, sold or  
5 distributed within this state at such time and place, and  
6 to such an extent as he may deem necessary to determine  
7 whether such mixed fertilizers or fertilizer materials  
8 are in compliance with the provisions of this article, and  
9 the commissioner shall have the further authority to  
10 obtain such additional information as he may deem ad-  
11 visable. The commissioner, individually or through his  
12 agent, is authorized to enter upon any public or private  
13 premises during regular business hours in order to have  
14 access to mixed fertilizers or fertilizer materials subject  
15 to the provisions of this article and the rules and regu-  
16 lations thereto.

17 (b) The methods of sampling and analysis shall be  
18 those adopted as official by the commissioner.

19 (c) The results of official analyses of any mixed fert-  
20 ilizer or fertilizer material which has been found to be  
21 subject to penalty shall be forwarded by the commission-  
22 er to the registrant at least ten days before the report  
23 is submitted to the purchaser. If during that period no  
24 adequate evidence to the contrary is made available to  
25 the commissioner, the report shall become official. Upon  
26 request the commissioner shall furnish to the registrant  
27 a portion of any sample found subject to penalty.

Sec. 8. *Plant Food Deficiency.*—(a) The commissioner, in determining for administration purposes whether any mixed fertilizer or fertilizer material is deficient in plant food, shall be guided solely by the official sample as defined in paragraph (i) of section three, and as provided for in paragraphs (b) and (c), of section seven.

(b) If the analysis shall show that any mixed fertilizer or fertilizer material falls short of the guaranteed analysis in any one ingredient, a penalty shall be assessed in accordance with the following provisions:

(1) Total Nitrogen: A penalty of three times the value of the deficiency, if such deficiency is in excess of 0.20 of one per cent of goods that are guaranteed two per cent; 0.25 of one per cent on goods that are guaranteed three per cent; 0.35 of one per cent on goods that are guaranteed four per cent; 0.40 of one per cent on goods that are guaranteed five per cent up to and including eight per cent; 0.50 of one per cent on goods guaranteed above eight per cent up to and including thirty per cent; and 0.75 of one per cent on goods guaranteed over thirty per cent.

(2) Available Phosphoric Acid: A penalty of three times the value of the deficiency if such deficiency exceeds 0.40 of one per cent on goods that are guaranteed up to and including ten per cent; 0.50 of one per cent on goods that are guaranteed above ten per cent up to and including twenty-five per cent; and 0.75 of one per cent on goods guaranteed over twenty-five per cent.

(3) Soluble Potash: A penalty of three times the value of the deficiency, if such deficiency is in excess of 0.20 of one per cent on goods that are guaranteed two per cent; 0.30 of one per cent on goods that are guaranteed three per cent; 0.40 of one per cent on goods guaranteed four per cent; 0.50 of one per cent on goods guaranteed above four per cent up to and including eight per cent; 0.60 on goods guaranteed above eight per cent up to and including twenty per cent; and 1.00 per cent on goods guaranteed over twenty per cent.

(4) Deficiencies in any other constituent or constituents covered under items (4) and (5), paragraph (a),

41 section four, of this article, which the registrant is re-  
42 quired to or may guarantee, shall be evaluated by the  
43 commissioner, and penalties therefor shall be prescribed  
44 by the commissioner.

45 (c) Nothing contained in this section shall prevent  
46 any person from appealing to a court of competent  
47 jurisdiction, praying for judgment as to the justification  
48 of such penalties.

49 (d) All penalties assessed under this section shall be  
50 paid to the consumer of the lot of mixed fertilizer or  
51 fertilizer material represented by the sample analyzed,  
52 within three months from the date of notice by the  
53 commissioner to the registrant, receipts taken therefor  
54 and promptly forwarded to the commissioner. If said  
55 consumers cannot be found, the amount of the penalty  
56 shall be paid to the commissioner, who shall deposit the  
57 same in the treasury of the state of West Virginia.

Sec. 9. *Commercial Value.*—For the purpose of de-  
2 termining the commercial values to be applied under  
3 the provisions of section eight, the commissioner shall  
4 determine and publish annually the values per pound of  
5 nitrogen, phosphoric acid, and potash in mixed fertilizers  
6 or fertilizer materials in this state. The values so de-  
7 termined and published shall be used in determining  
8 and assessing penalties.

Sec. 10. *Minimum Plant Food Content.*—No super-  
2 phosphate containing less than eighteen per cent avail-  
3 able phosphoric acid nor any mixed fertilizer in which  
4 the sum of the guarantees for the nitrogen, available  
5 phosphoric acid, and soluble potash totals less than  
6 twenty per cent shall be offered for sale, sold, or dis-  
7 tributed in this state except for complete fertilizers  
8 containing twenty-five per cent or more of their nitrogen  
9 in water insoluble form of plant or animal origin, in  
10 which case the total nitrogen, available phosphoric acid,  
11 and soluble potash need not total more than eighteen  
12 per cent.

Sec. 11. *Grade List.*—The commissioner, after a public  
2 hearing and upon approval by the director of the agri-

3 cultural experiment station, shall promulgate a list of  
4 grades of mixed fertilizer adequate to meet the agricul-  
5 tural needs of the state. After this list of grades has  
6 been established, no other grades of mixed fertilizers  
7 shall be eligible for registration: *Provided, however,*  
8 That higher multiples of the ratios carried by the ap-  
9 proved grades may be permitted with the approval of  
10 the commissioner and the director of the experiment  
11 station. The commissioner may revise this list of grades  
12 not oftener than once each year by conforming to the  
13 procedure described in this section.

Sec. 12. *False or Misleading Statements.*—It shall  
2 be unlawful to make any false or misleading statement  
3 or representation in regard to any mixed fertilizer or  
4 fertilizer material offered for sale, sold, or distributed  
5 in this state, or to use any misleading or deceptive trade-  
6 mark or brand name in connection therewith.

Sec. 13. *Statistics.*—Each person registering mixed  
2 fertilizers and fertilizer materials under this article shall  
3 furnish the commissioner with a confidential written  
4 statement of the tonnage of each grade of fertilizer sold  
5 by him in this state. Said statement shall include all  
6 sales for the periods of July first to and including  
7 December thirty-first, and of January first to and includ-  
8 ing June thirtieth of each year. The commissioner may,  
9 in his discretion, cancel the registration of any person  
10 failing to comply with this section if the above state-  
11 ment is not made within thirty days from date of the  
12 close of each period. The commissioner, however, in his  
13 discretion, may grant a reasonable extension of time.  
14 No information furnished under this section shall be  
15 disclosed in such a way as to divulge the operations of  
16 any person.

Sec. 14. *Publications.*—The commissioner shall pub-  
2 lish at least annually in such forms as he may deem  
3 proper, information concerning the production and use  
4 of mixed fertilizers and fertilizer materials, and a report  
5 of the results of the analyses based on official samples of  
6 mixed fertilizers and fertilizer materials sold within the

7 state as compared with the analyses guaranteed under  
8 sections four and five: *Provided, however,* That the in-  
9 formation concerning the production and use of mixed  
10 fertilizer and fertilizer materials shall be shown separ-  
11 ately for the periods July first to December thirty-first,  
12 and January first to June thirtieth, of each year.

Sec. 15. *Rules, Regulations and Standards.*—For the  
2 enforcement of this article, the commissioner is author-  
3 ized to prescribe, and after public hearing following  
4 due public notice, to enforce such rules, regulations and  
5 standards relating to the sale and distribution of mixed  
6 fertilizers and fertilizer materials as he may find neces-  
7 sary to carry into effect the full intent and meaning of  
8 this article.

Sec. 16. *Cancellation of Registrations.*—The commis-  
2 sioner is authorized and empowered to cancel the regis-  
3 tration of any brand of mixed fertilizer or fertilizer  
4 material or to refuse to register any brand of mixed  
5 fertilizer or fertilizer material as herein provided, upon  
6 satisfactory proof that the registrant has violated any  
7 of the provisions of this article, or any of the rules and  
8 regulations made and promulgated thereunder: *Provided,*  
9 That no registration shall be revoked or refused until  
10 the registrant shall have been given a hearing by the  
11 commissioner.

Sec. 17. *"Stop Sale" Orders.*—It shall be the duty  
2 of the commissioner to issue and enforce a written or  
3 printed "stop sale" order to the owner or custodian of  
4 any lot of mixed fertilizer or fertilizer material, and to  
5 hold at a designated place when the commissioner finds  
6 said mixed fertilizer or fertilizer material is being offer-  
7 ed or exposed for sale in violation of any of the pro-  
8 visions of this article, until the law has been complied  
9 with and said mixed fertilizer or fertilizer material is  
10 released in writing by the commissioner or said violation  
11 has been otherwise legally disposed of by written auth-  
12 ority. The commissioner shall release the mixed fertilizer  
13 or fertilizer material so withdrawn when the require-  
14 ments of the provisions of this article have been complied

15 with, and upon payment of all costs and expenses incur-  
16 red in connection with the withdrawal.

Sec. 18. *Seizure, Condemnation, and Sale.*—Any lot  
2 of mixed fertilizer or fertilizer material not in compliance  
3 with the provisions of this article shall be subject to  
4 seizure on complaint of the commissioner to a court of  
5 competent jurisdiction in the area in which said fertilizer  
6 is located. In the event the court finds the said fertilizer  
7 to be in violation of this article and orders the con-  
8 demnation of said fertilizer, it shall be disposed of in  
9 any manner consistent with the quality of the fertilizer  
10 and the laws of the state: *Provided*, That in no instance  
11 shall the disposition of said fertilizer be ordered by the  
12 court without first giving the claimant an opportunity  
13 to apply to the court for the release of said fertilizer,  
14 or for permission to process or relabel said fertilizer  
15 to bring it into compliance with this article.

Sec. 19. *Violations.*—If it shall appear from the  
2 examination of any mixed fertilizer or fertilizer material  
3 or other evidence that any of the provisions of this  
4 article, or the rules and regulations issued thereunder,  
5 have been violated, the commissioner shall cause notice  
6 of such violation to be given to the registrant, distributor,  
7 and possessor from whom said sample or other evidence  
8 was taken; any party so notified shall be given an oppor-  
9 tunity to be heard under such rules and regulations  
10 as may be prescribed by the commissioner. If it appears  
11 after such hearing that any of the provisions of this  
12 article or the rules and regulations issued thereunder  
13 have been violated, the commissioner may and is hereby  
14 authorized to prosecute, in any court of competent juris-  
15 diction, any person violating the provisions of this article.  
16 Any person convicted of violating any provisions of this  
17 article or the rules and regulations issued thereunder  
18 shall be adjudged guilty of a misdemeanor, and upon  
19 conviction thereof shall be fined not less than one hundred  
20 dollars nor more than two hundred dollars for the first  
21 offense, and not less than two hundred dollars nor more  
22 than five hundred dollars for each subsequent offense.

Sec. 20. *Exchanges between Manufacturers.*—Nothing  
2 in this article shall be construed to restrict or avoid  
3 sales or exchanges of mixed fertilizers or fertilizer ma-  
4 terials to each other by importers, manufacturers, or  
5 manipulators who have registered their brands as re-  
6 quired by the provisions of this article.

Sec. 21. *Constitutionality; Repeal of Inconsistent Acts.*  
2 —If any clause, sentence, paragraph, or part of this article  
3 shall for any reason be judged invalid by any court of  
4 competent jurisdiction, such judgment shall not affect,  
5 impair, or invalidate the remainder thereof but shall be  
6 confined in its operation to the clause, sentence, paragraph,  
7 or part thereof directly involved in the controversy in  
8 which such judgment shall have been rendered.  
9 All acts and parts of acts inconsistent with the provi-  
10 sions of this article are hereby repealed.

## CHAPTER 9

(Senate Bill No. 97—By Mr. Bowling)

AN ACT to amend and reenact sections two, four, five, six and seven, article twenty-one-a, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to soil conservation districts, the state soil conservation committee, its powers and duties, and the election, appointment, qualifications and tenure of supervisors.

[Passed February 20, 1947; in effect from passage. Approved by the Governor.]

### Article 21-a. Soil Conservation Districts.

#### Section

2. Legislative determinations and declaration.
4. State soil conservation committee.
5. Creation of soil conservation districts.
6. Election of supervisors for each district.
7. Appointment, qualification and tenure of supervisors.

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

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

Section 2. *Legislative Determinations and Declaration of Policy.*—It is hereby declared, as a matter of legislative determination:

(a) That the farm and grazing lands of the state of West Virginia are among the basic assets of the state and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this state by water; that the breaking of natural grass, plant, and forest cover has interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any land owner to conserve the soil and control erosion upon his lands causes a washing of soil and water from his lands onto other lands and makes the conservation of soil and control of erosion of such other lands difficult or impossible.

(b) That the consequences of such soil erosion in the form of soil-washing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of



34 scientific processes for increasing such yields; loss of soil  
35 and water which causes destruction of food and cover  
36 for wildlife; the washing of soil into streams which silts  
37 over spawning beds and destroys water plants, diminish-  
38 ing the food supply of fish; a diminishing of the under-  
39 ground water reserve, which causes water shortages, in-  
40 tensifies periods of drought, and causes crop failures; an  
41 increase in the speed and volume of rainfall run-off,  
42 causing severe and increasing floods, which bring suffer-  
43 ing, disease, and death; impoverishment of families at-  
44 tempting to farm eroding and eroded lands; damage to  
45 roads, highways, railways, farm buildings, and other  
46 property from floods; and losses in navigation, hydro-  
47 electric power, municipal water supply, irrigation devel-  
48 opments, farming and grazing.

49 (c) That to conserve soil resources and control and  
50 prevent soil erosion and to enable flood control programs,  
51 it is necessary that land-use practices contributing to soil  
52 wastage and soil erosion be discouraged and discontinued,  
53 and appropriate soil-conserving land-use practices be  
54 adopted and carried out; that among the procedures nec-  
55 essary for wide-spread adoption, are the carrying on of  
56 engineering operations such as the construction of ter-  
57 races, terrace outlets, check-dams, dikes, ponds, ditches,  
58 and the like; the utilization of strip cropping, lister fur-  
59 rowing, contour cultivating, and contour furrowing; land  
60 irrigation; seeding and planting of waste, sloping, aban-  
61 doned, or eroded lands to water-conserving and erosion-  
62 preventing plants, trees, and grasses; forestation and re-  
63 forestation; rotation of crops; soil stabilization with trees,  
64 grasses, legumes, and other thick-growing, soil holding  
65 crops; retardation of run-off by increasing absorption of  
66 rainfall; and retirement from cultivation of steep, highly  
67 erosive areas and areas now badly gullied or otherwise  
68 eroded.

69 (d) It is hereby declared to be the policy of the Legis-  
70 lature to provide for the conservation of the soil and soil  
71 resources of this state, and for the control and prevention  
72 of soil erosion, and thereby to preserve natural resources,  
73 control floods, prevent impairment of dams and reser-

74 voirs, assist in maintaining the navigability of rivers and  
75 harbors, preserve wildlife, protect the tax base, protect  
76 public lands and protect and promote the health, safety,  
77 and general welfare of the people of this state.

78 (e) This act contemplates that the incidental cost of  
79 organizing soil conservation districts will be borne by the  
80 state, while the expense of operating the districts so or-  
81 ganized, will be provided by donations, gifts, contribu-  
82 tions, grants and appropriations, in money, services, ma-  
83 terials or otherwise, from the United States or any of its  
84 agencies, from the state of West Virginia, or from other  
85 sources, with the understanding that the owners or occu-  
86 piers will contribute funds, labor, materials and equip-  
87 ment to aid the carrying out of erosion control measures  
88 on their lands.

Sec. 4. *State Soil Conservation Committee.*—(a) There  
2 is hereby established, to serve as an agency of the state  
3 and to perform the functions conferred upon it in this  
4 act, the state soil conservation committee. The committee  
5 shall consist of seven members. The following shall serve,  
6 ex officio, as members of the committee: The director of  
7 the state agricultural extension service; the director of  
8 the state agricultural experiment station; the director of  
9 the state conservation commission; and the state com-  
10 missioner of agriculture, who shall be chairman of the  
11 committee.

12 The governor shall appoint as additional members of  
13 the committee three representative citizens. The term of  
14 members thus appointed shall be four years, except that  
15 of the first members so appointed, one shall be appointed  
16 for a term of two years, one for a term of three years, and  
17 one for a term of four years. In the event of a vacancy,  
18 appointment shall be for the unexpired term.

19 The committee may invite the secretary of agriculture  
20 of the United States of America to appoint one person to  
21 serve with the committee as an advisory member.

22 The committee shall keep a record of its official actions,  
23 shall adopt a seal, which seal shall be judicially noticed,  
24 and may perform such acts, hold such public hearings,  
25 and promulgate such rules and regulations as may be

26 necessary for the execution of its functions under this act.

27 (b) The state soil conservation committee may em-  
28 ploy an administrative officer and such technical experts  
29 and such other agents and employees, permanent and  
30 temporary, as it may require, and shall determine their  
31 qualifications, duties, and compensation. The committee  
32 may call upon the attorney general of the state for such  
33 legal services as it may require. It shall have authority to  
34 delegate to its chairman, to one or more of its members,  
35 or to one or more agents or employees, such powers and  
36 duties as it may deem proper. The committee is empow-  
37 ered to secure necessary and suitable office accommoda-  
38 tions, and the necessary supplies and equipment. Upon  
39 request of the committee, for the purpose of carrying out  
40 any of its functions, the supervising officer of any state  
41 agency, or of any state institution of learning shall, inso-  
42 far as may be possible, under available appropriations,  
43 and having due regard to the needs of the agency to which  
44 the request is directed, assign or detail to the committee,  
45 members of the staff or personnel of such agency or in-  
46 stitution of learning, and make such special reports, sur-  
47 veys, or studies as the committee may request.

48 (c) A member of the committee shall hold office so long  
49 as he shall retain the office by virtue of which he shall be  
50 serving on the committee. A majority of the committee  
51 shall constitute a quorum, and the concurrence of a major-  
52 ity in any matter within their duties shall be required for  
53 its determination. The chairman and members of the  
54 committee shall receive no compensation for their serv-  
55 ices on the committee, but shall be entitled to expenses,  
56 including traveling expenses, necessarily incurred in the  
57 discharge of their duties on the committee. The commit-  
58 tee shall provide for the execution of surety bonds for all  
59 employees and officers who shall be entrusted with funds  
60 or property; shall provide for the keeping of a full and  
61 accurate public record of all proceedings and of all reso-  
62 lutions, regulations, and orders issued or adopted; and  
63 shall provide for an annual audit of the accounts of re-  
64 ceipts and disbursements.

65 (d) In addition to the duties and powers hereinafter

66 conferred upon the state soil conservation committee, it  
67 shall have the following duties and powers:

68 (1) To offer such assistance as may be appropriate to  
69 the supervisors of soil conservation districts, organized  
70 as provided hereinafter, in the carrying out of any of  
71 their powers and programs;

72 (2) To keep the supervisors of each of the several dis-  
73 tricts, organized under the provisions of this act, in-  
74 formed of the activities and experience of all other dis-  
75 tricts organized hereunder, and to facilitate an inter-  
76 change of advice and experience between such districts  
77 and cooperation between them;

78 (3) To coordinate the programs of the several soil  
79 conservation districts organized hereunder so far as this  
80 may be done by advice and consultation;

81 (4) To secure the cooperation and assistance of the  
82 United States and any of its agencies, and of agencies of  
83 this state, in the work of such districts;

84 (5) To disseminate information throughout the state  
85 concerning the activities and programs of the soil con-  
86 servation districts organized hereunder, and to encourage  
87 the formation of such districts in areas where their or-  
88 ganization is desirable;

89 (6) To accept and receive donations, gifts, contribu-  
90 tions, grants, and appropriations in money, services, ma-  
91 terials or otherwise, from the United States or any of its  
92 agencies, from the state of West Virginia, or from other  
93 sources, and to use or expend such money, services, ma-  
94 terials, or other contributions in carrying out the policy  
95 and provisions of this act, including the right to allocate  
96 such money, services, or materials in part to the various  
97 soil conservation districts created by this act in order to  
98 assist them in carrying on their operations;

99 (7) To obtain options upon and to acquire by purchase,  
100 exchange, lease, gift, grant, bequest, devise, or otherwise,  
101 any property, real or personal, or rights or interests  
102 therein; to maintain, administer, operate and improve  
103 any properties acquired, to receive and retain income  
104 from such property and to expend such income as re-  
105 quired for operation, maintenance, administration or im-

106 provement of such properties or in otherwise carrying  
107 out the purposes and provisions of this act; and to sell,  
108 lease, or otherwise dispose of any of its property or inter-  
109 ests therein in furtherance of the purposes and the pro-  
110 visions of this act.

Sec. 5. *Creation of Soil Conservation Districts.*—(a)

2 Any twenty-five owners of land lying within the limits  
3 of the territory proposed to be organized into a district  
4 may file a petition with the state soil conservation com-  
5 mittee asking that a soil conservation district be organ-  
6 ized to function in the territory described in the petition.  
7 Such petition shall set forth:

- 8 (1) The proposed name of said district;
- 9 (2) That there is need, in the interest of the public  
10 health, safety and welfare, for a soil conservation district  
11 to function in the territory described in the petition;
- 12 (3) A description of the territory proposed to be organ-  
13 ized as a district, which description shall not be required  
14 to be given by metes and bounds or by legal subdivisions,  
15 but shall be deemed sufficient if generally accurate;
- 16 (4) A request that the state soil conservation com-  
17 mittee duly define the boundaries for such district; that a  
18 referendum be held within the territory so defined on the  
19 question of the creation of a soil conservation district in  
20 such territory; and that the committee determine that  
21 such a district be created.

22 Where more than one petition is filed covering neigh-  
23 boring parts of the same region, whether or not these  
24 areas overlap, the state soil conservation committee may  
25 consolidate all or any such petitions.

26 (b) Within thirty days after such a petition has been  
27 filed with the state soil conservation committee, it shall  
28 cause due notice to be given of a proposed hearing upon  
29 the question of the desirability and necessity, in the inter-  
30 est of the public health, safety, and welfare, of the crea-  
31 tion of such district, upon the question of the appropriate  
32 boundaries to be assigned to such district, upon the  
33 propriety of the petition and other proceedings taken un-  
34 der this act, and upon all questions relevant to such in-

35 quiries. All owners of land within the limits of the  
36 territory described in the petition, and of lands within  
37 any territory considered for addition to such described  
38 territory, and all other interested parties, shall have the  
39 right to attend such hearings and to be heard. If it shall  
40 appear upon the hearing that it may be desirable to in-  
41 clude within the proposed district territory outside of the  
42 area within which due notice of the hearing has been giv-  
43 en, the hearing shall be adjourned and due notice of fur-  
44 ther hearing shall be given throughout the entire area  
45 considered for inclusion in the district, and such further  
46 hearing held. After such hearing, if the committee shall  
47 determine, upon the facts presented at such hearing and  
48 upon such other relevant facts and information as may  
49 be available, that there is need, in the interest of the pub-  
50 lic health, safety and welfare, for a soil conservation  
51 district to function in the territory considered at the  
52 hearing, it shall make and record such determination, and  
53 shall define, by metes and bounds or by legal subdivisions,  
54 the boundaries of such district. Districts thus defined  
55 may be a watershed or portion thereof, and nothing in  
56 this act shall be interpreted to exclude from considera-  
57 tion, small areas often constituting a very small part of a  
58 large watershed. The district may be large or small, but  
59 in making such determination and in defining such boun-  
60 daries, the committee shall give due weight and consid-  
61 eration to the topography of the area considered and of  
62 the state, the composition of soils therein, the distribu-  
63 tion of erosion, the prevailing land-use practices, the de-  
64 sirability and necessity of including within the boundaries  
65 the particular lands under consideration and the benefits  
66 such lands may receive from being included within such  
67 boundaries, the relation of the proposed area to existing  
68 watersheds and agricultural regions, and to other soil  
69 conservation districts already organized or proposed for  
70 organization under the provisions of this act, and such  
71 other physical, geographical, and economic factors as are  
72 relevant, having due regard to the legislative determina-  
73 tions set forth in section two of this act. The territory to  
74 be included within such boundaries need not be con-

75 tiguous. If the committee shall determine after such  
76 hearing, after due consideration of the said relevant facts,  
77 that there is no need for a soil conservation district to  
78 function in the territory considered at the hearing, it shall  
79 make and record such determination and shall deny the  
80 petition. After six months shall have expired from the  
81 date of the denial of any such petition, subsequent peti-  
82 tions covering the same or substantially the same terri-  
83 tory may be filed as aforesaid and new hearings held and  
84 determinations made thereon.

85 (c) After the committee has made and recorded a de-  
86 termination that there is need, in the interest of the public  
87 health, safety, and welfare, for the organization of a  
88 district in a particular territory and has defined the  
89 boundaries thereof, it shall consider the question whether  
90 the operation of a district within such boundaries with  
91 the powers conferred upon soil conservation districts in  
92 this act is administratively practicable and feasible. To  
93 assist the committee in the determination of such  
94 administrative practicability and feasibility, it shall  
95 be the duty of the committee, within a reasonable time  
96 after entry of the finding that there is need for  
97 the organization of the proposed district and the  
98 determination of the boundaries thereof, to hold a  
99 referendum within the proposed district upon the  
100 proposition of the creation of the district, and to  
101 cause due notice of such referendum to be given. The  
102 question shall be submitted by ballots upon which the  
103 words "For creation of a soil conservation district of the  
104 lands below described and lying in the county (ies) of  
105 \_\_\_\_\_,  
106 and "Against creation of a soil conservation district of  
107 the lands below described and lying in the county (ies)  
108 of \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_"  
109 shall appear, with a square before each proposition and a  
110 direction to insert an X mark in the square before one or  
111 the other of said propositions as the voter may favor or  
112 oppose creation of such district. The ballot shall set forth  
113 the boundaries of such proposed districts as determined  
114 by the committee. All owners of lands lying within the

115 boundaries of the territory, as determined by the state soil  
116 conservation committee, shall be eligible to vote in such  
117 referendum.

118 (d) The committee shall pay all expenses for the is-  
119 suance of such notices and the conduct of such hearings  
120 and referenda, and shall supervise the conduct of such  
121 hearings and referenda. It shall issue appropriate regula-  
122 tions governing the conduct of such hearings and refer-  
123 enda, and providing for the registration prior to the date  
124 of the referendum of all eligible voters, or prescribing  
125 some other appropriate procedure for the determination  
126 of those eligible as voters in such referendum. No in-  
127 formalities in the conduct of such referendum or in any  
128 matter relating thereto shall invalidate said referendum  
129 or the result thereof if notice thereof shall have been giv-  
130 en substantially as herein provided and said referendum  
131 shall have been fairly conducted.

132 (e) The committee shall publish the result of such ref-  
133 erendum and shall thereafter consider and determine  
134 whether the operation of the district within the defined  
135 boundaries is administratively practicable and feasible.  
136 If the committee shall determine that the operation of  
137 such district is not administratively practicable and feas-  
138 ible, it shall record such determination and deny the  
139 petition. If the committee shall determine that the opera-  
140 tion of such district is administratively practicable and  
141 feasible, it shall record such determination and shall pro-  
142 ceed with the organization of the district in the manner  
143 hereinafter provided. In making such determination the  
144 committee shall give due regard and weight to the atti-  
145 tudes of the occupiers of lands lying within the defined  
146 boundaries, the number of land owners eligible to vote in  
147 such referendum who shall have voted, the proportion of  
148 the votes cast in such referendum in favor of the creation  
149 of the district to the total number of votes cast, the ap-  
150 proximate wealth and income of the land occupiers of  
151 the proposed district, the probable expense of carrying  
152 on erosion-control operations within such district, and  
153 such other economic and social factors as may be relevant  
154 to such determination, having due regard to the legisla-



155 tive determinations set forth in section two of this act:  
156 *Provided, however,* That the committee shall not have  
157 authority to determine that the operation of the proposed  
158 district within the defined boundaries is administratively  
159 practicable and feasible unless at least sixty per centum  
160 of the votes cast in the referendum upon the proposition  
161 of creation of the district shall have been cast in favor  
162 of the creation of such district.

163 (f) If the committee shall determine that the opera-  
164 tion of the proposed district within the defined boundaries  
165 is administratively practicable and feasible, it shall ap-  
166 point two supervisors to act with the supervisors elected  
167 as provided hereinafter, as the governing body of the  
168 district.

169 (g) The two appointed supervisors shall present to the  
170 secretary of state an application signed by them which  
171 shall set forth (and such application need contain no de-  
172 tail other than the mere recitals): (1) that a petition for  
173 the creation of the district was filed with the state soil  
174 conservation committee pursuant to the provisions of this  
175 act, and that the proceedings specified in this act were  
176 taken pursuant to such petition; that the application is  
177 being filed in order to complete the organization of the  
178 district under this act; and that the committee has ap-  
179 pointed them as supervisors; (2) the name and official  
180 residence of each of the supervisors, together with a  
181 certified copy of the appointments evidencing their right  
182 to office; (3) the term of office of each of the supervisors;  
183 (4) the name which is proposed for the district; and (5)  
184 the location of the principal office of the supervisors of  
185 the district. The application shall be subscribed and  
186 sworn to by each of the said supervisors before an officer  
187 authorized by the laws of this state to take and certify  
188 oaths, who shall certify upon the application that he per-  
189 sonally knows the supervisors and knows them to be the  
190 officers as affirmed in the application, and that each has  
191 subscribed thereto in the officer's presence. The  
192 application shall be accompanied by a statement by  
193 the state soil conservation committee, which shall  
194 certify, (and such statement need contain no detail

195 other than the mere recitals) that a petition was  
196 filed, notice issued, and hearing held as aforesaid;  
197 that the committee did duly determine that there is  
198 need, in the interest of the public health, safety, and  
199 welfare, for a soil conservation district to function in  
200 the proposed territory and did define the boundaries  
201 thereof; that notice was given and a referendum held  
202 on the question of the creation of such district; and  
203 that the result of such referendum showed a major-  
204 ity of the votes cast in such referendum to be in  
205 favor of the creation of the district; that thereafter  
206 the committee did duly determine that the operation  
207 of the proposed district is administratively practicable  
208 and feasible. The said statement shall set forth the boun-  
209 daries of the district as they have been defined by the  
210 committee.

211 The secretary of state shall examine the application  
212 and statement and, if he finds that the name pro-  
213 posed for the district is not identical with that of any  
214 other soil conservation district of this state or so near-  
215 ly similar as to lead to confusion or uncertainty,  
216 he shall file them and shall record them in an appro-  
217 priate book of record in his office. If the secretary  
218 of state shall find that the name proposed for the  
219 district is identical with that of any other soil con-  
220 servation district of this state, or so nearly similar as  
221 to lead to confusion and uncertainty, he shall certify  
222 such fact to the state soil conservation committee, which  
223 shall thereupon submit to the secretary of state a  
224 new name for the said district, which shall not be  
225 subject to such defects. Upon receipt of such new  
226 name, free of such defects, the secretary of state shall  
227 record the application and statement, with the name  
228 so modified, in an appropriate book of record in his  
229 office. The secretary of state shall make and issue  
230 to the said supervisors a certificate, under the seal  
231 of the state, of the due organization of the said dis-  
232 trict, and shall record such certificate with the appli-  
233 cation and statement. The boundaries of such dis-  
234 trict shall include the territory as determined by

235 the state soil conservation committee as aforesaid,  
236 but in no event shall they include any area in-  
237 cluded within the boundaries of another soil con-  
238 servation district organized under the provisions of this  
239 act.

240 (h) After six months shall have expired from  
241 the date of entry of a determination by the state soil  
242 conservation committee that operation of a proposed  
243 district is not administratively practicable and feasible,  
244 and denial of a petition pursuant to such determina-  
245 tion, subsequent petitions may be filed as aforesaid, and  
246 action taken thereon in accordance with the provisions  
247 of this act.

248 (i) Petitions for including additional territory with-  
249 in an existing district may be filed with the state  
250 soil conservation committee, and the proceedings here-  
251 in provided for in the case of petitions to organize a  
252 district shall be observed in the case of petitions for  
253 such inclusion. The committee shall prescribe the form  
254 for such petitions, which shall be as nearly as  
255 may be in the form prescribed in this act for  
256 petitions to organize a district. Where the total num-  
257 ber of land owners in the area proposed for inclusion  
258 shall be less than twenty-five the petition may be filed  
259 when signed by a majority of the land owners of  
260 such area, and in such case no referendum need be held.  
261 In referenda upon petitions for such inclusion, all owners  
262 of land lying within the proposed additional area shall  
263 be eligible to vote.

264 (j) In any suit, action, or proceeding involving the  
265 validity or enforcement of, or relating to, any contract,  
266 proceeding, or action of the district, the district shall be  
267 deemed to have been established in accordance with the  
268 provisions of this act upon proof of the issuance of the  
269 aforesaid certificate by the secretary of state. A copy of  
270 such certificate duly certified by the secretary of state  
271 shall be admissible in evidence in any such suit, action,  
272 or proceeding and shall be proof of the filing and contents  
273 thereof.

**Sec. 6. Election of Supervisors for Each District.—**

2 Within thirty days after the date of issuance by the secre-  
3 tary of state of a certificate of organization of a soil con-  
4 servation district, nominating petitions may be filed with  
5 the state soil conservation committee to nominate candi-  
6 dates for supervisors of such district.

7 The committee shall have authority to extend the time  
8 within which nominating petitions may be filed. No such  
9 nominating petition shall be accepted by the committee  
10 unless it shall be subscribed by twenty-five or more own-  
11 ers of lands lying within the boundaries of such district  
12 and within the boundaries of the county in which the  
13 candidate resides. Land owners may sign more than one  
14 such nominating petition to nominate more than one can-  
15 didate for supervisor. The committee shall give due  
16 notice of an election to be held for the election of one  
17 supervisor from each county or portion thereof within  
18 the boundaries of the district. The names of all nominees  
19 in each county on behalf of whom such nominating peti-  
20 tions have been filed within the time designated, shall  
21 appear arranged in alphabetical order of the surnames  
22 upon a ballot, with a square before each name and a di-  
23 rection to insert an X mark in the square before any one  
24 name to indicate the voter's preference. All owners of  
25 lands lying within the district shall be eligible to vote in  
26 such election for one candidate from the county in which  
27 they reside. Only such land owners shall be eligible to vote.  
28 The candidate in each county who shall receive the largest  
29 number of votes cast in such election by land owners  
30 residing in his county shall be one of the elected super-  
31 visors for such district. The committee shall pay all ex-  
32 penses of such election, shall supervise the conduct there-  
33 of, shall prescribe regulations governing the conduct of  
34 such election and the determination of the eligibility of  
35 voters therein, and shall make public the results thereof.

*Sec. 7. Appointment, Qualification, and Tenure of Su-*  
2 *pervisors.*—The governing body of the district shall con-  
3 sist of the supervisors, appointed or elected, as provided  
4 in preceding sections. The two supervisors appointed by  
5 the committee shall be persons who are by training and  
6 experience qualified to perform the specialized skilled

7 services which will be required of them in the perform-  
8 ance of their duties hereunder, and must be legal residents  
9 and land owners of the district.

10 The supervisors shall designate a chairman and may,  
11 from time to time, change such designation. The term of  
12 office of each supervisor shall be three years, except that  
13 the supervisors who are first appointed shall be designated  
14 to serve for terms of one and two years, respectively, from  
15 the date of their appointment. A supervisor shall hold  
16 office until his successor has been elected, or appointed.  
17 In case a new county or portion thereof is added to a dis-  
18 trict the committee may appoint a supervisor to repre-  
19 sent it until such time as the next regular election of  
20 supervisors for the district takes place. In case a vacancy  
21 occurs among the elected supervisors of a district the  
22 committee shall appoint a successor from the same county  
23 to fill the unexpired term. Such appointment shall be  
24 made from a name or list of names submitted by local  
25 farm organizations and agencies. When any county or  
26 portion thereof lying within the boundaries of a district  
27 shall have in effect eight hundred or more signed agree-  
28 ments of cooperation with occupiers of land located with-  
29 in said county, then at the next regular election of super-  
30 visors the land occupiers within said county or portion  
31 thereof are entitled to elect two supervisors to represent  
32 the county instead of one for the term and in the manner  
33 previously prescribed. A majority of the supervisors  
34 shall constitute a quorum and the concurrence of a ma-  
35 jority in any matter within their duties shall be required  
36 for its determination. A supervisor shall be entitled to  
37 expenses, and a per diem not to exceed four dollars when  
38 engaged in the performance of his duties.

39 The supervisors may with the approval of the state  
40 committee employ a secretary, technical experts, and  
41 such other officers, agents, and employees, permanent  
42 and temporary, as they may require, and shall determine  
43 their qualifications, duties and compensation. The super-  
44 visors may delegate to their chairman, to one or more  
45 supervisors or to one or more agents, or employees, such  
46 administrative powers and duties as they may deem

47 proper. The supervisors shall furnish to the state soil  
48 conservation committee, upon request, copies of such  
49 ordinances, rules, regulations, orders, contracts, forms,  
50 and other documents as they shall adopt or employ, and  
51 such other information concerning their activities as it  
52 may require in the performance of its duties under this  
53 act.

54 The supervisors shall provide for the execution of sure-  
55 ty bonds for all employees and officers who shall be en-  
56 trusted with funds or property; shall provide for the  
57 keeping of a full and accurate record of all proceedings  
58 and of all resolutions, regulations and orders issued or  
59 adopted; and shall provide for an annual audit of the  
60 accounts of receipts and disbursements. Any supervisor  
61 may be removed by the state soil conservation committee  
62 upon notice and hearing, for neglect of duty or malfeas-  
63 ance in office, but for no other reason.

64 The supervisors may invite the legislative body of any  
65 municipality or county located near the territory com-  
66 prised within the district to designate a representative to  
67 advise and consult with the supervisors of a district on  
68 all questions of program and policy which may affect the  
69 property, water supply, or other interests of such munici-  
70 pality or county.

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## CHAPTER 10

(Senate Bill No. 94—By Mr. Stemple)

AN ACT to amend and reenact section two, article eighteen, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the control of live stock and preventing live stock to run at large on any public road, highway or railroad right of way.

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[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

**Article 18. General Stock Law.****Section**

2. Unlawful running at large of stock on road or railroad right of way.

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

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

Section 2. *Unlawful Running at Large of Stock on Road or Railroad Right of Way.*—It shall be unlawful for the owner or manager of any horse, mule, ass, jennet, cattle, sheep, goat or hog, to negligently permit it to run at large on any public road or highway or railroad right of way, and should any such stock, while so negligently allowed to run at large, injure or destroy the property of another while so running at large, the owner or manager thereof shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five dollars nor more than ten dollars.

## CHAPTER 11

(Senate Bill No. 121—By Mr. Hardesty)

AN ACT to amend and reenact article eleven, chapter eight, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by repealing sections nine to fourteen, inclusive, and by amending sections one to eight, inclusive, all relating to the establishment, operation, regulations, construction, leasing, joint maintenance, and abandonment of, acquisition of sites for, collection of fees from, and laying of levies and appropriations of funds for, airports by counties and municipalities; and providing for the construction, operation, maintenance of, and acquisition of

sites for, airports in this state by municipalities of adjoining states.

[Passed March 4, 1947; in effect ninety days from passage. Approved by the Governor.]

## **Article 11. Airports and Avigation.**

### **Section**

1. Definitions.
2. Establishment and operation of airports by counties and municipalities.
3. Acquisition of site for airport; payment therefor.
4. Construction, maintenance and operation of airport; regulations and fees.
5. Airports maintained jointly; abandonment thereof; suits concerning same.
6. The state and political subdivisions empowered to lease airports and grounds.
7. Levy for acquisition of airport; funds for its maintenance and operation.
8. Construction, maintenance and operation of airports by municipalities of an adjoining state; acquisition of sites therefor; rights, powers and privileges relating thereto.

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

That article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by repealing sections nine to fourteen, inclusive, and to amend and reenact sections one to eight, inclusive, to read as follows:

Section 1. *Definitions.*—When used in this article, all  
2 words, terms, and phrases shall be defined as provided in  
3 section one, article two-a, chapter twenty-nine of the code  
4 of West Virginia, as amended.

Sec. 2. *Establishment and Operation of Airports by*  
2 *Counties and Municipalities.*—Any county, city, town, or  
3 village may establish, lease, construct, equip, maintain  
4 and operate for such county, city, town or village, an air-  
5 port for the use of aircraft, and may acquire or lease for  
6 such purpose real property within or without such county,  
7 or within or outside the corporate limits of such city, town  
8 or village, or may set apart and use for such purpose real  
9 property owned by the county, city, town or village, which



10 is not needed for any other public use, however such real  
11 property was acquired. The county court now owning or  
12 leasing or hereafter acquiring or leasing any real prop-  
13 erty without the limits of its county for the purpose of  
14 constructing and operating an airport, shall have the same  
15 and all jurisdiction over such property, its maintenance  
16 and operation, as it has with respect to real property  
17 owned or leased and operated by it for airport purposes  
18 within the limits of its own county.

Sec. 3. *Acquisition of Site for Airport; Payment There-*  
2 *for.*—Real property necessary for such airport may be ac-  
3 quired by gift, or by purchase if such county, city,  
4 town or village is able to agree with the owners of  
5 such real property on the terms thereof, and otherwise  
6 by condemnation, in the manner provided by law under  
7 which such county, city, town or village is authorized  
8 to acquire real property for public use. The purchase  
9 price or award for any property acquired for airport  
10 purposes may be paid for by appropriation of moneys  
11 available therefor or wholly or partly from the proceeds  
12 of sale of bonds of such county, city, town or village,  
13 as the county court or local legislative body shall de-  
14 termine, subject, however, to the general provisions of  
15 law for the issuance and sale of bonds of counties and  
16 municipalities for public purposes generally.

Sec. 4. *Construction, Maintenance and Operation of*  
2 *Airport; Regulations and Fees.*—The county court or local  
3 legislative body of such county, city, town or village  
4 may direct or employ or vest jurisdiction in any appro-  
5 priate officer, board or body of such county, city, town  
6 or village to locate, construct, equip, improve, maintain  
7 and operate such airport for such county, city, town or  
8 village, but the site so located and the construction, equip-  
9 ment, improvement, maintenance and operation of such  
10 airport shall be subject to the approval of such county  
11 court or local legislative body, as the case may be. The  
12 expense of the construction, improvement, equipment,  
13 maintenance and operation shall be a county, city, town  
14 or village charge, as the case may be.

15 The county court or local legislative body of the city,  
16 town, or village may adopt regulations and establish fees  
17 or charges for the use of such airport, or may authorize  
18 the officer, board or body of such county, city, town or vil-  
19 lage having jurisdiction to adopt such regulations and  
20 establish such fees and charges, subject, however, to the  
21 approval of such county court or local legislative body  
22 before they shall take effect.

Sec. 5. *Airports Maintained Jointly; Abandonment*  
2 *Thereof; Suits Concerning Same.*—One or more counties,  
3 cities, towns or villages may join with another or other  
4 counties, cities, towns and/or villages for the purpose of  
5 acquiring, leasing, equipping, constructing, maintaining  
6 and operating an airport. Any such airport may be  
7 established at such point as the legislative bodies in  
8 the county, or counties, city or cities, town or towns,  
9 village or villages joining therein may agree upon,  
10 and such county or counties, city or cities, town or  
11 towns, village or villages may raise, by levy or other-  
12 wise as provided in this article, funds for the purpose  
13 of acquiring, leasing, constructing, equipping, main-  
14 taining and operating any such airport and the counties  
15 and municipalities shall agree upon the proportionate  
16 part of the cost and expense of such airport to be  
17 paid by each county, city, town and/or village joining  
18 therein. The provisions of sections two, three, four,  
19 five, six, and seven of this article, shall apply to any joint  
20 airport established under the provisions of this section.  
21 In case any airport established by the joint action of  
22 any two or more counties, cities, towns and/or villages  
23 acting together under this section is abandoned, such air-  
24 port owned by such counties, cities, towns and/or villages  
25 may be sold with the approval of the legislative authori-  
26 ties of the counties and municipalities which had joined  
27 in its purchase. The proceeds of such sale shall be dis-  
28 tributed to the counties and municipalities in the pro-  
29 portion in which such counties and municipalities had  
30 contributed to the acquisition, maintenance and opera-  
31 tion of such airport. In case of a failure of the counties

32 and municipalities to agree upon the disposition of such  
33 airport and the equipment thereon or connected there-  
34 with or in its operation or maintenance, any one or more  
35 of the counties and municipalities interested therein may  
36 bring a suit in the circuit court of the county in which  
37 such airport or the larger part thereof is located, and upon  
38 a trial of the cause, held in the manner provided by law  
39 for other suits in equity, the court shall make such decree  
40 or decrees with reference to the disposition of the prop-  
41 erty and distribution of the proceeds or other moneys in-  
42 volved as to the court may seem to the best interests of  
43 all the parties involved, and an appeal to the supreme  
44 court of appeals shall lie as in other equity suits.

Sec. 6. *The State and Political Subdivisions Empowered*  
2 *to Lease Airports and Grounds.*—The state, acting through  
3 the aeronautics commission, or any county, incorporated  
4 city, town or village owning, either severally or jointly  
5 with other like governmental units, an airport and any  
6 grounds used or useful in connection therewith may sev-  
7 erally or jointly lease the same, for use as such airport  
8 and for any other purposes incidental to and not incon-  
9 sistent therewith, for a term not exceeding thirty years:  
10 *Provided, however,* That no lease shall be executed by  
11 such owner or owners of any such airport or grounds un-  
12 less and until such owner or owners shall have given no-  
13 tice by publication once a week for two successive weeks  
14 in two newspapers of opposite politics and of general cir-  
15 culation in the territory of the governmental unit or units  
16 affected, and by publication once a week for two succes-  
17 sive weeks in such other journal or magazine, or journals  
18 or magazines, as such owner or owners may deem advis-  
19 able, of its or their intent to lease said airport or grounds,  
20 which said notice shall accurately describe what is pro-  
21 posed to be leased, the purpose or purposes for which it  
22 may be used and the terms of said lease, and shall state  
23 the time and place for the public opening of proposals  
24 for such lease, and shall reserve the right to reject any  
25 and all proposals. Nothing herein contained, however,  
26 shall prevent such owner or owners of such airport or

27 grounds from granting or renting landing rights for air-  
28 planes, hangar space, gasoline storage, or handling facil-  
29 ities, ticket or general office space, or any other facilities  
30 or rights in connection with such airport or grounds, cov-  
31 ering or affecting less than the whole thereof, without  
32 notice and upon such terms as such owner or owners  
33 may deem advisable. All income received by a county  
34 court, or incorporated city, town or village under the terms  
35 of any such lease or grant shall be paid to the state sink-  
36 ing fund commission to retire the bonded indebtedness, if  
37 any, created for the acquisition, building and construc-  
38 tion of such airport or grounds. And if there be no such  
39 outstanding bonded indebtedness, then such income to be  
40 paid into the general fund of such county, incorporated  
41 city, town or village.

Sec. 7. *Levy for Acquisition of Airport; Funds for Its*  
2 *Maintenance and Operation.*—The local authorities of a  
3 county, city, town or village to which this article is ap-  
4 plicable, having power to appropriate money therein,  
5 may lay a levy, not to exceed five cents on each one hun-  
6 dred dollars of valuation, for a period not exceeding three  
7 years, and appropriate therefrom funds for the purpose  
8 of acquiring an airport. Funds necessary for providing  
9 maintenance or operating expenses for such airport may  
10 be appropriated out of the general funds of the county or  
11 municipality: *Provided, however,* That nothing contained  
12 herein shall in any way affect any rights, powers, and  
13 privileges of any county court, board of commissioners,  
14 or municipalities heretofore authorized by special act of  
15 the Legislature of the state of West Virginia, providing  
16 for the laying of levies or the expenditure of funds for  
17 constructing, maintaining or operating an airport.

Sec. 8. *Construction, Maintenance and Operation of*  
2 *Airports by Municipalities of an Adjoining State; Acquis-*  
3 *ition of Sites Therefor; Rights, Powers and Privileges Re-*  
4 *lating Thereto.*—Notwithstanding any other provisions of  
5 law, a municipal corporation, organized and existing un-  
6 der the laws of an adjoining state, the corporate limits  
7 thereof being not more than ten miles distant from the

8 boundaries of this state, may establish, lease, construct,  
9 equip, maintain and operate for such municipal corpora-  
10 tion of an adjoining state an airport exclusively for a  
11 non-profit public use, and may acquire or lease for such  
12 purpose real property situate within this state at a distance  
13 not greater than ten miles from the corporate limits of  
14 such municipal corporation of an adjoining state; and such  
15 municipal corporation shall have the right to acquire real  
16 property necessary for such airport by gift or by pur-  
17 chase, and otherwise by condemnation, and the use of  
18 real property under the provisions hereof shall be deemed  
19 to be a public use for which private property may be  
20 taken or damaged, for just compensation. All property,  
21 real and personal, acquired, held and used in this state  
22 pursuant to the provisions of this section shall be public  
23 property and therefore exempt from taxation in the man-  
24 ner provided by section nine, article three, chapter eleven,  
25 of the code.

## CHAPTER 12

(Senate Bill No. 120—By Mr. Hardesty)

AN ACT to repeal article two-a, chapter twenty-nine, and sections one, five-a, and seven to thirteen, inclusive, article eleven, chapter eight of the code of West Virginia, as amended, and to enact in lieu thereof a new article two-a, chapter twenty-nine, defining aeronautical words, terms and phrases; relating to the creation, membership, powers, duties, organization, and the employment and duties of a director and employees of a state aeronautics commission; relating to the powers and duties of the commission with regard to state and federal assistance in the construction of airports and the advancement of aeronautics; providing for the establishment and operation of state airports and airways; providing standards for the safe and

legal operation of aircraft; relating to the unauthorized taking or theft of aircraft and providing a penalty therefor; providing for the approval and licensing of airports, air schools and instructors, aircraft, and participation in any phase of aeronautics; relating to hearings and investigations by the commission of aeronautical matters and the powers of the commission to enforce its rules and regulations and the laws of the state pertaining to aeronautics; providing for judicial review of the commission's action; and providing penalties for violations of the aeronautics laws of this state, all relating to aeronautics.

[Passed March 3, 1947; in effect ninety days from passage. Approved by the Governor.]

## **Article 2-a. State Board of Aeronautics.**

### **Section**

1. Definitions.
2. Creation and membership.
3. Powers and duties of commission.
4. Organization of commission, meetings, reports, offices.
5. Director of aeronautics, appointment, qualifications, compensation, powers and duties; administrative and other assistants, their powers and duties.
6. State financial assistance for municipal airports.
7. Federal aid.
8. State airports, establishment and operation.
9. State airways.
10. Public purpose of activities.
11. Operation of aircraft while intoxicated; penalty.
12. Operation of aircraft at low altitude or in careless and reckless manner; penalty.
13. Unauthorized taking or operation of aircraft; penalty.
14. Federal license required for operation of aircraft.
15. Licensing of air schools and aeronautics instructors.
16. Certificates for airport sites; licensing airports.
17. Investigations, hearings; power to subpoena witnesses; self-crimination.
18. Disposition of fees.
19. Federal-state joint hearings, reciprocal services, accident reporting.
20. Enforcement of aeronautics laws.
21. Use of state and municipal facilities and services.
22. Commission orders, notices and opportunity for hearings.
23. Judicial review of commission's actions.
24. Penalties for violation of provisions of this article.
25. Exchange of violations information.
26. Severability.
27. Repeal.
28. Short title.

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

That article two-a, chapter twenty-nine, and sections one, five-a, and seven to thirteen, inclusive, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that a new article, to be designated article two-a, chapter twenty-nine be enacted, 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 the art and science of flight,  
4 including, but not limited to, transportation by aircraft;  
5 the operation, construction, repair, or maintenance of air-  
6 craft, aircraft power plants and accessories, including the  
7 repair, packing, and maintenance of parachutes; the de-  
8 sign, establishment, construction, extension, operation,  
9 improvement, repair, or maintenance of airports or other  
10 air navigation facilities, and instruction in flying or  
11 ground subjects pertaining thereto.
- 12 (b) "Aeronautics instructor" means any individual  
13 who, for hire or reward, engages in giving instruction,  
14 or offers to give instruction in aeronautics, either in fly-  
15 ing or ground subjects, or both. It does not include any  
16 instructor in any public school, college or university of  
17 this state, or any other institution of higher learning duly  
18 accredited and approved for carrying on collegiate work,  
19 while engaged in the performance of his duties as such  
20 instructor.
- 21 (c) "Aircraft" means any contrivance now known, or  
22 hereafter invented, used or designed for navigation of or  
23 flight in the air.
- 24 (d) "Airmen" means any individual who engages, as  
25 the person in command, or as pilot, mechanic, or mem-  
26 ber of the crew, in the navigation of aircraft while under  
27 way, and any individual who is directly in charge of the  
28 inspection, maintenance, overhauling, or repair of air-  
29 craft engines, propellers or appliances, and any individual  
30 who serves in the capacity of aircraft dispatcher, or air-  
31 traffic control-tower operator. It does not include any  
32 individual employed outside the United States, or any

33 individual employed by a manufacturer of aircraft, air-  
34 craft engines, propellers, or appliances to perform duties  
35 as inspector or mechanic in connection therewith, or any  
36 individual performing inspection or mechanical duties  
37 in connection with aircraft owned or operated by him.

38 (e) "Air navigation" or "avigation" means the oper-  
39 ation or navigation of aircraft in the air space over this  
40 state, or upon any airport within this state.

41 (f) "Air navigation facility" means any facility other  
42 than one owned or controlled by the federal govern-  
43 ment, used in, available for use in, or designed for  
44 use in aid of air navigation, including airports, and  
45 any structures, mechanisms, lights, beacons, mark-  
46 ers, communications system, or other instrumental-  
47 ities or devices used or useful as an aid or con-  
48 stituting an advantage or convenience, to the safe  
49 taking-off, navigation, and landing of aircraft, or the  
50 safe and efficient operation or maintenance of an airport,  
51 and any combination of any or all of such facilities.

52 (g) "Airport" means any area of land or water which  
53 is used, or intended for use, for the landing and take-off  
54 of aircraft, and any appurtenant areas which are used, or  
55 intended for use, for airport buildings or other airport  
56 facilities or rights of way, together with all airport build-  
57 ings and facilities located thereon.

58 (h) "Airport hazard" means any structure, object of  
59 natural growth, or use of land, which obstructs the air  
60 space required for the flight of aircraft in landing or tak-  
61 ing off at any airport or is otherwise hazardous to such  
62 landing or taking off.

63 (i) "Air school" means any person who engages in  
64 giving, or offering to give, instruction in aeronautics,  
65 either in flying or ground subjects, or both, for or with-  
66 out hire or reward. It does not include any public school,  
67 college, or university of this state, or any other institu-  
68 tion of higher learning duly accredited and approved for  
69 carrying on collegiate work.

70 (j) "Commission" means the West Virginia state aero-  
71 nautics commission.



72 (k) "Director" means the director of aeronautics of  
73 this state.

74 (l) "Municipality" means any county, city, town, vil-  
75 lage, or other political subdivision of this state. "Munic-  
76 ipal" means pertaining to a municipality as herein defined.

77 (m) "Operation of aircraft" or "operate aircraft"  
78 means the use, navigation or piloting of aircraft in the air  
79 space over this state or upon the ground within this state.

80 (n) "Person" means any individual, firm, copartner-  
81 ship, corporation, company, association, joint stock asso-  
82 ciation, or body politic, and includes any trustee, re-  
83 ceiver, assignee, or other similar representative thereof.

84 (o) "State airway" means a route in the navigable  
85 airspace over and above the lands or waters of this state,  
86 designated by the commission as a route suitable for air  
87 navigation.

88 (p) The singular of any of the above defined terms  
89 shall include the plural and the plural the singular.

Sec. 2. *Creation and Membership.*—There is hereby  
2 created an aeronautics commission, to be known as "The  
3 West Virginia State Aeronautics Commission", to con-  
4 sist of five members to be appointed by the governor,  
5 by and with the advice and consent of the Senate.  
6 One of such members shall be the state road commis-  
7 sioner ex officio, whose term as such member shall con-  
8 tinue for the period that he holds the office of state road  
9 commissioner. The other four members of the commis-  
10 sion shall be appointed by the governor, each to serve  
11 a term beginning the first day of July, one thousand nine  
12 hundred forty-seven, one to serve for a term of one year,  
13 one to serve for a term of two years, one to serve for a  
14 term of three years, and one to serve for a term of four  
15 years. The successors of the members (other than the  
16 state road commissioner) initially appointed as provided  
17 herein, shall be appointed for terms of four years each  
18 in the same manner as the members originally appointed  
19 under this act, except that any person appointed to fill  
20 a vacancy occurring prior to the expiration of the term  
21 for which his predecessor was appointed shall be ap-

22 pointed only for the remainder of such term. Each mem-  
23 ber shall serve until the appointment and qualification  
24 of his successor. No more than three members of the  
25 commission shall be members of the same political party.  
26 All members of the commission shall be citizens and  
27 residents of this state. The members of the commission  
28 who shall be appointed by the governor as provided by  
29 this section shall be selected with due regard to their fit-  
30 ness by reason of their aeronautical knowledge and prac-  
31 tical experience in the field of aeronautics. In making such  
32 appointments, the governor shall, so far as may be pos-  
33 sible and practicable, select the several members from  
34 different geographical sections of the state.

35 No member shall receive any salary for his services,  
36 but each shall be reimbursed for actual and necessary  
37 expenses incurred by him in the performance of his duties.

Sec. 3. *Powers and Duties of Commission.*—The com-  
2 mission shall assume, carry on and succeed to all the  
3 duties, rights, powers, obligations and liabilities here-  
4 tofore belonging to, exercised by, or assumed by the state  
5 board of aeronautics, pursuant to statutory authority here-  
6 tofore existing and as changed or modified by the provi-  
7 sions of this article. The commission shall have general su-  
8 pervision and control over all airports used for commercial  
9 purposes, all state and municipal airports, all air schools,  
10 and over all phases of aeronautics within this state. It may  
11 enter into any contracts necessary to the execution of the  
12 powers granted to it by this act. It is empowered and di-  
13 rected to encourage, foster, and assist in the development  
14 of aeronautics in this state and to encourage the establish-  
15 ment of airports and air navigation facilities. It shall coop-  
16 erate with and assist the federal government, the municipi-  
17 palities of this state, and other persons in the development  
18 of aeronautics, and shall act to coordinate the aeronautical  
19 activities of these bodies and persons. Municipalities are  
20 authorized to cooperate with the commission in the devel-  
21 opment of aeronautics and aeronautics facilities in this  
22 state. The commission is hereby given the power and au-  
23 thority to make such rules and regulations as it may deem

24 necessary and advisable for the public safety, governing  
25 the designing, laying out, locating, building, equipping,  
26 and operating of all airports, the establishment and op-  
27 eration of all air schools, and the conduct of all other  
28 phases of aeronautics. The commission is given the power  
29 and authority to make different ratings of airports and  
30 to prescribe the proper uses for which the different  
31 classes of ratings are given. The commission is given  
32 power and authority to make rules and regulations gov-  
33 erning the personnel and operation of all air schools,  
34 for the purpose of protecting the health and safety of  
35 students therein and insuring, so far as may be, the pub-  
36 lic safety through the proper training and instruction  
37 of student aviators and mechanics. It shall adopt and en-  
38 force the provisions of the federal air commerce act, now  
39 in effect or as hereafter amended, so as to make applicable  
40 as far as possible the provisions of that act to the state of  
41 West Virginia, but the commission shall not make or  
42 promulgate any rules, regulations or orders applicable  
43 to persons engaged in interstate air commerce, in con-  
44 travention of or inconsistent with the laws of the United  
45 States, or the rules, regulations or orders of the civil aero-  
46 nautics board, the civil aeronautics administration, or  
47 other competent agency of the United States: *Provided,*  
48 *however,* That nothing in this act shall be construed to  
49 deprive the public service commission of West Virginia  
50 of the power to regulate air transportation for compen-  
51 sation.

52 The commission shall keep on file with the secretary  
53 of state, and at the principal office of the commission,  
54 a copy of all its rules and regulations and orders having  
55 general effect, for public inspection. It shall provide for  
56 the publication and general distribution of all its orders,  
57 rules, regulations and procedures having general effect.  
58 Copies of any such orders, rules, or regulations shall be  
59 delivered to any person interested, free of charge, upon  
60 request. The publication and distribution of any such  
61 order, rule, or regulation as provided herein, shall be  
62 sufficient notice to the public of the provisions, require-  
63 ments, and effect thereof.

Sec. 4. *Organization of Commission, Meetings, Reports, Offices.*—The commission shall adopt a seal, and shall make, and may from time to time amend, such rules and regulations for the administration of the powers granted to it by this act as are not inconsistent therewith and as the commission may deem expedient. The commission shall organize by electing from among its members a chairman who shall serve as such for a period of two years. Such chairman shall have the power to sign documents, execute contracts, and otherwise act for and in the name of the commission in all matters within the lawful powers of the commission and duly authorized by a majority of its members.

The commission shall determine the number, date, and place of its regular meetings, but at least one such meeting shall be held annually at the commission's established offices in the city of Charleston. Whenever the convenience of the public or of interested persons may be promoted, or delay or expense may be prevented, the commission may hold meetings, hearings, or proceedings at any other place designated by it.

The commission shall report in writing to the governor on or before the thirty-first day of August of each year. The report shall contain a summary of the commission's proceedings during the preceding fiscal year, a detailed and itemized statement of all revenue received and all expenditures made by or on behalf of the commission, such other information as it may deem necessary or useful, and any additional information which may be requested by the governor. The fiscal year of the commission shall conform to the fiscal year of the state.

An office shall be established and maintained by the commission in the city of Charleston. In addition, the commission may establish and maintain such other offices within the state as it may deem necessary and expedient.

Sec. 5. *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 com-

5 mission, who shall serve for an indefinite term at the  
6 pleasure of the commission. He shall be appointed with  
7 due regard to his fitness, by aeronautical education and  
8 by knowledge of and recent practical experience in aero-  
9 nautics, for the efficient dispatch of the powers and duties  
10 vested in and imposed upon him by this act. He shall  
11 hold or have held a federal commercial pilot's license.  
12 He shall devote his entire time to the duties of his office  
13 as required and prescribed by this act, and shall not be  
14 actively engaged or employed in any other business, vo-  
15 cation or employment, nor shall he have any pecuniary  
16 interest in, or any stock in, or bonds of, any civil aero-  
17 nautical enterprise. He shall receive such compensation  
18 as the commission may determine, which said compen-  
19 sation shall, however, conform in general to the com-  
20 pensation received by persons occupying positions of  
21 similar importance and responsibility with other agen-  
22 cies of this state. He shall be reimbursed for all travel-  
23 ing and other expenses incurred by him in the discharge  
24 of his official duties. The director shall be the executive  
25 officer of the commission and under its supervision shall  
26 administer the provisions of this act and the rules, reg-  
27 ulations and orders established thereunder, and all other  
28 laws of the state relative to aeronautics. The director  
29 shall attend, but not vote, at all meetings of the com-  
30 mission. He shall act as secretary of the commission and  
31 shall be in charge of its offices and responsible to the  
32 commission for the preparation of reports and the col-  
33 lection and dissemination of data and other public in-  
34 formation relating to aeronautics. At the direction of  
35 the commission he shall, together with the chairman of  
36 the commission, execute all contracts entered into by  
37 the commission which are legally authorized and for  
38 which funds are provided in any appropriations act.  
39 The commission may, by written order filed in its office,  
40 delegate to the director any of the powers or duties vest-  
41 ed or imposed upon it by this act. Such delegated powers  
42 and duties may be exercised by such director in the name  
43 of the commission. The commission may also employ  
44 such administrative, engineering, technical and clerical

45 assistance as may be required. The director and such  
46 other assistants may, under the supervision of the com-  
47 mission, insofar as is reasonably possible, make avail-  
48 able the engineering and other technical services of the  
49 commission, without charge to any municipality, and  
50 with or without charge to any other person desiring  
51 them, in connection with the construction, maintenance  
52 or operation, or proposed construction, maintenance or  
53 operation of any airport. The commission, the director,  
54 and such other assistants as may be designated by the  
55 commission shall see that the state and federal laws gov-  
56 erning aviation and the rules and regulations of the  
57 commission are carried out. They shall have police pow-  
58 ers and may make arrests for the violation of this article,  
59 or the rules and regulations of the commission.

Sec. 6. *State Financial Assistance for Municipal Air-*  
2 *ports.*—The commission, out of any appropriation made  
3 to it by the Legislature or out of any funds at its disposal,  
4 may make funds available by grant or otherwise to mu-  
5 nicipalities for the planning, acquisition, construction,  
6 improvement, maintenance, or operation of airports  
7 owned or operated or to be owned or operated by such  
8 municipalities. Acceptance of any moneys so made avail-  
9 able to any municipality shall constitute consent by the  
10 recipient that a reasonable use of such airport may be  
11 made, upon request of the commission, by the United  
12 States government, the state, or any of their respective  
13 agencies, including the state aeronautics commission and  
14 the national guard of West Virginia for state purposes  
15 related or incidental to aeronautics. Such financial as-  
16 sistance may be furnished in connection with federal or  
17 other financial aid for the same purpose.

Sec. 7. *Federal Aid.*—(a) The commission is author-  
2 ized to cooperate with the government of the United  
3 States, and any agency or department thereof, in the  
4 planning, acquisition, construction, improvement, main-  
5 tenance and operation of airports and other air naviga-  
6 tion facilities in this state, and is authorized to accept

7 federal aid either outright or by way of matching the  
8 same in whole or in part as may be required, and when  
9 funds for matching are available to the commission, and  
10 to comply with the provisions of the laws of the United  
11 States and any regulations made thereunder for the ex-  
12 penditure of federal moneys upon such airports and other  
13 air navigation facilities.

14 (b) The commission is authorized to accept, receive,  
15 and receipt for federal moneys and other moneys, either  
16 public or private, for and in behalf of this state, or any  
17 municipality thereof, for the planning, acquisition, con-  
18 struction, improvement, maintenance, and operation of  
19 airports and other air navigation facilities, whether such  
20 work is to be done by the state or by such municipality,  
21 or jointly, aided by grants of aid from the United States,  
22 upon such terms and conditions as are or may be pre-  
23 scribed by the laws of the United States and any rules  
24 or regulations made thereunder, and it is hereby des-  
25 ignated as the agency of the state, and is authorized to  
26 and may act as agent of any municipality of this state  
27 upon the request of such municipality, in accepting, re-  
28 ceiving and receipting for such moneys in its behalf for  
29 airports or other air navigation facility purposes, and in  
30 contracting for the planning, acquisition, construction,  
31 improvement, maintenance, or operation of airports or  
32 other air navigation facilities, financed either in whole  
33 or in part by federal moneys; and any such municipality  
34 is authorized to and may, and the state hereby does  
35 designate the commission as its agent for such purposes  
36 and any such municipality may enter into an agreement  
37 with the commission prescribing the terms and condi-  
38 tions of such agency in accordance with federal laws,  
39 rules and regulations and with this act. Such moneys  
40 as are paid over by the United States government shall  
41 be retained by the state or paid over to said municipali-  
42 ties under such terms and conditions as may be imposed  
43 by the United States government in making such grants.  
44 (c) All contracts for the planning, acquisition, con-  
45 struction, improvement, maintenance, and operation of  
46 airports, or other air navigation facilities made by the

47 commission, either as the agent of the state or as the  
48 agent of any municipality therein, shall be made pur-  
49 suant to the laws of this state governing the making of  
50 like contracts: *Provided, however,* That where the plan-  
51 ning, acquisition, construction, improvement, mainten-  
52 ance, and operation of any airport or other air naviga-  
53 tion facility is financed wholly or partially with federal  
54 moneys, the commission, as agent of the state or of any  
55 municipality thereof, may let contracts in the manner  
56 prescribed by the federal authorities, acting under the  
57 laws of the United States, and any rules or regulations  
58 made thereunder, notwithstanding any other state law to  
59 the contrary.

60 (d) All moneys accepted for disbursement by the  
61 commission pursuant to this section shall be deposited in  
62 the state treasury, and, unless otherwise prescribed by  
63 the authority from which the money is received, kept  
64 in separate funds, designated according to the purposes  
65 for which the moneys were made available, and held  
66 by the state in trust for such purposes. All such moneys  
67 are hereby appropriated for the purposes for which the  
68 same were made available, shall be expended in accord-  
69 ance with federal laws and regulations and with this act.  
70 The commission is authorized, whether acting for this  
71 state or as the agent of any municipality therein, when  
72 requested by the United States government or any agency  
73 or department thereof, or when requested by the state  
74 or municipality for which the money has been made  
75 available, to disburse such moneys for the designated  
76 purposes, but this shall not preclude any other author-  
77 ized method of disbursement.

78 (e) The state or any municipality therein is author-  
79 ized to cooperate with the government of the United  
80 States, and any agency or department thereof, in the  
81 acquisition, construction, improvement, maintenance and  
82 operation of airports and other air navigation facilities  
83 in this state, and is authorized to accept federal aid, either  
84 by way of outright grant or by matching the same in  
85 whole or in part as may be required, and to comply with  
86 the provisions of the laws of the United States and any



87 regulations made thereunder for the expenditure of fed-  
88 eral moneys upon such airports and other navigation  
89 facilities.

90 (f) No political subdivision of this state, whether act-  
91 ing alone or jointly with another political subdivision or  
92 with the state, shall submit to the administrator or civil  
93 aeronautics of the United States any project application  
94 under the provisions of section nine-a of the act of Con-  
95 gress approved on the thirteenth day of May, one thou-  
96 sand nine hundred forty-six, being public law three hun-  
97 dred seventy-seven, seventy-ninth Congress, known and  
98 hereinafter designated as the "Federal Airport Act", or  
99 any amendment thereof, unless the project and the proj-  
100 ect application have been first approved by the commis-  
101 sion. No such political subdivision shall directly accept,  
102 receive, receipt for, or disburse any funds granted by the  
103 United States under the federal airport act, but it shall  
104 designate the commission as its agent in its behalf to  
105 accept, receive, receipt for and disburse such funds. It  
106 shall enter into an agreement with the commission pre-  
107 scribing the term and conditions of such agency in ac-  
108 cordance with federal laws, rules and regulations and  
109 applicable laws of this state. Such moneys as are paid  
110 over by the United States government shall be retained  
111 by the state or paid over to the municipality under such  
112 terms and conditions as may be imposed by the United  
113 States government in making such grant.

Sec. 8. *State Airports, Establishment and Operation.*—

2 The commission is authorized on behalf of and in the  
3 name of the state, out of appropriations and other moneys  
4 made available for such purposes, to plan, establish, con-  
5 struct, maintain, and operate airports and air navigation  
6 facilities within the state. For such purposes the com-  
7 mission may, by purchase, gift, devise, lease, condemna-  
8 tion or otherwise, acquire such property, real or per-  
9 sonal, as is necessary to permit safe and efficient opera-  
10 tion of the airports and air navigation facilities. In like  
11 manner, the commission may acquire existing airports  
12 and air navigation facilities: *Provided, however, That it*

13 shall not acquire or take over any airport or air navigation facility owned or controlled by a municipality of this or any other state without the consent of such municipality. The commission may by sale, lease, or otherwise, dispose of any such property, airport, air navigation facility, or portion thereof or interest therein. Such disposal by lease shall be made pursuant to the terms of chapter eight, article eleven, section six of the code of West Virginia. Such disposal by sale or otherwise shall be in accordance with the laws of this state governing the disposition of other property of the state, except that in the case of disposal to any municipality or state government or the United States for aeronautical purposes incident thereto the sale or other disposal may be effected in such manner and upon such terms as the commission may deem in the best interest of the state.

29 Nothing contained in this act shall be construed to limit any right, power or authority of the state or a municipality to regulate airport hazards by zoning.

32 The commission may exercise any powers granted by this section jointly with any municipalities or agencies of the state government, with other states or their municipalities, or with the United States.

36 In the condemnation of property authorized by this section, the commission shall proceed in the name of the state in the manner provided by chapter fifty-four, code of West Virginia, one thousand nine hundred thirty-one.

Sec. 9. *State Airways*.—The commission may designate, design, and establish, expand, or modify a state airways system which will best serve the interest of the state. It may chart such airways system and arrange for publication and distribution of such maps, charts, notices and bulletins relating to such airways as may be required in the public interest. The system shall be supplementary to and coordinated in design and operation with the federal airways system. It may include all types of air navigation facilities, whether publicly or privately owned, provided that such facilities conform to federal safety standards.

Sec. 10. *Public Purpose of Activities.*—The acquisition of any lands or interests therein pursuant to this act, the planning, acquisition, establishment, construction, improvement, maintenance and operation of airports and air navigation facilities, whether by the state separately or jointly with any municipalities, and the exercise of any other powers herein granted to the commission are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All lands and other property and privileges acquired and used by or on behalf of the state in the manner and for the purposes enumerated in this act shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

Sec. 11. *Operation of Aircraft While Intoxicated; Penalty.*—No person shall operate an aircraft in the air over, or on the ground or water within this state while intoxicated or under the influence of intoxicating liquor, drugs or narcotics; nor shall the owner of such aircraft, knowingly permit the same to be so operated by a person who is intoxicated, or under the influence of intoxicating liquor, drugs or narcotics.

A person violating any of the provisions of this section shall, for the first offense, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by confinement in jail for not more than one year, or both. For a second and subsequent offense, he shall be guilty of a felony and upon conviction thereof shall be confined in the penitentiary not less than one nor more than three years. Any person who, while intoxicated, or under the influence of intoxicating liquor, drugs or narcotics operates an aircraft, and while so operating the aircraft, does serious bodily injury to another, shall be guilty of felonious assault, and upon conviction thereof shall, for the first offense be punished at the discretion of the court, either by confinement in the penitentiary for not less than one nor more than five years or by confinement in

25 jail for not more than one year and by a fine of not more  
26 than five hundred dollars. For a second and subsequent  
27 such offense, he shall be guilty of a felony and upon con-  
28 viction thereof shall be punished by confinement in the  
29 penitentiary for not less than one nor more than five  
30 years.

Sec. 12. *Operation of Aircraft at Low Altitude or in  
2 Careless and Reckless Manner; Penalty.*—No person shall  
3 operate an aircraft at an altitude of less than one thou-  
4 sand feet over any city, town, or village, or public gath-  
5 ering elsewhere, except at a duly established airport or  
6 when necessary to make a safe and proper landing or  
7 take-off in an emergency or at a duly established airport.

8 No person shall operate an aircraft in the air over, or  
9 on the ground or water within this state in a careless and  
10 reckless manner in wilful or wanton disregard of the  
11 rights or safety of others, or without due caution and  
12 circumspection and in a manner so as to endanger or be  
13 likely to endanger any person or property.

14 A person violating any of the provisions of this sec-  
15 tion shall be guilty of a misdemeanor, and, upon con-  
16 viction thereof, shall be punished by a fine of not more  
17 than five hundred dollars or by confinement in jail for  
18 not more than one year, or both.

Sec. 13. *Unauthorized Taking or Operation of Air-  
2 craft; Penalty.*—No person, other than the duly 'author-  
3 ized agent, servant or employee of the owner thereof,  
4 shall take, without the knowledge and consent of the  
5 owner, and operate within this state any aircraft owned  
6 by another. Any person who, wilfully and without the  
7 knowledge or consent of the owner or person in lawful  
8 charge thereof, and with the intent to deprive such  
9 owner or person in lawful charge of the possession or  
10 use thereof, either temporarily or permanently, shall  
11 take possession of, enter and operate, or otherwise take  
12 and use, any aircraft belonging to another or in his law-  
13 ful possession; and any person who shall assist, aid and  
14 abet, or be present for the purpose and with the intent to  
15 assist, aid or abet, another person in such taking posses-

16 sion of, entering and operating, or otherwise taking and  
17 using any such aircraft; and any person who shall receive,  
18 buy, conceal, or otherwise dispose of any such aircraft  
19 knowing the same to have been stolen or taken without  
20 the knowledge or consent of the owner or person in law-  
21 ful charge thereof, shall be deemed guilty of a felony, and  
22 upon conviction thereof, shall be fined not less than two  
23 hundred nor more than five thousand dollars and con-  
24 fined in the penitentiary for not less than two nor more  
25 than ten years.

2       Sec. 14. *Federal License Required for Operation of*  
3 *Aircraft.*—No person shall operate or cause or authorize  
4 to be operated any aircraft within this state unless such  
5 aircraft has an appropriate effective certificate, permit or  
6 license issued by the United States, if such certificate,  
7 permit or license is required by the United States; nor  
8 shall any person engage in aeronautics as an airman in  
9 this state unless he has an appropriate effective airman  
10 certificate, permit, rating or license issued by the United  
11 States authorizing him to engage in the particular class  
12 of aeronautics in which he is engaged, if such certificate,  
13 permit, rating or license is required by the United States.

14       Where a certificate, permit, rating or license is required  
15 for an airman by the United States, it shall be kept in his  
16 personal possession when he is operating within this state  
17 and shall be presented for inspection upon the demand of  
18 any peace officer, or any other officer of the state or of a  
19 municipality or member, official, or employee of the com-  
20 mission authorized under this act to enforce the aero-  
21 nautics law of this state, or any official, manager or per-  
22 son in charge of any airport upon which the airman shall  
23 land, or upon the reasonable request of any other per-  
24 son. Where a certificate, permit or license is required by  
25 the United States for an aircraft, it shall be carried in the  
26 aircraft at all times while the aircraft is operating in the  
27 state, shall be conspicuously posted in the aircraft where  
28 it may readily be seen by passengers or inspectors, and  
29 shall be presented for inspection upon the demand of any  
30 peace officer, or any other officer of the state or of a  
municipality or member, official or employee of the com-

31 mission authorized under this act to enforce the aero-  
32 nautics laws of this state, or any official, manager or per-  
33 son in charge of any airport upon which the aircraft shall  
34 land, or upon the reasonable request of any person.

Sec. 15. *Licensing of Air Schools and Aeronautics In-*  
2 *structors.*—The commission is authorized to provide for  
3 the licensing of air schools and of aeronautics instructors.  
4 For each license of an air school it may charge a fee not  
5 exceeding twenty dollars, and for each license of an aero-  
6 nautics instructor it may charge a fee not exceeding  
7 five dollars.

8 The commission may refuse to issue or may suspend or  
9 revoke temporarily or permanently, any license of an air  
10 school or aeronautics instructor required pursuant to this  
11 section when it shall reasonably determine, upon notice  
12 and opportunity for hearing, that such air school or aero-  
13 nautics instructor is not qualified. In arriving at such  
14 determination the commission shall consider, among other  
15 things, whether the school or instructor has violated the  
16 provisions of any statute of this state or the United States  
17 relating to aeronautics or the rules and regulations pro-  
18 mulgated pursuant thereto, or whether the aeronautics  
19 instructor or any aeronautics instructor of the air school is  
20 addicted to the use of narcotics or other habit-forming  
21 drugs or to the excessive use of intoxicating liquor or has  
22 made any false statements of a material nature in connec-  
23 tion with an application to the commission under this act,  
24 or has been guilty of conduct dangerous to the public  
25 safety or to the safety of those engaged in aeronautics.

26 It shall be unlawful for a person to operate an air school  
27 or for any aeronautics instructor to give instruction in  
28 aeronautics without an appropriate license as may be duly  
29 required by rule or regulation promulgated under the  
30 provisions of this section: *Provided further*, That it shall  
31 be unlawful for any aeronautics instructor to give instruc-  
32 tion in flying unless such instructor has an appropriate  
33 effective instructor's rating, certificate, permit or license  
34 as a flight instructor issued by the United States.

Sec. 16. *Certificates for Airport Sites; Licensing Air-*  
2 *ports.*—The commission is authorized to provide for the  
3 approval of airport sites and the issuance of certificates of  
4 such approvals. No charge shall be made for any such  
5 approval, and certificates of such an approval shall be  
6 issued without charge to all persons requesting them.  
7 Upon the promulgation of a rule or regulation providing  
8 for such approvals, any municipality or person desiring  
9 or planning to construct or establish an airport may, prior  
10 to the acquisition of the site or prior to the construction or  
11 establishment of the proposed airport, make application  
12 to the commission for approval of the site. The commis-  
13 sion shall with reasonable dispatch grant approval of a  
14 site if it is satisfied: (1) That the site is adequate for the  
15 proposed airport; (2) that such proposed airport, if con-  
16 structed or established, will conform to minimum stand-  
17 ards of safety; (3) that safe air traffic patterns could be  
18 worked out for such proposed airport and for all existing  
19 airports and approved airport sites in its vicinity; and  
20 (4) that such airport is reasonably necessary to provide  
21 adequate aeronautics facilities for the public or any per-  
22 son having need therefor. An approval of a site may be  
23 granted subject to any reasonable conditions which the  
24 commission may deem necessary to effectuate the pur-  
25 poses of this section, and shall remain in effect, unless  
26 sooner revoked by the commission, until a license for an  
27 airport located on the approved site has been issued pur-  
28 suant to the provisions of this section. The commission  
29 may, after notice and opportunity for hearing to holders  
30 of certificates of approval, revoke such approval when  
31 it shall reasonably determine (1) that there has been an  
32 abandonment of the site as an airport site, or (2) that  
33 there has been a failure within the time prescribed, or  
34 if no time was prescribed, within a reasonable time, to  
35 develop the site as an airport or to comply with the con-  
36 ditions of the approval, or (3) that because of change of  
37 physical, legal or other conditions or circumstances the  
38 site is no longer usable and necessary for the aeronautical  
39 purposes for which the approval was granted.

40 The commission is authorized to provide for the licens-

41 ing of airports and the periodic renewal of such licenses.  
42 It may charge license fees not exceeding twenty-five dol-  
43 lars for each original license, and not exceeding ten dol-  
44 lars for each renewal thereof. Upon the promulgation of  
45 a rule or regulation providing for such licensing, the com-  
46 mission shall with reasonable dispatch, upon receipt of  
47 an application for an original license and the payment  
48 of the duly required fee therefor, issue an appropriate  
49 license if a certificate of approval has previously been  
50 issued and has not been cancelled by the commission, or,  
51 where no such certificate has been issued if it is satisfied  
52 that the airport conforms to the standards established  
53 herein for the issuance of a certificate of approval. All  
54 licenses shall be renewable at such reasonable periodic  
55 intervals and upon payment of such fees as may be pre-  
56 scribed by the commission. Licenses and renewals thereof  
57 may be issued subject to any reasonable conditions that  
58 the commission may deem necessary to effectuate the pur-  
59 poses of this section. The commission may, after notice  
60 and opportunity for hearing to the licensee, revoke or  
61 suspend any license or renewal thereof, or refuse to issue  
62 a renewal, when it shall reasonably determine (1) that  
63 there has been an abandonment of the airport as such,  
64 or (2) that there has been a failure to comply with the  
65 conditions of the license or renewal thereof, or (3) that  
66 because of change of physical, legal or other conditions  
67 or circumstances the airport has become either unsafe or  
68 unusable for the aeronautical purposes for which the  
69 license or renewal was issued. It shall be unlawful for  
70 any municipality, or officer or employee thereof, or any  
71 person to operate an airport without an appropriate  
72 license for such, as may be duly required by rule or reg-  
73 ulation issued pursuant to this section.

74 Every licensed airport in this state shall employ an  
75 airport manager, who shall be licensed by the commis-  
76 sion upon application showing that the person applying  
77 for such license is qualified by training and experience  
78 to properly perform the duties of airport manager.

79 In connection with the grant of approval of a proposed  
80 airport site or the issuance of an airport license the com-



81 mission may, on its own motion or upon the request of an  
82 affected or interested person, hold a hearing open to the  
83 public as provided in section seventeen of this article:  
84 *Provided, however,* That the provisions of this section  
85 shall not apply to airports owned or operated by the  
86 United States. The commission may, from time to time,  
87 to the extent necessary, exempt any other class of air-  
88 ports, pursuant to a reasonable classification or grouping,  
89 from any rule or regulation promulgated under this sec-  
90 tion from any requirement of such a rule or regulation,  
91 if it finds that the application of such rule, regulation or  
92 requirement would be an undue burden on such class  
93 and is not required in the interest of public safety.

Sec. 17. *Investigations, Hearings; Power to Subpoena*  
2 *Witnesses; Self-crimination.*—The commission, any mem-  
3 ber thereof, the director or any officer or employee of the  
4 commission designated by it, shall have the power to hold  
5 investigations, inquiries and hearings concerning matters  
6 covered by the provisions of this act and the rules, regu-  
7 lations and orders of the commission, and concerning ac-  
8 cidents in aeronautics within this state. Hearings shall  
9 be open to the public and, except as provided in section  
10 twenty-two, shall be held upon such call or notice as the  
11 commission shall deem advisable. Each member of the  
12 commission, the director and every officer or employee of  
13 the commission designated by it to hold any inquiry, in-  
14 vestigation or hearing shall have the power to adminis-  
15 ter oaths and affirmations, certify to all official acts, is-  
16 sue subpoenas, and order the attendance and testimony of  
17 witnesses and the production of papers, books and docu-  
18 ments. In case of the failure of any person to comply with  
19 any subpoena or order issued under the authority of this  
20 section, the commission or its authorized representative  
21 may invoke the aid of any circuit court of this state. The  
22 court shall thereupon order such person to comply with  
23 the requirements of the subpoena order or to give evi-  
24 dence touching the matter in question. Failure to obey  
25 the order of the court may be punished by the court as a  
26 contempt thereof. A claim that any such testimony or evi-

27 dence may tend to incriminate the person giving the same  
28 shall not excuse witness from testifying, but such witness  
29 shall not be prosecuted for any offense concerning which  
30 he is compelled hereunder to testify.

31 Subject to the foregoing provision, the commission may  
32 in its discretion make available to appropriate federal,  
33 state and municipal agencies information and material  
34 developed in the course of its investigations and hearings.

Sec. 18. *Disposition of Fees.*—All fees or other moneys  
2 collected by said commission under the provisions of this  
3 article shall be paid into the state treasury in the manner  
4 provided in article two, chapter twelve of the code of  
5 West Virginia, and shall be carried in a separate account  
6 and be used and expended only for the purpose of carry-  
7 ing out the provisions of this article. The fees or other  
8 moneys so paid into the state treasury shall constitute and  
9 be treated as an excepted fund, and all of the provisions  
10 of section two of said article two, chapter twelve of the said  
11 code, applicable to the funds therein excepted from the  
12 general provisions for the deposit and payment of state  
13 funds, shall be applicable to the fund derived from collec-  
14 tions made pursuant to the provisions of this article.

Sec. 19. *Federal-State Joint Hearings, Reciprocal Ser-  
2 vices, Accident Reporting.*—The commission is authorized  
3 to confer with or to hold joint hearings with any agency  
4 of this state or the United States in connection with any  
5 matter arising under this act, or relating to the sound de-  
6 velopment of aeronautics.

7 The commission is authorized to avail itself of the coop-  
8 eration, services, records and facilities of the agencies of  
9 the United States as fully as may be practicable in the ad-  
10 ministration and enforcement of this act. The commission  
11 shall furnish to the agencies of the United States its co-  
12 operation, services, records and facilities, in so far as may  
13 be practicable.

14 The commission shall report to the appropriate agency  
15 of the United States all accidents in aeronautics in this  
16 state of which it is informed, and shall in so far as is prac-  
17 ticable preserve, protect and prevent the removal of the

18 component parts of any aircraft involved in an accident  
19 being investigated by it for such reasonable time as may  
20 be necessary to give the federal agency adequate oppor-  
21 tunity to institute an investigation.

Sec. 20. *Enforcement of Aeronautics Laws.*—It shall  
2 be the duty of the commission, its members, the director,  
3 officers and such employees of the commission as may be  
4 designated by it, and every state and municipal officer  
5 charged with the enforcement of state and municipal laws,  
6 to enforce and assist in the enforcement of this act and of  
7 all rules, regulations and orders issued pursuant thereto  
8 and of all other laws of this state relating to aeronautics;  
9 and in that connection each of the aforesaid persons is au-  
10 thorized to inspect and examine at reasonable hours any  
11 aircraft, the credentials of any airman or other person en-  
12 gaged in aeronautics required by the laws of this state or  
13 of the United States to have in his possession credentials  
14 evidencing his authority or permission to engage in aero-  
15 nautics, any premises, and the buildings and other struc-  
16 tures thereon, where airports, air navigation facilities, air  
17 schools, or other aeronautical activities are operated or  
18 conducted. In aid of the enforcement of this act, the rules,  
19 regulations and orders issued pursuant thereto and of all  
20 other laws of the state relating to aeronautics, general  
21 police powers are hereby conferred upon the commission,  
22 each of its members, the director, and such other officers  
23 and employees of the commission as may be designated by  
24 it to exercise such powers.

25 The commission is authorized in the name of the state  
26 to enforce the provisions of this act and the rules, regula-  
27 tions and orders issued pursuant thereto by injunction or  
28 other legal process in the courts of this state.

Sec. 21. *Use of State and Municipal Facilities and Ser-*  
2 *vices.*—In carrying out the provisions of this act the com-  
3 mission may use the facilities and services of other agen-  
4 cies of the state and of the municipalities of the state to  
5 the utmost extent possible, and such agencies and munici-  
6 palities are authorized and directed to make available  
7 their facilities and services.

Sec. 22. *Commission Orders, Notices and Opportunity for Hearings.*—Every order of the commission requiring performance of certain acts or compliance with certain requirements and any denial or revocation of an approval, certificate or license shall set forth the reasons and shall state the acts to be done or requirements to be met before approval by the commission will be given or the approval, license or certificate granted or restored or the order modified or changed. Orders issued by the commission pursuant to the provisions of this act shall be served upon the persons affected either by registered mail or in the manner provided by chapter fifty-six, article two, section one, code of one thousand nine hundred thirty-one. In every case where notice and opportunity for hearing are required under the provisions of this act, the order of the commission shall, on not less than ten days' notice, specify a time when and place where the person affected may be heard, or the time within which he may request hearing, and such order shall become effective upon the expiration of the time for exercising such opportunity for hearing unless a hearing is held or requested within the time provided, in which case the order shall be suspended until the commission shall affirm, disaffirm or modify such order after hearing held or default by the person affected.

Sec. 23. *Judicial Review of Commission's Action.*—Any person aggrieved by any final order of the commission shall have the right to a judicial review of the action of the commission, upon certiorari by the circuit court of Kanawha county, West Virginia. The granting of such review, upon certiorari, shall be within the sound discretion of the judge of the said circuit court. A petition for such review must be filed with the said court, or with the judge thereof in vacation, within a period of thirty days from the date of entry of the final order complained of. An appeal from any final order entered by the said circuit court upon granting such writ of certiorari may be had by application to the supreme court of appeals of West Virginia for a writ of error and supersedeas. Such application to the supreme court of appeals shall be made

16 within thirty days of the entry of the order appealed from  
17 by the said circuit court: *Provided, however,* That when  
18 either the circuit court or the supreme court of appeals  
19 has taken jurisdiction of any such case, such court may,  
20 in its sound discretion, refuse a stay of execution or super-  
21 sedeas to the order of the commission or any portion  
22 thereof during the time that the case is pending before  
23 the said court, if the court is of the opinion that the order  
24 of the commission or a part of such order is reasonable  
25 and has been issued for the protection of the public safety.

Sec. 24. *Penalties for Violation of Provisions of this*  
2 *Article.*—Any person violating any of the provisions of  
3 this act, for which the penalty is not otherwise provided,  
4 or any of the rules, regulations or orders issued pursuant  
5 thereto, shall be punishable by a fine of not more than  
6 five hundred dollars or by imprisonment for not more  
7 than thirty days, or both.

8 For any violation of sections eleven and twelve of this  
9 article, in addition to the penalties provided by the said  
10 sections, or as a condition to the suspension of a sentence  
11 which may be imposed pursuant thereto, the court in its  
12 discretion may prohibit the violator from operating air-  
13 craft within the state for such period as it may determine,  
14 but not to exceed one year. Violation of the duly imposed  
15 prohibition of the court may be treated as a separate of-  
16 fense under this section or as a contempt of court. In no  
17 event shall this section be construed as a warrant for the  
18 court or any other agency or person to take away, im-  
19 pound, hold or mark any federal airman or aircraft cer-  
20 tificate, permit, rating or license.

Sec. 25. *Exchange of Violations Information.*—The  
2 commission is authorized to report to the appropriate fed-  
3 eral agencies and agencies of other states all proceedings  
4 instituted charging violations of sections eleven, twelve  
5 and fourteen of this article and all penalties, of which it  
6 has knowledge, imposed upon airmen or the owners or  
7 operators of aircraft for violations of the law of this state  
8 relating to aeronautics or for violations of the rules, regu-  
9 lations or orders of the commission. The commission is

10 authorized to receive reports of penalties and other data  
11 from agencies of the federal government and other states  
12 and, when necessary, to enter into agreements with fed-  
13 eral agencies and the agencies of other states governing  
14 the delivery, receipt, exchange and use of reports and data.  
15 The commission may make the reports and data of the  
16 federal agencies, the agencies of other states, and the  
17 courts of this state available, with or without request  
18 therefor, to any and all courts of this state, and to any  
19 officer of the state or of a municipality authorized to  
20 enforce the aeronautics laws of this state.

2     *Sec. 26. Severability.*—If any provision of this act or  
3 the application thereof to any person or circumstance shall  
4 be held invalid, such invalidity shall not affect the pro-  
5 visions or applications of this act which can be given ef-  
6 fect without the invalid provisions or application, and to  
7 this end the provisions of this act are declared to be sever-  
8 able.

2     *Sec. 27. Repeal.*—All acts or parts or acts inconsistent  
3 with the provisions of this act are hereby repealed.

2     *Sec. 28. Short Title.*—This act may be cited as the "State  
3 Aeronautics Commission Act."

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## CHAPTER 13

(House Bill No. 233—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section nineteen, article three,  
chapter sixty of the code of West Virginia, as last amended  
by chapter nine, acts of the Legislature, regular session,  
one thousand nine hundred forty-five, relating to the  
operating and reserve funds and other moneys of the  
state liquor control commission, and providing for pay-  
ments to municipalities for the purpose of reimbursing  
municipalities for their expenditures in enforcing state  
laws for the protection of life and property.

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[Passed March 6, 1947; in effect from passage. Approved by the Governor.]

**Article 3. Sales by Commission.****Section**

19. Amount of operating and reserve fund; payments to municipalities for reimbursement of expenditures in enforcing state laws; disposition of excess.

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

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

Section 19. *Amount of Operating and Reserve Fund; Payments to Municipalities for Reimbursement of Expenditures in Enforcing State Laws; Disposition of Excess.*—All moneys collected by the commission shall be credited to the operating fund until that fund reaches an amount sufficient for the current and routine requirements of the department, this amount to be fixed by the commission with the approval of the governor, and not to exceed at any time the sum of one million five hundred thousand dollars. The receipts in excess of the requirements of the operating fund shall be paid into the reserve fund until the amount of the reserve fund equals three hundred fifty thousand dollars.

From receipts in excess of the requirements of the operating and reserve funds, the sum of fifty thousand dollars shall, upon requisition of the governor, be paid monthly into the state treasury and credited to a special fund to be established for the purpose of state payments to municipalities. The money in such fund shall be apportioned by the treasurer among the incorporated municipalities of the state on the basis of population, determined as follows:

(a) If the municipality be one that was in existence at the time of the taking of the last preceding federal decennial census, the population as shown by that census shall be the basis.

(b) If the municipality be one that was created subsequent to the taking of the last preceding federal decennial census, ninety-five per centum of the popula-

tion shown by the census taken in pursuance of section three, article two, chapter eight of this code shall be the basis.

(c) If the municipality be one into which additional area has been taken pursuant to law subsequent to the time of the fixing of the basis for that municipality, ninety-five per centum of the population of the additional area added to the population theretofore fixed as the basis for that municipality shall thereafter be the basis.

No payments shall be made to any municipality on a basis including population within any such additional area unless and until the governing body of the municipality shall request the state treasurer, in writing, to cause to be taken a census of the population in the additional area, and until after such census shall have been completed. Upon receiving such request the state treasurer shall appoint two enumerators to take such census, who shall be residents of the county in which the additional area, or some part of it, is situate. Such census shall be taken as of the first day of the calendar month in which the taking of the census is commenced, and shall exhibit the names of all persons who were residents of such additional area on that day. There shall be annexed to the census the affidavit of the enumerators, setting forth that due care was exercised in the taking of the census and that it does not contain any inaccuracy of which the affiants have knowledge. The enumerators shall each be paid as compensation the sum of fifty dollars if the population in the additional area does not exceed one thousand, and, if it exceed one thousand, then twenty-five dollars for each additional five hundred or part thereof in excess of one hundred. The state treasurer shall pay the compensation of the enumerators out of the special fund mentioned in this section and shall deduct the amount so paid from the next payment made by the state treasurer to the municipality.

The amounts paid to municipalities is paid for the purpose of reimbursing the municipalities for their expenditures in enforcing state laws for the protection of life and property.



- 70 All receipts of the commission, not otherwise disposed  
71 of by this section, shall, upon requisition of the governor,  
72 be paid monthly into the state general revenue fund.

## CHAPTER 14

(Senate Bill No. 279—By Mr. Van Camp and Mr. Burgess)

AN ACT to compensate Achilles T. Robison for loss of a leg and to reimburse him for medical and hospital expenses incurred as a result of gun wounds inflicted upon him by an escaped convict from a prison road camp.

[Passed March 8, 1947; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Appropriation for Achilles T. Robison.
2. Finding of moral obligation.

WHEREAS, On May sixth, one thousand nine hundred forty-four, Achilles T. Robison, of near New Martinsville, West Virginia, was shot in his own home by a convict, who, through the gross and inexcusable negligence of the deputy warden and guards, then servants and employees of the state of West Virginia, had escaped from the Reader road camp; and

WHEREAS, Because of such attack, Achilles T. Robison suffered irreparable injury, including the loss of a leg, and necessarily incurred certain medical and hospital expenses; and

WHEREAS, Achilles T. Robison was in no sense at fault; therefore,

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

- Section 1. *Appropriation for Achilles T. Robison.*—It  
2 appearing from a statement of the revenues and appro-  
3 priations for the fiscal year one thousand nine hundred  
4 forty-six—one thousand nine hundred forty-seven, that

5 there remains in the treasury, state fund general revenue,  
6 revenue in excess of the amount hereby appropriated,  
7 there is hereby appropriated from the treasury, state  
8 fund general revenue, the sum of four thousand eight  
9 hundred twenty-six dollars thirty-five cents to Achilles  
10 T. Robison, to compensate him for loss of a leg and to  
11 reimburse him for medical and hospital expense incurred  
12 as a result of gun wounds inflicted upon him by an  
13 escaped convict from a prison road camp.

Sec. 2. *Finding of Moral Obligation.*—It is hereby de-  
2 clared to be the finding of the Legislature based upon its  
3 conclusion of fact that the appropriation made in section  
4 one is for the payment of a moral obligation of the state  
5 of West Virginia.

## CHAPTER 15

(Senate Bill No. 291—By Mr. Allen)

AN ACT to provide compensation to Charles W. Neville for  
damages sustained by him in the wrecking and overturn-  
ing of a truck of the West Virginia conservation commis-  
sion.

[Passed March 8, 1947; in effect from passage. Became a law without the  
approval of the Governor.]

### Section

1. Appropriation for Charles W. Neville.
2. Finding of moral obligation.

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

### Section 1. *Appropriation for Charles W. Neville.*—

- 2 There is hereby appropriated, it appearing from the bud-  
3 get that there is sufficient revenue available for the pur-  
4 pose, the sum of nine hundred fifty-five dollars, to com-  
5 pensate Charles W. Neville for damages sustained by

6 him in the wrecking and overturning of a truck of the  
7 West Virginia conservation commission, being used at  
8 the time in the work of the commission, and in which  
9 he was riding at the invitation, knowledge, and consent  
10 of the driver of said truck and of the local game pro-  
11 tector, also riding in said truck, both being employees  
12 and engaged in the work of said commission, said wreck-  
13 ing being caused solely by the reckless and negligent  
14 driving of said truck by the said driver.

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

## CHAPTER 16

(House Bill No. 287—By Mr. Kidd)

AN ACT making an appropriation out of the treasury, state  
fund general revenue, for the purpose of compensating  
Thelma McFerrin for losses sustained by her in conse-  
quence of the wrongful death of her husband, Newsom  
McFerrin, resulting from the negligence of the Weston  
state hospital.

[Passed March 7, 1947; in effect ninety days from passage. Became a law without  
the approval of the Governor.]

### Section

1. Appropriation for Thelma McFerrin.
2. Finding of moral obligation.

WHEREAS, Due to the negligence of the Weston state hos-  
pital, Newsom McFerrin, the husband of Thelma McFerrin,  
lost his life; therefore,

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

- Section 1. *Appropriation for Thelma McFerrin.*—It ap-  
2 pearing from a statement of the revenues and appropri-

3 ations for the fiscal year one thousand nine hundred  
4 forty-six — one thousand nine hundred forty-seven, that  
5 there remains in the treasury, state fund general revenue,  
6 revenue in excess of the amount hereby appropriated,  
7 ated, there is hereby appropriated from the treasury,  
8 state fund general revenue, the sum of three thousand  
9 dollars to Thelma McFerrin, to compensate her for losses  
10 sustained by her in consequence of the wrongful death  
11 of her husband, Newsom McFerrin, resulting from the  
12 negligence of the Weston state hospital.

Sec. 2. *Finding of Moral Obligation.*—It is hereby declared to be the finding of the Legislature based upon its  
2 conclusion of fact that the appropriation made in section  
3 one of this act is for a public purpose and for the pay-  
4 ment of a moral obligation of the state of West Virginia.

—C—

## CHAPTER 17

(Senate Bill No. 335—By Mr. Love)

AN ACT to compensate Lillian Brigode for personal injuries and to reimburse her for medical and hospital expenses incurred as a result of the collapse of seats or stands at a high school football game.

[Passed March 8, 1947; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Appropriation for Lillian Brigode.
2. Finding of moral obligation.

WHEREAS, On November third, one thousand nine hundred forty-five, Lillian Brigode, of South Charleston, Kanawha county, West Virginia, bought an admission ticket for a football game played on said day in the city of Saint Albans, Kanawha county, West Virginia, between teams of Saint Albans high school and South Charleston high school; and

WHEREAS, Pursuant to the rights and privileges granted by said ticket, the said Lillian Brigode attended said football game

and was seated in a temporary bleacher type of stand erected under the jurisdiction, control and supervision of the board of education of Kanawha county, West Virginia, for the convenience of said Lillian Brigode and other invitees and spectators at said game; and

WHEREAS, While seated in said stands and during the progress of said football game, said stands collapsed by reason of the negligence of said board of education, its agents and employees in improperly constructing same, and said Lillian Brigode, together with other persons, was hurled violently to the ground; and

WHEREAS, As a result of so being hurled violently to the ground, the said Lillian Brigode suffered a fracture of the ninth dorsal and third lumbar vertebra, in addition to other cuts, contusions, abrasions and disabilities, and was hospitalized and necessarily incurred certain medical, hospital and other expenses; and

WHEREAS, Lillian Brigode was in no sense at fault in the premises; therefore,

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

Section 1. *Appropriation for Lillian Brigode.*—It appearing from a statement of the revenues and appropriations for the fiscal year one thousand nine hundred forty-six—one thousand nine hundred forty-seven, that there remains in the treasury, state fund general revenue, revenue in excess of the amount hereby appropriated, there is hereby appropriated from the treasury, state fund general revenue, the sum of seven hundred ten dollars to Lillian Brigode to compensate her for personal injuries suffered and to reimburse her for medical and hospital expenses incurred as a result of the collapse of stands at a high school football game under the jurisdiction of the board of education of Kanawha county, West Virginia.

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

## CHAPTER 18

(House Bill No. 338—By Mr. Hall)

AN ACT making an appropriation out of the treasury, state fund general revenue, for the purpose of reimbursing Oscar E. Butcher for injuries received while in line of duty as a corporal in Company I, First West Virginia Infantry.

[Passed March 7, 1947; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Section

1. Appropriation for Oscar E. Butcher.
2. Finding of moral obligation.

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

Section 1. *Appropriation for Oscar E. Butcher.*—It appearing from the statement of revenues and appropriations for the fiscal year one thousand nine hundred forty-six—one thousand nine hundred forty-seven, that there remains in the treasury, state fund general revenue, revenue in excess of the amount hereby appropriated, there is hereby appropriated from the state fund general revenue the sum of seven hundred dollars to Oscar E. Butcher, to reimburse him for injuries incurred by him in line of duty as a corporal in Company I, First West Virginia Infantry, on August ninth, one thousand nine hundred fifteen, while in encampment with his regiment in Parkersburg, West Virginia.

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

## CHAPTER 19

(Senate Bill No. 355—By Mr. Vickers, Mr. President)

AN ACT to provide compensation to R. J. Thrift, Jr., for work performed as a deputy commissioner of forfeited and delinquent lands of Fayette county, West Virginia, and Charles G. Gain, for work performed as a deputy commissioner of forfeited and delinquent lands of Berkeley county, West Virginia, under authority of chapter one hundred seventeen, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-one.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Section

1. Appropriation for R. J. Thrift, Jr., for services as deputy commissioner of forfeited and delinquent lands.
2. Appropriation for Charles G. Gain for services as deputy commissioner of forfeited and delinquent lands.
3. Finding of moral obligation.

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

Section 1. *Appropriation for R. J. Thrift, Jr., for Services as Deputy Commissioner of Forfeited and Delinquent Lands.*—There is hereby appropriated, it appearing from the budget that there is sufficient revenue available for the purpose, the sum of one thousand five hundred dollars, to compensate R. J. Thrift, Jr., for completely abstracting thirty-two parcels of property and doing basic abstracts on six hundred sixty-two additional tracts of property, and for applying to the circuit court of Fayette county for the setting of the date of sale and for the sale of said land on the date so set, as deputy commissioner of forfeited and delinquent lands in Fayette county, West Virginia.

Sec. 2. *Appropriation for Charles G. Gain for Services as Deputy Commissioner of Forfeited and Delinquent Lands.*—There is hereby appropriated, it appearing from the budget that there is sufficient revenue available for the purpose, the sum of one thousand dollars, to com-

6 pensate Charles G. Gain, for similar work as set out in  
7 section one, performed by him as a deputy commissioner  
8 of forfeited and delinquent lands in Berkeley county,  
9 West Virginia.

Sec. 3. *Finding of Moral Obligation.*—The Legislature  
2 finds that the above appropriations are necessary to dis-  
3 charge a moral obligation resting upon the state.

## CHAPTER 20

(House Bill No. 393—By Mr. Robinson)

AN ACT approving the payment of a certain claim to Ward Huffman, guardian of Bobby Cogar, an infant, which claim was recommended by the state court of claims, and is included in the budget bill of one thousand nine hundred forty-seven, and setting forth a legislative finding of fact that the said claim is a moral obligation of the state of West Virginia.

[Passed March 7, 1947; in effect ninety days from passage. Became a law without the approval of the Governor.]

### Section

1. Payment of claim of Ward Huffman, guardian of Bobby Cogar, an infant.
2. Claim a moral obligation of the state.

WHEREAS, In December, one thousand nine hundred forty-five, the state court of claims of West Virginia recommended to the Legislature that the sum of three thousand dollars be paid to Ward Huffman, guardian regularly appointed and qualified, of Bobby Cogar, an infant, by virtue of a claim for damages for a serious and permanent injury (loss of the right arm) against the state board of control of West Virginia and the West Virginia children's home at Elkins, West Virginia; and

WHEREAS, The supreme court of appeals of West Virginia in an opinion rendered in a certain case therein pending, on



the twenty-sixth day of June, one thousand nine hundred forty-five, as found in the case of State ex rel, Adkins versus Sims, Auditor, reported in thirty-four S. E. R. (second) 585, found, in said opinion that the Legislature in making an appropriation for the purpose of discharging the liability ascertained by the state court of claims, in said case, at its October term, one thousand nine hundred forty-five, and certified, should affirmatively make it appear that the obligation so ascertained and certified by said court, was and is a moral obligation on the part of the state of West Virginia, and in the opinion in said case suggested the necessity of a declaration to that effect and consequence by the Legislature should be made in an enactment separate and distinct from the appropriation bill carrying the grant and authorization of payment; therefore,

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

Section 1. *Payment of Claim of Ward Huffman, Guardian of Bobby Cogar, an Infant.*—The Legislature affirms and approves the recommendation of the court of claims of the state of West Virginia that there should be paid the following claim, and makes the following award, as a proper claim against the West Virginia board of control and the West Virginia children's home at Elkins, West Virginia, viz:

To Ward Huffman, guardian of Bobby Cogar, an infant, for permanent injuries suffered by said infant, the loss of his right arm, the sum and amount of three thousand dollars, and authorizes the payment of the said award from funds in the treasury of the state of West Virginia pursuant to a valid appropriation bill, separate and apart from this act.

Sec. 2. *Claim a Moral Obligation of the State.*—The Legislature declares hereby as a finding of fact that the foregoing award, and the payment thereof, under the circumstances involved in the claim and the finding of the court of claims of West Virginia, constitute a moral obligation of the state of West Virginia.

## CHAPTER 21

(Senate Bill No. 221—By Mr. Bowling and Mr. Reed)

AN ACT providing for the payment by the state of six death claims to Roy H. Adkins, J. P. Burgess, Edward D. Burdette, C. J. Jones, E. W. Lively and Joe Surber, administrators, the payment of which was recommended by the state court of claims and included in the budget bill of one thousand nine hundred forty-five, regular session, (chapter eleven, acts of the Legislature, regular session, one thousand nine hundred forty-five), and setting forth a legislative finding of fact that the payment of said claims is a moral obligation of the state of West Virginia.

[Passed March 7, 1947; in effect from passage. Approved by the Governor.]

### Section

1. Affirming and approving the payment of death claims to Roy H. Adkins and others, administrators, for six persons killed in a highway accident.
2. Payment of awards a moral obligation of the state.

WHEREAS, In August, one thousand nine hundred forty-three, the state court of claims of West Virginia recommended to the Legislature that the sum of three thousand five hundred dollars each, or a total of twenty-one thousand dollars be paid to Roy H. Adkins, J. P. Burgess, Edward D. Burdette, C. J. Jones, E. W. Lively and Joe Surber, administrators, claimants, in six consolidated claims against the state road commission of West Virginia; and

WHEREAS, As a result of such recommendation, the Legislature of the state of West Virginia embraced within the one thousand nine hundred forty-five act of the Legislature, regular session, known as the budget bill a general appropriation in the amount of three thousand five hundred dollars in favor of each of said claimants; and

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

WHEREAS, The supreme court of appeals of West Virginia, on June twenty-sixth, one thousand nine hundred forty-five, in a mandamus proceedings therein pending on the petition of Roy H. Adkins, administrator, one of said claimants, in case No. 9725, styled "State ex rel Adkins v. Sims, Auditor", reported in 34 S. E. (2d) 585, refused to grant said writ of mandamus for the assigned reason that it did not "Affirmatively appear that the Legislature in making the appropriation has found that it was necessary in order to discharge a moral obligation of the state", and in the opinion written by said court in said case, suggested the necessity of a declaration of such consequence by the Legislature, preferably in an enactment separate and distinct from the appropriation bill carrying the grant; therefore,

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

Section 1. *Affirming and Approving the Payment of*

2 *Death Claims to Roy H. Adkins and Others, Administra-*  
3 *tors, for Six Persons Killed in a Highway Accident.—*

4 The Legislature affirms and approves the recommenda-  
5 tion of the court of claims that there should be paid the  
6 awards listed below; and it likewise affirms the appro-  
7 priations made by the Legislature at its one thousand  
8 nine hundred forty-five session (contained in chapter  
9 eleven, acts of the Legislature, regular session, one thou-  
10 sand nine hundred forty-five) to pay the said awards as  
11 claims against the state road commission. The Legisla-  
12 ture therefore makes the following awards:

13 To Roy H. Adkins, administrator, for the death of Roy  
14 Herbert Adkins, Jr., the sum of three thousand five  
15 hundred dollars;

16 To J. P. Burgess, administrator, for the death of Edward  
17 Sinclair Burgess, the sum of three thousand five hun-  
18 dred dollars;

19 To Edward D. Burdette, administrator, for the death of  
20 Edward D. Burdette, Jr., the sum of three thousand  
21 five hundred dollars;

22 To C. J. Jones, administrator, for the death of Esther  
23 Jones, the sum of three thousand five hundred dol-  
24 lars;

25 To E. W. Lively, administrator, for the death of Ruth  
26 Ann Lively, the sum of three thousand five hundred  
27 dollars;  
28 To Joe Surber, administrator, for the death of Marguer-  
29 ette Francis Surber, the sum of three thousand five  
30 hundred dollars;  
31 and authorizes the payment of each of said awards from  
32 funds in the state treasury pursuant to a valid appropria-  
33 tion bill separate and apart from this act.

Sec. 2. *Payment of Awards a Moral Obligation of the*  
2 *State.*—The Legislature hereby declares, as a finding of  
3 fact, that each of the foregoing awards, and the payment  
4 thereof, under the circumstances involved in each claim,  
5 constitutes a moral obligation of the state of West Vir-  
6 ginia.

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## CHAPTER 22

(Senate Bill No. 215—By Mr. Stemple)

AN ACT to compensate Lon E. Upton for personal damages sus-  
tained by him by walking in the night time off a bridge  
without guard rails, side walls or barriers, located upon a  
public road.

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[Passed March 8, 1947; in effect from passage. Became a law without the  
approval of the Governor.]

### Section

1. Reimbursing Lon E. Upton for personal damages sustained by  
walking off a bridge upon a public road, level with the grade  
of said road, and without any side rails or barriers.

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WHEREAS, On September twenty-ninth, one thousand nine  
hundred forty-one, Lon E. Upton, while traveling upon a pub-  
lic road, open to travel, near Ford Run, Barbour county, West  
Virginia, stepped off of a bridge, the floor of which was level  
with the road, and which bridge had no side walls, guard rails  
or other protective barriers thereon, on a road maintained and

under the control of the state road commission, and thereby fell to the bottom of the stream spanned by said bridge a distance of eight feet, upon a solid rock bottom, and thereby suffered a severely lacerated lower lip; fracture of the left wrist; laceration of the left thumb; compound fracture involving the distal one-third of the left femur and knee joint, with approximately one inch of the shaft of the femur protruding through the skin. The fractured fragments showed marked comminution. Following the injury, massive infection developed and at the present time, he has an active osteomyelitis. The condition from which he is now suffering is entirely the result of the accident. He has been admitted to the hospital repeatedly since the accident because of localized abscess formation; and has had three or more operations to clean up the infection, all of which have failed; and has expended in excess of eight hundred dollars for hospital treatment, and is permanently disabled. The said Lon E. Upton presented his claim for personal damages against the state road commission of West Virginia, before the West Virginia state court of claims, and was by said court awarded fifteen hundred dollars; therefore,

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

Section 1. *Reimbursing Lon E. Upton for Personal  
2 Damages Sustained by Walking Off a Bridge Upon a  
3 Public Road, Level With the Grade of Said Road, and  
4 Without Any Side Rails or Barriers.*—The auditor of the  
5 state of West Virginia is hereby authorized and directed  
6 to issue his warrant, payable from state fund, general revenue, upon the treasury, in favor of Lon E. Upton for fifteen hundred dollars, for personal damages sustained by  
9 him by falling from a state road bridge which had no side  
10 walls, barrier or guard rails, the Legislature finding that  
11 this appropriation is necessary to discharge a moral obligation of the state.  
12

## CHAPTER 23

(House Bill No. 55—By Mrs. Walker)

AN ACT to appropriate money out of the state treasury for West Virginia State College, Four-H camp for colored boys and girls, to provide funds to pay unpaid bills of said Four-H camp.

[Passed February 21, 1947; in effect from passage. Approved by the Governor.]

### Section

1. Additional appropriation for West Virginia State College, Four-H Camp.

WHEREAS, Over the period from June twenty-two, one thousand nine hundred forty-two, to March fifteen, one thousand nine hundred forty-five, the Four-H camp for colored boys and girls purchased food and supplies from the Babcock Coal and Coke Company amounting to a total of \$336.54; and

WHEREAS, When said Babcock Coal and Coke Company presented its bills for said food and supplies, the appropriation for West Virginia State College, Four-H camp for colored boys and girls, for this purpose had expired, and said company has not been paid; therefore,

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

### Section 1. Additional Appropriation for West Virginia

- 2 State College, Four-H Camp.—That in addition to the
- 3 appropriation made by chapter eleven, acts of the Leg-
- 4 islature, regular session, one thousand nine hundred
- 5 forty-five, there be and is hereby appropriated for the
- 6 fiscal year ending June thirtieth, one thousand nine hun-
- 7 dred forty-seven, the following sum of money for the
- 8 immediate payment of the claim of the Babcock Coal and
- 9 Coke Company:

10 409—West Virginia State College—Four-H Camp for  
11 Colored Boys and Girls

12 Acct. No. 330

13 Current Expenses ..... \$336.54

## CHAPTER 24

(Senate Bill No. 266—By Mr. Love)

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

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Section

1. Finding and declaring certain claims against the state and its agencies to be moral obligation of the state, and directing payment thereof.

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

### Section 1. *Finding and Declaring Certain Claims*

#### *2 Against the State and Its Agencies to Be Moral Obligations of the State, and Directing Payment Thereof.—*

3 The Legislature has considered the findings of fact and  
4 recommendations reported to it by the court of claims  
5 concerning various claims against the state and the agen-  
6 cies thereof, and in respect to each of the following  
7 claims the Legislature adopts those findings of fact as its  
8 own, and hereby declares it to be the moral obligation  
9 of the state to pay each such claim in the amount speci-  
10 fied below, and directs the auditor to issue warrants  
11 for the payment thereof out of any funds appropriated  
12 and available for the purpose.

#### 13 (a) Claim versus State Auditor.

14 (1) Berkeley Printing & Publishing Com-  
15 pany ..... \$ 462.00

#### 16 (b) Claims versus State Board of Control.

17 (1) Cogar, Bobby L., infant, by Ward Huff-  
18 man, his guardian ..... \$3,000.00

19 (2) Cashman, Harold H., M.D. .... \$2,000.00

20 (3) Reynolds, James ..... \$ 550.00

21 (4) Roberts, Le Roy ..... \$3,341.52

#### 22 (c) Claims versus State Conservation Commission.

23 (1) Anderson, Melvin O. .... \$ 91.27

25	(2) Davis, Harry E.....	\$ 29.64
26	(d) Claims versus State Health Department.	
27	(1) McCuskey, Dr. William C.....	\$ 383.75
28	(e) Claim versus State Department of Mines.	
29	(1) McVey, E. Y.....	\$ 106.71
30	(f) Claim versus State Department of Probation and Parole.	
31		
32	(1) DeMilia, Alfred E., Dr.....	\$ 300.00
33	(g) Claims versus State Department of Public Assistance.	
34		
35	(1) Shepherd, Elma.....	\$ 865.00
36	(2) Wilson, Virginia.....	\$ 900.00
37	(h) Claims versus State Road Commission.	
38	(1) Aetna Casualty & Surety Co.....	\$ 30.28
39	(2) Appalachian Electric Power Co.....	\$ 252.06
40	(3) Archer, H. D.....	\$ 13.60
41	(4) Baltimore & Ohio Railroad Co.....	\$1,850.00
42	(5) Bond, J. F.....	\$ 150.00
43	(6) Buchanan, Herman.....	\$ 85.87
44	(7) Burke, Leo R.....	\$ 9.44
45	(8) Checker White Cab, Inc.....	\$ 50.00
46	(9) Clark, Martha.....	\$ 200.00
47	(10) Colonial Glass Co.....	\$ 335.35
48	(11) Clemans, Frances.....	\$ 300.00
49	(12) Ellison, Roy L.....	\$ 45.90
50	(13) Frankhouser, Mrs. R. R.....	\$ 20.00
51	(14) Frankhouser, Mrs. R. R., admx. of estate of Russell R. Frankhouser, deceased	\$ 238.05
52		
53	(15) Gantzer, William G.....	\$ 47.75
54	(16) Garver, B. F.....	\$ 52.94
55	(17) Halstead, E. H.....	\$ 13.01
56	(18) Hamrick, Elvin.....	\$ 80.47
57	(19) Henry, Blaine D.....	\$ 196.75
58	(20) Hudson, Charles A.....	\$ 15.30
59	(21) Jamerson, T. L.....	\$ 3.06
60	(22) Johnson, Mildred, infant by Howard E. Johnson, her next friend	\$ 591.00
61		
62	(23) King, Bessie L.....	\$ 51.00
63	(24) King, Leah.....	\$ 76.50
64	(25) Lemasters, Rose.....	\$ 72.75



65	(26) Main Street News.....	\$ 40.75
66	(27) Marks, Jimmie, infant by Charlie	
67	Marks, his next friend .....	\$ 400.00
68	(28) Mylius, L. C.....	\$ 46.95
69	(29) McClure, Earl C.....	\$ 60.00
70	(30) Neal, William H., Jr.....	\$ 200.00
71	(31) Neal, W. C.....	\$ 34.28
72	(32) Pappalardo, Lui.....	\$ 30.60
73	(33) Queen, Clarence.....	\$ 49.27
74	(34) Randolph, Russell.....	\$ 100.00
75	(35) Ronk, Francis .....	\$ 123.44
76	(36) Shafer, Hazel M.....	\$ 24.38
77	(37) Smith, Cleo .....	\$ 115.67
78	(38) Stukey, Charles A.....	\$ 24.48
79	(39) Utterback, A. W.....	\$ 500.00
80	(40) Utterback, Mrs. A. W.....	\$2,000.00
81	(41) Valvoline Pipe Lines Co.....	\$ 95.19
82	(42) Van Camp, E. L.....	\$ 25.00

8651.09

## CHAPTER 25

(Senate Bill No. 363—By Mr. Love)

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

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Section

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

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

- Section 1. *Finding and Declaring Certain Claims*
- 2 *Against the State and Its Agencies to Be Moral Obligations of the State, and Directing Payment Thereof.*—The
  - 4 Legislature has considered the findings of fact and recom-

5 mendations reported to it by the court of claims concern-  
 6 ing various claims against the state and the agencies  
 7 thereof, and in respect to each of the following claims  
 8 the Legislature adopts those findings of fact as its own,  
 9 and hereby declares it to be the moral obligation of the  
 10 state to pay each such claim in the amount specified  
 11 below, and directs the auditor to issue warrants for the  
 12 payment thereof out of any funds appropriated and avail-  
 13 able for the purpose.

14 (a) Claims versus State Road Commission

15	(1) Bennett, Jacob F. ....	\$1,560.00
16	(To be paid in monthly installments of	
17	\$52.00 each from 1-1-47 to 6-30-49)	
18	(2) Cabell, N. B. and W. E. Myles .....	\$ 39.75
19	(3) Davis, Robert .....	\$ 100.00
20	(4) Gribble, L. G. ....	\$ 250.00
21	(5) Hall, D. Ray .....	\$ 57.00
22	(6) McClung, Alice E. ....	\$ 720.00
23	(To be paid in monthly installments of	
24	\$30.00 each from 1-1-47 to 12-31-48)	
25	(7) Meeker, David .....	\$ 9.10
26	(8) O'Conner, George E. ....	\$ 92.85
27	(9) Pratt, Effie Savage .....	\$ 240.00
28	(To be paid in monthly installments of	
29	\$10.00 each from 1-1-47 to 12-31-48)	
30	(10) S. G. M. Gas Company .....	\$ 4.50
31	(11) Weir-Cove Ice & Coal Company .....	\$ 435.19
32	(b) Claim versus State Auditor	
33	(1) Alt, Grant, Sheriff of Pendleton County...	\$ 51.05
34	(c) Claim versus State Department of Public	
35	Safety	
36	(1) Kings, Inc. ....	\$ 132.77

12210.53

12210.53

## CHAPTER 26

(Senate Bill No. 337—By Mr. Love)

AN ACT finding the claims of various newspapers and deputy commissioners of forfeited and delinquent lands arising under the requirements of article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to be moral obligations of the state, and appropriating the necessary funds out of the general school fund of the state treasury for payment.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Section

1. Finding the claims of various newspapers for publications of orders and notices of sale of forfeited and delinquent lands to be moral obligations of the state.
2. Finding the claims of deputy commissioners of forfeited and delinquent lands for services performed to be moral obligations of the state.
3. Appropriating funds from the general school fund to pay the moral obligations described in sections one and two of this act.

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

Section 1. *Finding the Claims of Various Newspapers for Publications of Orders and Notices of Sale of Forfeited and Delinquent Lands to Be Moral Obligations of the State.*—In recognition of publications made by various newspapers, the number and costs not yet determined, of notices of orders of publication and notices of sale required under article four, chapter eleven-a of the code of West Virginia, as amended, the costs of which by said article were payable from the proceeds of the sale of forfeited and delinquent lands, and in further recognition of the unconstitutionality of said article as held by the supreme court of appeals, (State of West Virginia v. The Farmers Coal Company, et al) which had the effect of suspending such sales of forfeited and delinquent lands, thereby voiding the method of payment of the costs of such publication, there is here made a finding of a moral

17 obligation of the state of West Virginia to pay the costs  
18 herein described, which in good faith and conscience  
19 should be paid through an appropriation of public funds  
20 in the state treasury.

Sec. 2. *Finding the Claims of Deputy Commissioners  
2 of Forfeited and Delinquent Lands for Services Per-  
3 formed to Be Moral Obligations of the State.*—In recog-  
4 nition of services required and performed by various dep-  
5 uty commissioners of forfeited and delinquent lands, the  
6 costs not yet determined, under said article referred to  
7 in section one of this article, the costs of which, by said  
8 article, were payable from the proceeds of the sale of  
9 forfeited and delinquent lands, and in further recogni-  
10 tion of the unconstitutionality of said article as held by  
11 the supreme court of appeals, (State of West Virginia  
12 v. The Farmers Coal Company, et al) which had the  
13 effect of suspending such sales of forfeited and delin-  
14 quent lands, thereby voiding the method of payment of  
15 the costs of such services, there is here made a finding of  
16 a moral obligation of the state of West Virginia to pay  
17 the costs herein described, which in good faith and con-  
18 science should be paid through an appropriation of public  
19 funds in the state treasury.

Sec. 3. *Appropriating Funds from the General School  
2 Fund to Pay the Moral Obligations Described in Sections  
3 One and Two of This Act.*—It appearing from a state-  
4 ment of the revenues and appropriations for the fiscal  
5 years one thousand nine hundred forty-six—one thousand  
6 nine hundred forty-seven and one thousand nine hundred  
7 forty-seven—one thousand nine hundred forty-eight, that  
8 there is and will be in the general school fund of the  
9 state treasury revenue, in excess of all other appropri-  
10 ations sufficient to pay the amounts hereafter appropri-  
11 ated, there is hereby appropriated from the general school  
12 fund of the state treasury for the remainder of the fiscal  
13 year one thousand nine hundred forty-six—one thousand  
14 nine hundred forty-seven and for the fiscal year one thou-

15 sand nine hundred forty-seven—one thousand nine hun-  
16 dred forty-eight, an amount sufficient to pay the moral  
17 obligations described in sections one and two herein,  
18 which moral obligations cannot now be ascertained in  
19 sums certain.

## CHAPTER 27

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

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

[Passed March 8, 1947; in effect from passage.]

### Title

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

### Title 1. General Provisions.

#### Section

1. Finding and 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. *Finding and General Policy.*—The Legisla-  
2 ture finds that estimates of funds in the treasury at the  
3 time this act is enacted, and expected revenues to accrue  
4 prior to July 1, 1947, and during the biennium 1947-49,  
5 will furnish funds sufficient to pay:
- 6 (1) Expense of the legislature,
  - 7 (2) Expense of the executive department,
  - 8 (3) Expense of the judiciary department,
  - 9 (4) Interest and principal of the debts of the state,
  - 10 (5) Salaries payable under the constitution and laws

11 of the state,  
12 (6) Aid to public schools,  
13 (7) Expenses for other purposes required by the consti-  
14 tution and laws of the state,  
15 and to meet appropriations herein made, and, in pursu-  
16 ance of such finding, this act is enacted.  
17 The purpose of this act is to appropriate money neces-  
18 sary for economical and efficient discharge of the duties  
19 and responsibilities of the state and its agencies during  
20 the fiscal years one thousand nine hundred forty-eight  
21 and one thousand nine hundred forty-nine. To give effect  
22 to this purpose, the Board of Public Works shall supervise  
23 the fiscal policy, control the assumption of obligations,  
24 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  
4 institution to which an appropriation is made;  
5 The “fiscal year one thousand nine hundred forty-eight”  
6 shall mean the period from July first, one thousand nine  
7 hundred forty-seven through June thirtieth, one thou-  
8 sand nine hundred forty-eight, and the “fiscal year one  
9 thousand nine hundred forty-nine” shall mean the period  
10 from July first, one thousand nine hundred forty-eight  
11 through June thirtieth, one thousand nine hundred forty-  
12 nine;  
13 “From collections” shall mean that part of the total ap-  
14 propriation which must be collected by the spending unit  
15 to be available for expenditure. If the authorized amount  
16 of collections is not collected, the total appropriation for  
17 the spending unit shall be reduced automatically by the  
18 amount of the deficiency in the collection. If the amount  
19 collected exceeds the amount designated “from collec-  
20 tions” the excess shall be set aside in a special surplus  
21 fund and may be expended for the purpose of the spend-  
22 ing unit as provided by chapter thirty-nine, acts of the  
23 Legislature, regular session, one thousand nine hundred  
24 thirty-nine;  
25 “Collections” shall mean the total amount which must

26 be collected by the spending unit before excess collec-  
27 tions shall be available for expenditure: *Provided, how-*  
28 *ever*, That where any appropriation is made entirely from  
29 "collections", if the authorized amount of collections is not  
30 collected, the total appropriation for that spending unit  
31 shall be reduced automatically by the amount of the defi-  
32 ciency in the collection. If the amount collected exceeds  
33 the amount designated "collections" the excess shall be  
34 set aside in a special surplus fund and may be expended  
35 for the purpose of the spending unit as provided by chap-  
36 ter thirty-nine, section thirty-two, acts of the Legislature,  
37 regular session, one thousand nine hundred thirty-nine.  
38 Such excess collections so set aside shall not be deemed  
39 to have expired at the end of any fiscal year.

40 Any educational, correctional, penal, benevolent or men-  
41 tal institution is hereby authorized to issue requisition  
42 upon the auditor for payment out of its current expense  
43 appropriation in a sum deemed necessary for the purpose  
44 of establishing an imprest petty cash fund to make change  
45 and for such petty and/or emergency purchases as may  
46 be approved in advance by the state department of pur-  
47 chases. The amount of such operating fund shall be fixed  
48 by the governing body or board of the institution but  
49 shall in no event exceed one thousand dollars. Reimburse-  
50 ment for purchases made from such petty cash fund shall  
51 be made from the appropriation to such institution by  
52 requisition accompanied by properly receipted invoices.

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

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

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

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

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

13 excess of one year. Equipment appropriations shall not be  
14 transferable to other items of appropriation.

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

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

21 "Building" 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 to  
27 spend an appropriation for more than one of the above  
28 purposes.

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

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



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## 2. Appropriations from other funds.

**PAYABLE FROM SPECIAL REVENUE FUND**

Auditor's office (fire marshal)—Acct. No. 660	148
Conservation commission (general administration)— Acct. No. 663	151
Public service commission—Acct. No. 661-a	149
Public service commission (motor carrier division)— Acct. No. 662	149
West Virginia liquor control commission—Acct. No. 667	152

**PAYABLE FROM STATE ROAD FUND**

State road commission (general administration and engineering)—Acct. No. 670	153
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**PAYABLE FROM GENERAL SCHOOL FUND**

Auditor's office (land department)—Acct. No. 709	157
Department of education—Acct. No. 703	156
Department of education (hot lunches)—Acct. No. 705	156
State board of education—Acct. No. 700	155
State board of education (rehabilitation division)—Acct. No. 702	156
State board of education (vocational division)—Acct. No. 701	155
State board of school finance—Acct. No. 704	156

**PAYABLE FROM WORKMEN'S COMPENSATION FUND**

Workmen's compensation commission—Acct. No. 900	157
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3. Supplemental appropriations.
4. Awards for claims against the state.
- 4-a. Awards for claims against the state.
5. Capital expenditures from surplus revenues.
6. Special revenue appropriations.
7. Appropriations revived and extended.
8. Specific statutory appropriations.
9. Specific funds and collection accounts.
10. Appropriations for refunding erroneous payments.
11. Contingent fund.
12. Sinking fund deficiencies.
13. Appropriations from taxes and license fees.
14. Appropriations to pay premiums on bonds of county clerks.
15. Appropriations to pay costs of publication of delinquent corporations.
16. Appropriations for local governments.
17. Printing costs.
18. Total appropriation.
19. General school fund.
20. Reappropriations.

Section 1. *Appropriations From General Revenue.*—From the state fund, general revenue, there is hereby appropriated conditionally upon the fulfillment of the provisions set forth in chapter thirty-nine, acts of 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-eight and one thousand nine hundred forty-nine.

## LEGISLATIVE

## 1—Senate

## Acct. No. 101

		<i>Fiscal Years</i>	
		1947-48	1948-49
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 con-		
7	tributors, preparation of mat-		
8	ter, clerical hire, stenograph-		
9	ic services and proofreading,		
10	and for 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 1947 and		
17	1948 editions of Blue Book....\$	32,000.00	\$ 32,000.00
18		<i>Fiscal Year 1946-47</i>	
19	Mileage of Members.....		\$ 847.00
20	Compensation and per diem of		
21	officers and attaches.....		\$ 62,500.00
22	Current Expenses and Con-		
23	tingent Fund .....		\$ 77,500.00
24	Of the last above appropriation,		
25	not more than \$17,500.00 shall		

26 be expended for the expenses  
27 of the interim committee  
28 raised under House Concur-  
29 rent Resolution No. 8.

30 The above appropriations for  
31 the fiscal year 1947-48  
32 are to remain in full  
33 force and effect until  
34 the convening of the  
35 regular session of the Leg-  
36 islatre 1949.

37 The Clerk of the Senate is au-  
38 thorized to draw his war-  
39 rants upon the Auditor, pay-  
40 able out of the contingent  
41 fund of the Senate, for any  
42 bills for supplies and serv-  
43 ices that may have been in-  
44 curred by the Senate and not  
45 included in the appropriation  
46 bill, and for bills for sup-  
47 plies and services incurred  
48 after adjournment, the req-  
49 uisition for same to be ac-  
50 companied by bills to be filed  
51 with the Auditor.

52 To aid in the discharge of his  
53 duties, the Clerk may expend  
54 for stenographic services a  
55 sum not exceeding \$3,000.00  
56 per annum, and for janitor  
57 services a sum not exceeding  
58 \$1,600.00 per annum, both  
59 payable monthly from the  
60 contingent fund of the Sen-  
61 ate.

2—House of Delegates

Acct. No. 102

1 Salaries of Members.....	\$	47,000.00	\$	47,000.00
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2		<i>Fiscal Year 1946-47</i>
3	Mileage of Members_____	\$ 2,700.00
4	Compensation and per diem of	
5	attaches and officers_____	79,000.00
6	Current Expenses and Con-	
7	tingent Fund _____	85,000.00
8	Expenses of interim commit-	
9	tee created by House Con-	
10	current Resolution No. 8____	17,500.00
11	The above appropriations for	
12	the fiscal year 1947-48 are to	
13	remain in full force and ef-	
14	fect until the convening of	
15	the regular session of the	
16	Legislature, 1949.	
17	The Clerk of the House is au-	
18	thorized to draw his war-	
19	rants upon the Auditor, pay-	
20	able out of the contingent	
21	fund of the House, for any	
22	bills for supplies and serv-	
23	ices that may have been in-	
24	curred by the House and not	
25	included in the appropriation	
26	bill, and for bills for supplies	
27	and services incurred after	
28	adjournment, the requisition	
29	for same to be accompanied	
30	by bills to be filed with the	
31	Auditor.	
32	For duties imposed by law and	
33	by the House of Delegates,	
34	including the salary allowed	
35	by law as keeper of the rolls,	
36	the Clerk of the House of	
37	Delegates shall be paid a	
38	monthly salary at the rate of	
39	\$5,000.00 per annum, payable	
40	from the contingent fund of	
41	the House of Delegates, and	

42 the Clerk may employ a sec-  
 43 retary at a salary of not to  
 44 exceed \$2,000.00 per annum,  
 45 payable monthly from the  
 46 same fund.

47 During the sessions of the Leg-  
 48 islature the Clerk of the  
 49 House of Delegates shall keep  
 50 his office open during such  
 51 hours as the House may di-  
 52 rect. When the Legislature is  
 53 not in session the office of the  
 54 Clerk of the House of Dele-  
 55 gates shall be kept open as  
 56 other public offices in the  
 57 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 thirty, one thousand nine		
6 hundred forty-seven. If this		
7 work is not completed prior		
8 to June thirty, one thousand		
9 nine hundred forty-seven,		
10 then the appropriation shall		
11 continue in full until com-		
12 pleted .....	\$	75,000.00

### JUDICIAL

#### 4—Supreme Court of Appeals

Acct. No. 110

1 Salaries of Judges.....	\$	62,500.00	\$	62,500.00
2 Other Personal Services.....		50,600.00		50,600.00
3 Current Expenses .....		14,000.00		14,000.00
4 To Pay Cost of Reprinting West				

5	Virginia Reports.....	3,750.00	3,750.00
6	Total .....	\$ 130,850.00	\$ 130,850.00

## 5—Circuit Courts

Acct. No. 111

## 1 Salaries of Judges of the Circuit

2	Courts .....	\$ 195,000.00	\$ 195,000.00
3	Current Expenses .....	30,000.00	30,000.00
4	Total .....	\$ 225,000.00	\$ 225,000.00

## 6—State Law Library

Acct. No. 114

## 1 Personal Services, including

## 2 Salaries of Librarian and As-

3	sistants .....	\$ 6,740.00	\$ 6,740.00
4	Current Expenses .....	700.00	700.00
5	Equipment .....	5,000.00	5,000.00

6	Total .....	\$ 12,440.00	\$ 12,440.00
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## 7—The Judicial Council

Acct. No. 118

1	Personal Services .....	\$ 7,400.00	\$ 7,400.00
2	Current Expenses .....	3,480.00	3,480.00
3	Equipment .....	1,500.00	200.00

4	Total .....	\$ 12,380.00	\$ 11,080.00
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## 8—Auditor's Office—Criminal Charges

Acct. No. 119

1	Criminal Charges .....	\$ 85,000.00	\$ 85,000.00
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## EXECUTIVE

## 9—Governor's Office

Acct. No. 120

1	Salary of Governor.....	\$ 10,000.00	\$ 10,000.00
2	Other Personal Services, includ-		
3	ing Salaries of Secretaries,		
4	Stenographers and Assist-		
5	ants .....	23,660.00	23,660.00



6 Current Expenses _____	8,000.00	8,000.00
7 One hundred dollars annual		
8 dues to the Governor's Con-		
9 ference shall be included in		
10 this item.		
11 Equipment .....	5,000.00	5,000.00
12 Emergency Fund .....	50,000.00	50,000.00
13 Civil Contingent Fund .....	70,000.00	70,000.00
14 Of this appropriation there may		
15 be expended an amount not		
16 to exceed \$5,000.00 in each		
17 year to provide instruction,		
18 care and maintenance for per-		
19 sons who are deaf and blind,		
20 and for whom the state pro-		
21 vides no facilities.		
22 Any unexpended balance re-		
23 maining in the Emergency		
24 Fund and/or the Civil Con-		
25 tingent Fund at the close of		
26 the fiscal year 1947-48 is here-		
27 by reappropriated for ex-		
28 penditure during the fiscal		
29 year 1948-49.		
30 Custodial ..... \$	23,580.00	\$ 27,730.00
31 To be used for current general		
32 expenses, including compen-		
33 sation of servants and em-		
34 ployees, household mainte-		
35 nance, cost of official func-		
36 tions, and any additional		
37 household expenses occa-		
38 sioned by such official func-		
39 tions. In the event Napoleon		
40 Gardner, now and for many		
41 years in the service of the		
42 Governor and his predeces-		
43 sors in office, shall become un-		
44 able to perform such services		
45 for which he may earn com-		

46 pension, an amount not in  
 47 excess of \$50.00 per month  
 48 may be expended out of this  
 49 appropriation by the Gov-  
 50 ernor at his discretion, for the  
 51 use and benefit of the said  
 52 Napoleon Gardner.

53 Total .....\$ 190,240.00 \$ 194,390.00

10—*Parole and Probation Investigation and Supervision*

Acct. No. 123

1 Personal Services, including

2 Salary of Director .....	\$ 45,840.00	\$ 45,840.00
3 Current Expenses .....	19,000.00	19,000.00
4 Equipment .....	750.00	750.00

5 Total .....\$ 65,590.00 \$ 65,590.00

FISCAL

11—*Auditor's Office—General Administration*

Acct. No. 150

1 Salary of State Auditor .....	\$ 6,000.00	\$ 6,000.00
2 Other Personal Services .....	68,000.00	68,000.00
3 Current Expenses .....	7,000.00	7,000.00
4 Equipment .....	3,000.00	3,000.00

5 Total .....84,000.00 84,000.00

12 *Auditor's Office—Insurance Department*

Acct. No. 151

1 Personal Services .....	\$ 35,000.00	\$ 35,000.00
2 Current Expenses .....	6,200.00	6,200.00
3 Equipment .....	800.00	800.00

4 Total .....\$ 42,000.00 \$ 42,000.00

5 In the event the Legislature  
 6 enacts legislation establish-  
 7 ing a Department of Insur-  
 8 ance separate from the Audi-

9 tor's Office, the appropriation  
 10 made for this account shall  
 11 be considered to have been  
 12 made for the use of said De-  
 13 partment of Insurance, and  
 14 shall be used for no other  
 15 purpose.

### 13—*Treasurer's Office*

#### Acct. No. 160

1	Salary of State Treasurer.....	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services.....	37,140.00	37,140.00
3	Current Expenses .....	5,955.00	7,055.00
4	Equipment .....	6,630.00	4,150.00
5	Total .....	\$ 55,725.00	\$ 54,345.00

### 14—*Sinking Fund Commission*

#### Acct. No. 170

1	Personal Services .....	\$ 9,840.00	\$ 9,840.00
2	Current Expenses .....	600.00	600.00
3	Total .....	\$ 10,440.00	\$ 10,440.00

### 15—*State Tax Commissioner*

#### Acct. No. 180

1	Salary of Tax Commissioner....	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services .....	326,000.00	326,000.00
3	Current Expenses .....	106,000.00	111,000.00
4	Equipment .....	6,000.00	6,000.00
5	Legal and Technical Services....	15,000.00	15,000.00
6	Total .....	\$ 459,000.00	\$ 464,000.00

7 This appropriation shall include  
 8 all expenditures for the op-  
 9 eration of the Gasoline De-  
 10 partment formerly appropri-  
 11 ated from the State Road  
 12 Fund.

16—*West Virginia Board of Control*

## Acct. No. 190

1	Salaries of the three members			
2	of the Board of Control.....	\$	17,999.97	\$ 17,999.97
3	Other Personal Services.....		31,300.00	31,300.00
4	Current Expenses .....		10,000.00	10,000.00
5	Equipment .....	\$	1,500.00	\$ 1,500.00
6	Total .....	\$	60,799.97	\$ 60,799.97
7	Of the amount approved for			
8	other personal services, \$9,-			
9	000.00 for each year of the bi-			
10	ennium may be expended			
11	only for the employment of			
12	a farm supervisor and a con-			
13	struction engineer on state			
14	owned or leased property.			

17—*Director of the Budget*

## Acct. No. 210

1	Personal Services, including			
2	Salary of the Director of the			
3	Budget .....	\$	44,260.00	\$ 44,260.00
4	Current Expenses .....		4,000.00	6,500.00
5	Equipment .....		1,500.00	500.00
6	Total .....	\$	49,760.00	\$ 51,260.00

## LEGAL

18—*Attorney General*

## Acct. No. 240

1	Salary of Attorney General.....	\$	6,000.00	\$ 6,000.00
2	Other Personal Services.....		40,500.00	40,500.00
3	Current Expenses .....		4,000.00	4,000.00
4	Equipment .....		1,250.00	1,250.00
5	To protect the resources or tax			
6	structure of the State in con-			
7	troversies or legal proceedings			
8	affecting same. Any unex-			
9	pended balance remaining in			

10	this fund at the close of the			
11	fiscal year 1947-48 is hereby			
12	reappropriated for expendi-			
13	ture during the fiscal year			
14	1948-49 .....	\$ 10,000.00	\$	10,000.00
15	Total .....	\$ 61,750.00	\$	61,750.00

19—*State Court of Claims*  
Acct. No. 243

1	Personal Services .....	\$ 16,950.00	\$	16,950.00
2	Current Expenses .....	3,815.00		5,815.00
3	Equipment .....	600.00		400.00
4	Total .....	\$ 21,365.00	\$	23,165.00

INCORPORATING AND RECORDING

21—*Secretary of State*  
Acct. No. 250

1	Salary of Secretary of State....	\$ 6,000.00	\$	6,000.00
2	Other Personal Services.....	19,000.00		19,000.00
3	Current Expenses .....	4,000.00		4,000.00
4	Equipment .....	2,000.00		300.00
5	Total .....	\$ 31,000.00	\$	29,300.00

22—*State Election Commission*  
Acct. No. 256

1	Total .....	\$ 1,000.00	\$	500.00
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CUSTODIAL AND SERVICE

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

1	Personal Services .....	\$ 86,000.00	\$	86,000.00
2	Current Expenses .....	\$ 40,000.00	\$	40,000.00
3	Repairs and Alterations .....	20,000.00		20,000.00
4	Equipment .....	5,000.00		5,000.00
5	Total .....	\$ 151,000.00	\$	151,000.00

## 24—Central Mailing Office

Acct. No. 280

1	Personal Services .....	\$ 9,780.00	\$ 9,780.00
2	Current Expenses .....	70,000.00	70,000.00
3	Equipment .....	200.00	200.00

4	Total .....	\$ 79,980.00	\$ 79,980.00
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## 5 The Workmen's Compensation

6 Commission, Department of  
7 Public Assistance and the  
8 West Virginia Public Service  
9 Commission shall reimburse  
10 the Current Expense appro-  
11 priation of the Central Mail-  
12 ing Office monthly for all  
13 meter service. Any spending  
14 unit receiving reimburse-  
15 ment for postage costs from  
16 the Federal Government shall  
17 refund to the Current Ex-  
18 pense account of the Central  
19 Mailing Office such amounts.  
20 Should this appropriation for  
21 Current Expense be insuf-  
22 ficient to meet the mailing  
23 requirements of the State  
24 spending units as set out  
25 above, any excess postage  
26 meter service requirements  
27 shall be a proper charge  
28 against the units, and each  
29 spending unit shall refund to  
30 the Current Expense appro-  
31 priation of the Central Mail-  
32 ing Office any amounts re-  
33 quired for that Department  
34 for postage in excess of this  
35 appropriation.

25—*Department of Purchases*

## Acct. No. 290

1	Salary of Director of Purchases—\$	6,000.00	\$	6,000.00
2	Other Personal Services —	39,360.00		40,140.00
3	Current Expenses .....	7,000.00		7,000.00
4	Equipment .....	1,600.00		1,000.00
5	For Shelving in Stockroom for			
6	State Supreme Court Re-			
7	ports .....	5,000.00		
8	Total .....	\$ 58,960.00	\$	54,140.00

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

## Acct. No. 295

1	State Aid to supplement the			
2	General School Fund .....	\$34,721,968.00	\$34,721,968.00	
3	To be transferred to the Gen-			
4	eral School Fund upon the			
5	requisition of the Governor.			
6	To be distributed according			
7	to law except an amount not			
8	to exceed \$40,000.00 for each			
9	year of the biennium, which			
10	sum shall be available to the			
11	State Board of School Fi-			
12	nance to aid counties in pro-			
13	viding instruction for home-			
14	bound crippled children un-			
15	der such rules and regula-			
16	tions for instruction of home-			
17	bound crippled children as			
18	may be adopted by the State			
19	Board of Education as pro-			
20	vided by chapter eighteen,			
21	article two, section five, of			
22	the West Virginia code, one			
23	thousand nine hundred thir-			
24	ty-one, as amended			

28— *Department of Education—Textbook Aid*

## Acct. No. 297

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.		

29— *Teachers Retirement Board*

## Acct. No. 298

1	Benefit Fund — Payments to		
2	Retired Teachers .....	\$ 722,000.00	\$ 817,000.00
3	Expense Fund .....	34,000.00	34,000.00
4	Employer's Accumulation		
5	Fund—To Match Contribution		
6	of Members .....	1,495,800.00	1,495,800.00
7	Reserve Fund .....	200,000.00	200,000.00
8	Total .....	\$ 2,451,800.00	\$ 2,546,800.00

30— *West Virginia University*

## Acct. No. 300

1	Personal Services, including		
2	Salary of President .....	\$ 2,150,000.00	\$ 2,150,000.00
3	Current Expenses .....	285,000.00	285,000.00
4	Repairs and Alterations.....	75,000.00	75,000.00
5	Equipment .....	150,000.00	100,000.00
6	State Aid to Medical Students..	40,000.00	40,000.00
7	Total .....	\$ 2,700,000.00	\$ 2,650,000.00
8	Collections .....	510,000.00	510,000.00

West Virginia University—Mining and Industrial  
Extension

## Acct. No. 301

1	Personal Services .....	\$ 34,500.00	\$ 34,500.00
2	Current Expenses .....	13,250.00	13,250.00
3	Repairs and Alterations.....	13,250.00	500.00
4	Equipment .....	1,500.00	500.00
5	Total .....	\$ 49,750.00	\$ 48,750.00



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

Acct. No. 302

1	Personal Services .....	\$ 50,000.00	\$ 50,500.00
2	Current Expenses .....	9,250.00	9,250.00
3	Repairs and Alterations.....	1,000.00	1,000.00
4	Equipment .....	2,000.00	1,000.00
5	Total .....	\$ 62,750.00	\$ 61,750.00

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

Acct. No. 303

1	Personal Services .....	\$ 20,000.00	\$ 20,000.00
2	Current Expenses .....	12,000.00	12,000.00
3	Repairs and Alterations .....	15,000.00	10,000.00
4	Equipment .....	4,500.00	2,000.00
5	Total .....	\$ 51,500.00	44,000.00

*West Virginia University—Cooperation with Oglebay  
Institute*

Acct. No. 304

1	Unclassified - Total .....	\$ 2,500.00	\$ 2,500.00
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*West Virginia University—Extension Division*

Acct. No. 305

1	To Pay Salaries and Traveling		
2	Expenses of County Agricul-		
3	tural Agents .....	\$ 85,000.00	\$ 85,000.00
4	To Pay Salaries and Expenses		
5	of County Home Dem. Agts..	44,000.00	44,000.00
6	Total .....	\$ 129,000.00	\$ 129,000.00

*West Virginia University—Engineering Experiment  
Station*

Acct. No. 306

1	Personal Services .....	\$ 7,700.00	\$ 7,700.00
2	Current Expenses .....	1,900.00	2,000.00
3	Equipment .....	4,200.00	3,300.00
4	Total .....	\$ 13,800.00	\$ 13,000.00

*West Virginia University—Gas and Petroleum  
Research*

Acct. No. 309

1	Personal Services .....	\$	11,000.00	\$	11,000.00
2	Total .....	\$	11,000.00	\$	11,000.00

*West Virginia University—Agricultural Experiment  
Station*

Acct. No. 310

1	Personal Services .....	\$	48,400.00	\$	48,400.00
2	Current Expenses .....		11,500.00		11,800.00
3	Repairs and Alterations.....		6,000.00		3,000.00
4	Equipment .....		8,400.00		6,800.00
5	Total .....	\$	74,300.00	\$	70,000.00

*West Virginia University—Experiment Farm—Kearneysville*

Acct. No. 311

1	Current Expenses .....	\$	6,400.00	\$	6,600.00
2	Equipment .....		2,800.00		2,300.00
3	Total .....	\$	9,200.00	\$	8,900.00

*West Virginia University—Reymann Memorial Farm*

Acct. No. 312

1	Current Expenses .....	\$	3,800.00	\$	4,000.00
2	Equipment .....		5,000.00		
3	Total .....	\$	8,800.00	\$	4,000.00

*West Virginia University—Experiment Farm—Reedsville*

Acct. No. 314

1	Current Expenses .....	\$	6,400.00	\$	6,600.00
2	Total .....	\$	6,400.00	\$	6,600.00

*35—Potomac State School of West Virginia University*

Acct. No. 315

1	Personal Services, including				
2	Salary of President.....	\$	124,600.00	\$	124,600.00

3 Current Expenses .....	20,000.00	20,000.00
4 Repairs and Alterations .....	8,000.00	4,000.00
5 Equipment .....	5,000.00	5,000.00
6 Total .....	\$ 157,600.00	\$ 153,600.00
7 Collections .....	27,000.00	27,000.00

## 36—Marshall College

## Acct. No. 320

1 Personal Services, including		
2 Salary of President .....	\$ 700,000.00	\$ 700,000.00
3 Current Expenses .....	70,000.00	70,000.00
4 Repairs and Alterations .....	15,000.00	15,000.00
5 Equipment .....	50,000.00	25,000.00
6 Building, Payment to Fairfield		
7 Stadium Corporation .....	5,000.00	
8 Flood Wall Assessment .....	2,600.00	2,600.00
9 Total .....	\$ 842,600.00	\$ 812,600.00
10 Collections .....	180,000.00	180,000.00

## 37—Fairmont State College

## Acct. No. 321

1 Personal Services, including		
2 Salary of President .....	\$ 240,000.00	\$ 240,000.00
3 Current Expenses .....	25,000.00	25,000.00
4 Repairs and Alterations .....	25,000.00	10,000.00
5 Equipment .....	15,000.00	5,000.00
6 Total .....	\$ 305,000.00	\$ 280,000.00
7 Collections .....	54,000.00	54,000.00

## 38—Glenville State College

## Acct. No. 322

1 Personal Services, including		
2 Salary of President .....	\$ 110,000.00	\$ 110,000.00
3 Current Expenses .....	18,500.00	18,500.00
4 Repairs and Alterations .....	6,000.00	6,000.00
5 Equipment .....	7,000.00	5,000.00
6 Total .....	\$ 141,500.00	\$ 139,500.00
7 Collections .....	21,000.00	21,000.00

39—*West Liberty State College*

## Acct. No. 323

## 1 Personal Services, including

2 Salary of President .....	\$ 122,500.00	\$ 122,500.00
3 Current Expenses .....	15,000.00	15,000.00
4 Repairs and Alterations .....	5,000.00	3,000.00
5 Equipment .....	5,000.00	3,000.00

6 Total .....	\$ 147,500.00	\$ 143,500.00
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7 Collections .....	30,000.00	30,000.00
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40—*Shepherd College*

## Acct. No. 324

## 1 Personal Services, including

2 Salary of President .....	\$ 90,000.00	\$ 90,000.00
3 Current Expenses .....	15,400.00	15,400.00
4 Repairs and Alterations .....	4,800.00	4,800.00
5 Equipment .....	5,000.00	5,000.00

6 Total .....	\$ 115,200.00	\$ 115,200.00
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7 Collections .....	24,000.00	24,000.00
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41—*Concord College*

## Acct. No. 325

## 1 Personal Services, including

2 Salary of President .....	\$ 175,000.00	\$ 175,000.00
3 Current Expenses .....	22,400.00	22,400.00
4 Repairs and Alterations .....	7,500.00	7,500.00
5 Equipment .....	15,000.00	15,000.00

6 Total .....	\$ 219,900.00	\$ 219,900.00
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7 Collections .....	45,000.00	45,000.00
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42—*West Virginia Institute of Technology*

## Acct. No. 327

## 1 Personal Services, including

2 Salary of President .....	\$ 224,600.00	\$ 224,600.00
3 Current Expenses .....	29,000.00	29,000.00
4 Repairs and Alterations .....	10,000.00	7,000.00
5 Equipment .....	30,000.00	30,000.00

6 Total .....	\$ 293,600.00	\$ 290,600.00
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7 Collections .....	48,000.00	48,000.00
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## 43—West Virginia State College

## Acct. No. 328

1	Personal Services, including		
2	Salary of President .....	\$ 280,000.00	\$ 280,000.00
3	Current Expenses .....	66,000.00	66,000.00
4	Repairs and Alterations .....	40,000.00	20,000.00
5	Equipment .....	25,000.00	15,000.00
6	Extension Service .....	19,500.00	19,500.00
7	Total .....	\$ 430,500.00	\$ 400,500.00
8	Collections .....	60,000.00	60,000.00

## 44—Bluefield State College

## Acct. No. 329

1	Personal Services, including		
2	Salary of President .....	\$ 125,000.00	\$ 125,000.00
3	Current Expenses .....	30,000.00	30,000.00
4	Repairs and Alterations .....	10,000.00	7,500.00
5	Equipment .....	13,000.00	8,000.00
6	Total .....	\$ 178,000.00	\$ 170,500.00
7	Collections .....	21,000.00	21,000.00

## 45—West Virginia State College—4-H Camp for Colored

## Boys and Girls

## Acct. No. 330

1	Personal Services .....	\$ 7,500.00	\$ 7,500.00
2	Current Expenses .....	3,750.00	3,750.00
3	Repairs and Alterations .....	1,500.00	1,500.00
4	Equipment .....	2,000.00	2,000.00
5	Total .....	\$ 14,750.00	\$ 14,750.00

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

## Acct. No. 333

1	Personal Services, including		
2	Salary of Superintendent .....	\$ 165,000.00	\$ 165,000.00
3	Current Expenses .....	75,000.00	75,000.00
4	Repairs and Alterations .....	10,000.00	10,000.00
5	Equipment .....	10,000.00	6,000.00
6	Total .....	\$ 260,000.00	\$ 256,000.00

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

## Acct. No. 334

1	Personal Services, including			
2	Salary of Superintendent.....	\$	25,000.00	\$ 25,000.00
3	Current Expenses .....		16,250.00	16,250.00
4	Repairs and Alterations .....		4,000.00	3,000.00
5	Equipment .....		3,500.00	2,500.00
6	Total .....	\$	48,750.00	\$ 46,750.00

48—*State Board of Education—Storer College*

## Acct. No. 338

1	To Pay Storer College for use			
2	of Plant and Facilities for			
3	West Virginia students .....	\$	15,000.00	\$ 15,000.00

49—*Department of Archives and History*

## Acct. No. 340

1	Personal Services, including			
2	Salary of State Archivist and			
3	Historian .....	\$	11,000.00	\$ 11,000.00
4	Current Expenses .....		3,000.00	3,000.00
5	Equipment .....		1,500.00	1,500.00
6	Total .....	\$	15,500.00	\$ 15,500.00
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.			

50—*West Virginia Library Commission*

## Acct. No. 350

1	Personal Services .....	\$	11,200.00	\$ 11,200.00
2	Current Expenses .....		2,000.00	2,000.00
3	Equipment .....		500.00	500.00
4	Books and Periodicals .....		7,000.00	7,000.00
5	Total .....	\$	20,700.00	\$ 20,700.00

## CHARITIES AND CORRECTION

51—*West Virginia Industrial School for Boys*

## Acct. No. 370

1	Personal Services, including		
2	Salary of Superintendent.....\$	90,000.00	\$ 90,000.00
3	Current Expenses .....	65,000.00	65,000.00
4	Repairs and Alterations .....	10,000.00	5,000.00
5	Equipment .....	10,000.00	6,000.00
6	Total .....	\$ 175,000.00	\$ 166,000.00
7	From Collections .....	12,000.00	12,000.00
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.		

52—*West Virginia Industrial School for Colored Boys*

## Acct. No. 371

1	Personal Services, including		
2	Salary of Superintendent.....\$	18,000.00	\$ 18,000.00
3	Current Expenses .....	20,000.00	20,000.00
4	Repairs and Alterations .....	3,000.00	2,000.00
5	Equipment .....	10,000.00	2,000.00
6	Total .....	\$ 51,000.00	\$ 42,000.00
7	From Collections .....	4,000.00	4,000.00

53—*West Virginia Industrial Home for Girls*

## Acct. No. 372

1	Personal Services, including		
2	Salary of Superintendent.....\$	44,500.00	\$ 44,500.00
3	Current Expenses .....	40,000.00	40,000.00

4	Repairs and Alterations	4,500.00	3,000.00
5	Equipment	2,500.00	2,500.00
6	Total	\$ 91,500.00	\$ 90,000.00
7	From Collections	10,500.00	10,500.00

## 54—West Virginia Industrial Home for Colored Girls

## Acct. No. 373

1	Personal Services, including		
2	Salary of Superintendent	\$ 7,000.00	\$ 7,000.00
3	Current Expenses	7,500.00	7,500.00
4	Repairs and Alterations	1,500.00	1,500.00
5	Equipment	800.00	500.00
6	Total	\$ 16,800.00	\$ 16,500.00
7	From Collections	1,000.00	1,000.00

## 55—West Virginia State Prison for Women

## Acct. No. 374

1	Personal Services, including		
2	Salary of Superintendent	\$ 20,000.00	\$ 20,000.00
3	Current Expenses	24,000.00	25,000.00
4	Repairs and Alterations	5,000.00	5,000.00
5	Equipment	9,000.00	10,000.00
6	Total	\$ 58,000.00	\$ 60,000.00

## 56—West Virginia Penitentiary

## Acct. No. 375

1	Personal Services, including		
2	Salary of Warden	\$ 180,000.00	\$ 180,000.00
3	Current Expenses	232,500.00	232,500.00
4	Repairs and Alterations	12,000.00	8,000.00
5	Equipment	25,000.00	10,000.00
6	Total	\$ 449,500.00	\$ 430,500.00
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.

57—*West Virginia Penitentiary—Medium Security Prison*

Acct. No. 376

1	Personal Services .....	\$ 65,000.00	\$ 65,000.00
2	Current Expenses .....	81,500.00	81,500.00
3	Repairs and Alterations .....	10,000.00	6,000.00
4	Equipment .....	12,000.00	5,000.00
5	Total .....	\$ 168,500.00	\$ 157,500.00

58—*West Virginia Children's Home*

Acct. No. 380

1	Personal Services, including		
2	Salary of Superintendent.....	\$ 15,000.00	\$ 15,000.00
3	Current Expenses .....	16,000.00	16,000.00
4	Repairs and Alterations .....	3,000.00	1,000.00
5	Equipment .....	2,000.00	1,000.00
6	Total .....	\$ 36,000.00	\$ 33,000.00
7	From Collections .....	3,500.00	3,500.00

59—*West Virginia Colored Children's Home*

Acct. No. 381

1	Personal Services, including		
2	Salary of Superintendent.....	\$ 8,160.00	\$ 8,160.00
3	Current Expenses .....	12,000.00	12,000.00
4	Repairs and Alterations .....	4,000.00	2,000.00
5	Equipment .....	4,525.00	1,500.00
6	Total .....	\$ 28,685.00	\$ 23,660.00

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

Acct. No. 382

1	Personal Services, including		
2	Salary of Superintendent.....	\$ 16,500.00	\$ 16,500.00
3	Current Expenses .....	25,000.00	25,000.00
4	Repairs and Alterations .....	3,500.00	3,500.00

5 Equipment .....	3,000.00	1,000.00
6 Total .....	\$ 48,000.00	\$ 46,000.00
7 From Collections .....	15,000.00	15,000.00

## 61—West Virginia Training School

Acct. No. 383

1 Personal Services, including		
2 Salary of Superintendent.....	\$ 22,800.00	\$ 22,800.00
3 Current Expenses .....	25,470.00	25,470.00
4 Repairs and Alterations .....	4,800.00	4,800.00
5 Equipment .....	5,300.00	3,300.00
6 Total .....	\$ 58,370.00	\$ 56,370.00
7 From Collections .....	6,000.00	6,000.00

## 62—Andrew S. Rowan Memorial Home

Acct. No. 384

1 Personal Services, including		
2 Salary of Superintendent .....	\$ 55,000.00	\$ 55,000.00
3 Current Expenses .....	62,500.00	62,500.00
4 Repairs and Alterations .....	10,000.00	10,000.00
5 Equipment .....	3,000.00	3,000.00
6 Total .....	\$ 130,500.00	\$ 130,500.00
7 From Collections .....	20,000.00	20,000.00

## HEALTH AND WELFARE

## 63—State Health Department and Public Health Council

Acct. No. 400

1 Salary of Commissioner .....	\$ 6,000.00	\$ 6,000.00
2 Other Personal Services.....	175,000.00	175,000.00
3 Current Expenses .....	50,000.00	50,000.00
4 Equipment .....	12,000.00	12,000.00
5 Cancer Control and Treatment	50,000.00	50,000.00
6 Hospitalization of Needy Tu-		
7 bercular .....	325,000.00	325,000.00
8 Tuberculosis Field Clinic and		
9 Nursing Service—To be ex-		
10 pended in cooperation with		
11 West Virginia Tuberculosis		

12	and Health Association _____	10,000.00	10,000.00
13	Total _____	\$ 628,000.00	\$ 628,000.00
14	From Collections _____	20,000.00	20,000.00

## 64—State Water Commission

## Acct. No. 401

1	Personal Services _____	\$ 19,200.00	\$ 19,200.00
2	Current Expenses _____	6,300.00	6,300.00
3	Equipment _____	2,300.00	
4	For cooperation with the U. S.		
5	Geological Survey for a pro-		
6	gram of stream gauging _____	1,000.00	1,000.00
7	Total _____	\$ 28,800.00	\$ 26,500.00

## 65—State Committee of Barbers and Beauticians

## Acct. No. 402

1	Personal Services, including		
2	Salary of Director _____	\$ 19,540.00	\$ 19,540.00
3	Current Expenses _____	10,460.00	10,460.00
4	Total _____	\$ 30,000.00	\$ 30,000.00
5	From Collections _____	30,000.00	30,000.00

## 66—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 _____	3,000.00	4,000.00
4	Equipment _____	150.00	100.00
5	Total _____	\$ 11,750.00	\$ 12,700.00

## 67—West Virginia Department of Veterans Affairs

## Acct. No. 404

1	Personal Services, including		
2	Salary of Director _____	\$ 100,000.00	\$ 100,000.00
3	Current Expenses _____	50,000.00	50,000.00
4	Equipment _____	10,000.00	10,000.00
5	To Provide Educational Op-		
6	portunities for Children of		

7	War Veterans as provided		
8	by Chapter 39, Acts of the		
9	Legislature, 1943 .....	5,000.00	5,000.00
10	Total .....	\$ 165,000.00	\$ 165,000.00

## 68—Department of Public Assistance

## Acct. No. 405

1	Public Assistance Grants		
2	(Classified Aid) .....	\$ 3,873,970.00	\$ 3,873,970.00
3	General Relief Grants:		
4	Aid to Crippled Children .....	300,000.00	300,000.00
5	General Medical and Hos-		
6	pitalization .....	450,000.00	450,000.00
7	Conservation of Vision and		
8	Prevention of Blindness .....	25,000.00	25,000.00
9	Child Welfare Services .....	300,000.00	300,000.00
10	Direct Relief .....	345,000.00	345,000.00
11	To Pay Expenses for Distribu-		
12	tion of Government Donated		
13	Food .....	15,000.00	15,000.00
14	Total .....	\$ 5,308,970.00	\$ 5,308,970.00

15 The totals of the various items  
 16 of this appropriation shall  
 17 include cost of administration  
 18 thereof: *Provided, however,*  
 19 That none of the funds so ap-  
 20 propriated for administrative  
 21 items of any nature whatso-  
 22 ever shall be available for ex-  
 23 penditure except and unless  
 24 the spending unit comply  
 25 fully with the provisions of  
 26 sections 25, 26 and 27, ar-  
 27 ticle 5, chapter 39, Acts of  
 28 the Legislature, 1939.

29 The unexpended balance, if  
 30 any, remaining in the appro-  
 31 priation for this department

32 as of June 30, 1947, is hereby  
33 reappropriated for expendi-  
34 ture in the fiscal years 1947-48  
35 and 1948-49.

36 Of the total funds from all  
37 sources, state, county and fed-  
38 eral, for classified aid and di-  
39 rect relief for each fiscal year  
40 made available to the Depart-  
41 ment of Public Assistance for  
42 all programs, not more than  
43 seven per cent thereof  
44 shall be used for the com-  
45 bined overhead expenses of  
46 the state and county depart-  
47 ments for each fiscal year.

48 The term "overhead" shall in-  
49 clude all "administration"  
50 and "service" costs and all  
51 other charges and expenses  
52 incidental to the distribution  
53 of net grants and awards in  
54 classified and general relief  
55 assistance.

56 *Provided further*, That in cases  
57 involving children and in  
58 which the restrictions, of the  
59 Standard Budget or Guide,  
60 work a distinct and distress-  
61 ing hardship on persons try-  
62 ing, through employment, to  
63 help themselves, and which  
64 come to the Director of the  
65 state department on appeal,  
66 the sum of \$5,000.00 a year  
67 may be used to correct ineq-  
68 uities at the discretion of the  
69 Director, but in no case shall  
70 supplemental aid be given in

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

## 69—Weston State Hospital

## Acct. No. 420

1	Personal Services, including			
2	Salary of Superintendent —\$	320,000.00	\$	320,000.00
3	Current Expenses —————	290,000.00		290,000.00
4	Repairs and Alterations ———	20,000.00		20,000.00
5	Equipment —————	20,000.00		10,000.00
6	Total —————	\$ 650,000.00	\$	640,000.00
7	From Collections .....	100,000.00		100,000.00

## 70—Spencer State Hospital

## Acct. No. 421

1	Personal Services, including			
2	Salary of Superintendent —\$	100,000.00	\$	100,000.00
3	Current Expenses —————	137,500.00		137,500.00
4	Repairs and Alterations ———	12,000.00		6,000.00
5	Equipment —————	6,500.00		6,500.00
6	Total —————	\$ 256,000.00	\$	250,000.00
7	From Collections .....	25,000.00		25,000.00

## 71—Huntington State Hospital

## Acct. No. 422

1	Personal Services, including			
2	Salary of Superintendent —\$	125,000.00	\$	125,000.00
3	Current Expenses —————	200,000.00		200,000.00
4	Repairs and Alterations ———	12,000.00		6,000.00
5	Equipment —————	10,000.00		10,000.00
6	Total —————	\$ 347,000.00	\$	341,000.00
7	From Collections .....	110,000.00		110,000.00

## 72—Lakin State Hospital

## Acct. No. 423

1	Personal Services, including			
2	Salary of Superintendent —\$	45,000.00	\$	45,000.00
3	Current Expenses —————	68,750.00		68,750.00

4	Repairs and Alterations _____	15,000.00	5,000.00
5	Equipment _____	6,000.00	6,000.00
6	Total _____	\$ 134,750.00	\$ 124,750.00
7	From Collections .....	18,000.00	18,000.00

## 73—Huntington State Hospital—Barboursville Unit

## Acct. No. 424

1	Personal Services, including		
2	Salary of Superintendent —\$	45,000.00	\$ 45,000.00
3	Current Expenses _____	75,000.00	75,000.00
4	Repairs and Alterations _____	6,000.00	6,000.00
5	Equipment .....	10,000.00	6,000.00
6	Total _____	\$ 136,000.00	\$ 132,000.00
7	From Collections .....	15,000.00	15,000.00

## 74—Fairmont Emergency Hospital

## Acct. No. 425

1	Personal Services, including		
2	Salary of Superintendent —\$	48,000.00	\$ 48,000.00
3	Current Expenses _____	45,000.00	45,000.00
4	Repairs and Alterations _____	4,000.00	2,000.00
5	Equipment .....	6,500.00	3,000.00
6	Total _____	\$ 103,500.00	\$ 98,000.00
7	From Collections .....	60,000.00	60,000.00

## 75—Welch Emergency Hospital

## Acct. No. 426

1	Personal Services, including		
2	Salary of Superintendent —\$	44,800.00	\$ 44,800.00
3	Current Expenses _____	42,000.00	42,000.00
4	Repairs and Alterations _____	5,000.00	5,000.00
5	Equipment .....	4,000.00	4,000.00
6	Total _____	\$ 95,800.00	\$ 95,800.00
7	From Collections .....	38,000.00	38,000.00
8	If it be found that the state		
9	does not own indefeasible		
10	title to the land used for this		

11 hospital, the board of control  
 12 and the governor, upon the  
 13 advice of the attorney gen-  
 14 eral, are requested to acquire,  
 15 by condemnation or other-  
 16 wise, the outstanding inter-  
 17 est or interests, to the end  
 18 that the state may be vested  
 19 with fee simple absolute title.  
 20 The board of control and the  
 21 governor, upon advice of the  
 22 attorney general, may sell the  
 23 said land or the interest of  
 24 the state therein.

76—Hopemont Sanitarium

Acct. No. 430

1 Personal Services, including		
2 Salary of Superintendent ---\$	270,000.00	\$ 270,000.00
3 Current Expenses _____	260,000.00	260,000.00
4 Repairs and Alterations _____	17,500.00	17,500.00
5 Equipment _____	20,000.00	8,000.00
6 Total _____\$	567,500.00	\$ 555,500.00
7 From Collections _____	140,000.00	140,000.00

77—Pinecrest Sanitarium

Acct. No. 431

1 Personal Services, including		
2 Salary of Superintendent ---\$	285,000.00	\$ 285,000.00
3 Current Expenses _____	320,000.00	320,000.00
4 Repairs and Alterations _____	20,000.00	20,000.00
5 Equipment _____	20,000.00	8,000.00
6 Total _____\$	645,000.00	\$ 633,000.00
7 From Collections _____	180,000.00	180,000.00

78—Denmar Sanitarium

Acct. No. 432

1 Personal Services, including		
2 Salary of Superintendent ---\$	50,000.00	\$ 50,000.00



3	Current Expenses _____	70,000.00	70,000.00
4	Repairs and Alterations _____	6,000.00	6,000.00
5	Equipment _____	7,000.00	7,000.00
6	Total _____	\$ 133,000.00	\$ 133,000.00
7	From Collections _____	36,000.00	36,000.00

79—*West Virginia Board of Control—West Virginia  
Foundation for Crippled Children—"Pines"*

Acct. No. 433

1	For use of plant and facilities		
2	for West Virginia patients.....	\$ 2,500.00	\$ 2,500.00

81—*West Virginia Board of Control—Morris Memorial  
Hospital*

Acct. No. 435

1	For use of plant and facilities		
2	for West Virginia patients.....	\$ 10,000.00	\$ 10,000.00

82—*Berkeley Springs Sanitarium*

Acct. No. 436

1	Personal Services, including		
2	Salary of Superintendent.....	\$ 10,000.00	\$ 10,000.00
3	Current Expenses .....	5,000.00	5,000.00
4	Repairs and Alterations .....	1,500.00	1,500.00
5	Equipment .....	750.00	750.00
6	Total .....	\$ 17,250.00	\$ 17,250.00
7	From Collections .....	6,500.00	6,500.00

BUSINESS AND INDUSTRIAL RELATIONS

83—*Bureau of Labor and Department of Weights and  
Measures*

Acct. No. 450

1	Salary of Commissioner.....	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services .....	90,000.00	90,000.00
3	Current Expenses .....	50,000.00	50,000.00
4	Equipment .....	2,500.00	2,500.00
5	Total .....	\$ 148,500.00	\$ 148,500.00

## 84—Department of Mines

Acct. No. 460

1	Salary of Chief .....	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services .....	340,000.00	340,000.00
3	Current Expenses .....	100,000.00	100,000.00
4	Equipment .....	10,000.00	10,000.00
5	Total .....	\$ 456,000.00	\$ 456,000.00

## 85—Public Service Commission

Acct. No. 470

1	Salaries of three members of		
2	the Public Service Commis-		
3	sion,		
4	Total .....	\$ 13,500.00	\$ 13,500.00

## 86—Commission on Interstate Cooperation

Acct. No. 472

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

## 87—Interstate Commission on Potomac River Basin

Acct. No. 473

1	West Virginia's contribution to		
2	Potomac River Basin Inter-		
3	state Commission .....	\$ 2,700.00	\$ 2,700.00

## 89—Department of Banking

Acct. No. 480

1	Salary of Commissioner .....	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services .....	37,080.00	37,580.00
3	Current Expenses .....	18,000.00	18,000.00
4	Equipment .....	500.00	500.00
5	Total .....	\$ 61,580.00	\$ 62,080.00
6	From Collections .....	45,000.00	45,000.00

## 90—Board of Aeronautics

## Acct. No. 485

1	Personal Services .....	\$ 10,000.00	\$ 10,000.00
2	Current Expenses .....	5,000.00	5,000.00
3	Equipment .....	3,000.00	3,000.00
4	Airport Development .....	5,000.00	5,000.00
5	Total .....	\$ 23,000.00	\$ 23,000.00

## 91—West Virginia Industrial and Publicity Commission

## Acct. No. 486

1	Personal Services .....	\$ 25,000.00	\$ 25,000.00
2	Current Expenses .....	40,000.00	40,000.00
3	Equipment .....	2,500.00	
4	Total .....	\$ 67,500.00	\$ 65,000.00

## 92—West Virginia Non-Intoxicating Beer Commission

## Acct. No. 490

1	Personal Services .....	\$ 64,500.00	\$ 64,500.00
2	Current Expenses .....	41,000.00	41,000.00
3	Equipment .....	500.00	500.00
4	Total .....	\$ 106,000.00	\$ 106,000.00

## 93—West Virginia Racing Commission

## Acct. No. 495

1	To pay per diem of members		
2	and other general expenses...	\$ 20,000.00	\$ 20,000.00

## AGRICULTURE

## 95—Department of Agriculture

## Acct. No. 510

1	Salary of Commissioner.....	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services .....	105,000.00	105,000.00
3	Current Expenses .....	65,000.00	65,000.00
4	Equipment .....	6,000.00	6,000.00
5	For the Eradication and Pre-		
6	vention of Livestock Diseases		
7	—To be expended at the di-		

8	rection of the Commissioner		
9	of Agriculture .....	65,000.00	65,000.00
10	Aid to Dairy Development Pro-		
11	gram .....	25,000.00	25,000.00
12	Total .....	\$ 272,000.00	\$ 272,000.00
13	From Collections .....	35,000.00	35,000.00

## 96—Department of Agriculture—Soil Conservation Committee

## Acct. No. 512

1	To pay per diem and travel		
2	expenses of District Super-		
3	visors and Other General Ex-		
4	penses of the Soil Conserva-		
5	tion Committee .....	\$ 35,000.00	\$ 35,000.00

## 98—Department of Agriculture—Agricultural Awards

## Acct. No. 515

1	Incorporated County and Dis-		
2	trict Fairs, 4-H Fairs and Ex-		
3	hibits and Vocational Agri-		
4	culture Fairs and Exhibits.....	\$ 11,000.00	\$ 11,000.00
5	State Agricultural Fairs and		
6	Agricultural and Industrial		
7	Exhibits .....	22,000.00	22,000.00
8	Total .....	\$ 33,000.00	\$ 33,000.00
9	To be expended at the direction		
10	of the Commissioner of Agri-		
11	culture for awards to prize		
12	winners at Agricultural Fairs		
13	and Exhibits.		

## CONSERVATION AND DEVELOPMENT

## 99—West Virginia Geological Survey

## Acct. No. 520

1	Personal Services, including		
2	Salary of State Geologist.....	\$ 50,000.00	\$ 60,000.00
3	Current Expenses .....	20,000.00	20,000.00

4	Equipment .....	5,000.00	2,000.00
5	Total .....	\$ 75,000.00	\$ 82,000.00
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	Ground Waters Resources		
14	Study.		

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

Acct. No. 521

1	Personal Services .....	\$ 27,500.00	\$ 27,500.00
2	Current Expenses .....	8,000.00	8,000.00
3	Equipment .....	3,000.00	3,000.00
4	Buildings .....	6,000.00	4,000.00
5	White Pine Blister Rust Con-		
6	trol .....	5,500.00	5,500.00
7	For Soil Conservation, Preven-		
8	tion of Soil Erosion, Forestry		
9	Service and Private Forestry		
10	Service Programs, any part		
11	of which may be used for the		
12	purpose of matching Federal		
13	Funds .....	10,000.00	10,000.00
14	Total .....	\$ 60,000.00	\$ 58,000.00

101—Conservation Commission—Division of State Parks

Acct. No. 522

1	Personal Services .....	\$ 51,000.00	\$ 51,000.00
2	Current Expenses .....	34,000.00	34,000.00
3	Repairs and Alterations.....	17,500.00	17,500.00
4	Equipment .....	17,500.00	17,500.00
5	Total .....	\$ 120,000.00	\$ 120,000.00

103—*Conservation Commission—Clarke-McNary*

Acct. No. 523

1	For cooperation with the United			
2	States Department of Agri-			
3	culture in Fire Prevention			
4	and Control _____	\$	75,000.00	\$ 75,000.00

104—*Droop Mountain Battlefield Monument*

Acct. No. 560

1	For Maintenance of Historical			
2	Monument _____	\$	100.00	\$ 100.00

105—*Point Pleasant Battle Monument Commission*

Acct. No. 561

1	For Maintenance of Historical			
2	Monument _____	\$	1,800.00	\$ 1,500.00

106—*Rumseyan Society*

Acct. No. 562

1	For Maintenance of Historical			
2	Monument _____	\$	200.00	\$ 200.00

107—*Morgan Morgan Memorial*

Acct. No. 563

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

108—*Grafton G. A. R. Post*

Acct. No. 564

1	In aid of Memorial Day Patri-			
2	otic Exercises _____	\$	500.00	\$ 500.00
3	To be expended subject to the			
4	approval of the Board of Pub-			
5	lic Works upon presentation			
6	of satisfactory plans by the			
7	Grafton G. A. R. Post, Ameri-			
8	can Legion, Veterans of For-			
9	eign Wars and Sons of Vet-			
10	erans.			

## PROTECTION

109—*Department of Public Safety*

## Acct. No. 570

1	Salary of Superintendent.....	\$ 6,000.00	\$ 6,000.00
2	Other Personal Services.....	598,000.00	602,000.00
3	Current Expenses .....	467,300.00	461,500.00
4	Repairs and Alterations.....	18,000.00	18,000.00
5	Equipment .....	80,000.00	65,000.00
6	Total .....	\$ 1,169,300.00	\$ 1,152,500.00
7	Out of the appropriation for		
8	"Current Expenses" there		
9	may be expended not to ex-		
10	ceed \$255,500.00 for each year		
11	of the biennium for subsist-		
12	ence only for officers and en-		
13	listed men.		

110—*Adjutant General—State Militia*

## Acct. No. 580

1	Salary of Adjutant General.....	\$ 5,000.00	\$ 5,000.00
2	Other Personal Services.....	20,000.00	20,000.00
3	Current Expenses .....	100,000.00	100,000.00
4	Repairs and Alterations.....	4,000.00	4,000.00
5	Equipment .....	1,300.00	1,300.00
6	Compensation of Commanding		
7	Officers, Clerical Services and		
8	Care of Property.....	54,525.00	54,525.00
9	Total .....	\$ 184,825.00	\$ 184,825.00

111—*West Virginia Board of Control—Insurance*

## Acct. No. 585

1	Fire Insurance Premiums.....	\$ 50,000.00	\$ 50,000.00
2	Boiler Insurance Premiums.....	8,000.00	
3	Total .....	\$ 58,000.00	\$ 50,000.00
4	To pay insurance premiums on		
5	buildings and contents and		

6   boilers of state institutions:  
 7   *Provided, however, That in-*  
 8   insurance agencies in any one  
 9   county shall not receive more  
 10  than 10% of the appropria-  
 11  tion for fire insurance premi-  
 12  ums.

13 The above appropriation for  
 14 boiler insurance premiums is  
 15 for a three-year period.

#### 112—State Board of Examiners of Accountants

Acct. No. 586

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

#### 113—State Athletic Commission

Acct. No. 587

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

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

Acct. No. 588

1 To pay the per diem of mem-			
2 bers and other general ex-			
3 penses .....	\$ 8,500.00	\$	8,500.00
4 From Collections .....	8,500.00		8,500.00

#### 115—State Board of Dental Examiners

Acct. No. 589

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

#### 116—State Board of Pharmacy

Acct. No. 590

1 To pay the per diem of mem-	
2 bers and other general ex-	



3	penses .....	\$	5,000.00	\$	5,000.00
4	From Collections .....		5,000.00		5,000.00

## 117—State Board of Osteopathy

Acct. No. 591

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

## 118—State Board of Optometry

Acct. No. 592

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

## 119—State Board of Embalmers and Funeral Directors

Acct. No. 593

1	To pay the per diem of mem-				
2	bers and other general ex-				
3	penses .....	\$	7,000.00	\$	7,000.00
4	From Collections .....		7,000.00		7,000.00

120—State Board of Registration for Professional  
Engineers

Acct. No. 594

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

## 121—State Board of Examiners for Architects

Acct. No. 595

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

## 122—State Board of Examiners for Veterinarians

Acct. No. 596

1	To pay the per diem of mem-				
2	bers and other general ex-				

3	penses .....	\$	500.00	\$	500.00
4	From Collections .....		500.00		500.00

## 123—State Board of Law Examiners

Acct. No. 597

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

## 124—Treasurer's Office—Bonded Obligations

Acct. No. 599

1	To pay the principal and inter-				
2	est requirements of refunding				
3	bonds authorized under Chap-				
4	ter 58, Acts of the Legisla-				
5	ture, First Extraordinary				
6	Session, 1933, to pay non-				
7	bonded debts existing at the				
8	time of the adoption of the				
9	tax limitation amendment....	\$	310,000.00	\$	300,000.00

Sec. 2. *Appropriations from Other Funds.*—From the funds designated 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 expenditure during the fiscal years one thousand nine hundred forty-eight and one thousand nine hundred forty-nine.

## 125—Insurance Commissioner—Fire Marshal

Acct. No. 660

## TO BE PAID FROM SPECIAL REVENUE FUND

1 The total amount of special tax of one-half of one per  
 2 cent of premium receipts of fire insurance companies col-  
 3 lected by the Insurance Commissioner as provided by Chap-  
 4 ter 29, Article 3, Section 24, Code of West Virginia, 1931 is  
 5 hereby appropriated for the purpose of paying the operat-  
 6 ing expenses of the Fire Marshal's Office, including salaries,  
 7 compensation, costs and expenses of employees, and all  
 8 other expenses necessary for administering such law.

126—*Public Service Commission*

Acct. No. 661-a

## TO BE PAID FROM SPECIAL REVENUE FUND

1 Personal Services .....	\$ 167,280.00	\$ 167,280.00
2 Current Expenses .....	22,320.00	22,320.00
3 Equipment .....	5,400.00	5,400.00

4 Total .....	\$ 195,000.00	\$ 195,000.00
---------------	---------------	---------------

5 The total amount of this ap-  
6 propriation shall be paid  
7 from Special Revenue Fund  
8 out of collections for special  
9 license fees from public serv-  
10 ice corporations as provided  
11 by law.

12 Out of the above appropriation,  
13 not more than \$800.00 may be  
14 expended annually for the  
15 maintenance of the office of  
16 the General Solicitor of the  
17 National Association of Rail-  
18 roads and Utilities Commis-  
19 sioners, and for representa-  
20 tion in matters before the In-  
21 terstate Commerce Commis-  
22 sion and other Federal De-  
23 partments at Washington,  
24 D. C.

25 Out of the above appropriation,  
26 \$5,000.00 may be transferred  
27 annually to the U. S. Geo-  
28 logical Survey in a program  
29 of stream gauging.

126-a—*Public Service Commission—Motor Carrier Division*

Acct. No. 662

1 All special assessment fees or  
2 other receipts collected for or  
3 by the Public Service Com-  
4 mission pursuant to and in

5 the exercise of regulatory au-  
6 thority over motor carriers,  
7 to be paid into the special  
8 fund designated "Public Serv-  
9 ice Commission Motor Car-  
10 rier Fund", as authorized by  
11 law, are hereby appropriated  
12 for the purpose of paying the  
13 expenses of the Commission,  
14 salaries of the Commissioners  
15 and the salaries, compensa-  
16 tion, costs and expenses of its  
17 employees in administering  
18 such law, and for the expen-  
19 ditures by the Public Serv-  
20 ice Commission for the ad-  
21 ministration of such regula-  
22 tion, as authorized and pro-  
23 vided by law: *Provided, how-*  
24 *ever,* That no expenditure  
25 shall be made from moneys  
26 hereby appropriated except  
27 in compliance with and in  
28 conformity to the provisions  
29 of chapter thirty-nine, acts of  
30 the Legislature, regular ses-  
31 sion, one thousand nine hun-  
32 dred thirty-nine; and the  
33 Public Service Commission  
34 shall, by proper minute order,  
35 file with the Director of the  
36 Budget on July 1, 1947, an ex-  
37 act schedule of all encum-  
38 brances against the Public  
39 Service Commission—Motor  
40 Carrier Division Fund as of  
41 that date, and shall thereafter  
42 submit to the Director of the  
43 Budget for approval all pay-  
44 rolls, requisitions for pur-

45 chases, contracts and other  
 46 prospective encumbrances.  
 47 The unexpended balance re-  
 48 maining in the "Public Serv-  
 49 ice Commission Motor Car-  
 50 rier Fund" as of June thirty,  
 51 one thousand nine hundred  
 52 forty-seven, accruing from  
 53 any and all collections there-  
 54 tofore made by or for the  
 55 Public Service Commission  
 56 is hereby reappropriated for  
 57 expenditure in fiscal years  
 58 1947-1948 and 1948-1949.

127—*Conservation Commission—General Administration,  
 Division of Game, Fish and Forestry  
 Acct. No. 663*

TO BE PAID FROM SPECIAL REVENUE FUND

1 Salary of Director.....	\$ 6,000.00	\$ 6,000.00
2 Other Personal Services .....	32,400.00	32,400.00
3 Current Expenses .....	30,000.00	30,000.00
4 Equipment .....	3,000.00	3,000.00
5 Total .....	\$ 71,400.00	\$ 71,400.00

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 administra-  
 12 tion purposes only and shall  
 13 not be construed as a limit  
 14 upon the expenditures from  
 15 the Special Revenue collec-  
 16 tions of said department, ex-  
 17 cept for administration. In  
 18 addition to the above appro-  
 19 priation for administration  
 20 the sum of \$5,000.00 may be

21 transferred annually from  
 22 the special revenue collections  
 23 of said department to the  
 24 State Water Commission for  
 25 use in cooperation with the  
 26 U. S. Geological Survey in a  
 27 program of stream gauging.

128—*West Virginia Liquor Control Commission*

Acct. No. 667

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.....	345,000.00	345,000.00
4	Current Expenses .....	35,000.00	35,000.00
5	Total .....	\$ 398,000.00	\$ 398,000.00

6 The total amount of this appro-  
 7 priation shall be paid from  
 8 the Special Revenue Fund out  
 9 of liquor revenues.

10 The above appropriation does  
 11 not include the salaries of  
 12 store personnel, store in-  
 13 spectors, store operating ex-  
 14 penses or equipment, pur-  
 15 chase of liquor, or equipment  
 16 for administration offices.  
 17 There is hereby appropriated  
 18 from liquor revenues, in ad-  
 19 dition to the above appropria-  
 20 tion, the necessary amounts to  
 21 pay salaries of store person-  
 22 nel, store inspectors, store  
 23 operating expenses, purchase  
 24 of liquor and transportation  
 25 thereof, and purchase of  
 26 administration equipment, in-  
 27 cluding expenses deemed nec-  
 28 essary by the commission in

29 connection with its liquor  
 30 rationing program. *Provided,*  
 31 *however,* That no expendi-  
 32 tures shall be made from  
 33 moneys hereby appropriated,  
 34 except in compliance with  
 35 and in conformity to the pro-  
 36 visions of chapter thirty-nine,  
 37 acts of the Legislature, regu-  
 38 lar session, one thousand nine  
 39 hundred thirty-nine. The  
 40 State Liquor Control Commis-  
 41 sion shall, by proper minute  
 42 order, file with the Director  
 43 of the Budget, on July 1, 1947,  
 44 an exact schedule of all en-  
 45 cumbrances against the  
 46 liquor revenues as of that  
 47 date, and shall thereafter  
 48 submit to the Director of the  
 49 Budget for approval all pay-  
 50 rolls, requisitions for pur-  
 51 chases, contracts and other  
 52 prospective encumbrances.

129—*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 .....	420,000.00	420,000.00
3 Current Expenses .....	30,000.00	30,000.00
4 Equipment .....	15,000.00	15,000.00
5 Materials and Supplies .....	75,000.00	75,000.00
6 Total .....	\$ 546,000.00	\$ 546,000.00
7 In addition to the foregoing ap- 8 propriations and any other 9 appropriations or claims, as 10 authorized by this act or by		

11 law to be paid from the state  
12 road fund, the balance or  
13 residue of the annual re-  
14 cepts of the state road fund  
15 are hereby appropriated  
16 first for the payment of in-  
17 terest on and principal of  
18 outstanding road bonds, and  
19 thereafter for maintenance,  
20 construction and reconstruc-  
21 tion of state roads, in accord-  
22 ance with the provisions of  
23 chapter seventeen, code of  
24 West Virginia, 1931, as  
25 amended: *Provided, however,*  
26 That no funds from the blank-  
27 et appropriations in lines 7 to  
28 25, inclusive, shall be avail-  
29 able for expenditure except in  
30 compliance with and in con-  
31 formity to the provisions of  
32 chapter thirty-nine, acts of  
33 the Legislature, regular ses-  
34 sion, one thousand nine hun-  
35 dred thirty-nine. The State  
36 Road Commission shall, by  
37 proper minute order, file with  
38 the Director of the Budget,  
39 on July 1, 1947, an exact  
40 schedule of all encumbrances  
41 against the state road fund  
42 as of that date, and shall  
43 thereafter submit to the Di-  
44 rector of the Budget for ap-  
45 proval all payrolls, requis-  
46 itions for purchases, contracts,  
47 right - of - way acquisitions,  
48 debt service requirements  
49 and other prospective en-  
50 cumbrances. And the Direc-



51 tor of the Budget shall have  
 52 the right to allocate expend-  
 53 itures under prospective en-  
 54 cumbrances.  
 55 In the event the Legislature  
 56 creates a Department of Mo-  
 57 tor Vehicles there shall be  
 58 expended from this account  
 59 such amounts as the Board of  
 60 Public Works may deem nec-  
 61 essary for the operation of  
 62 such department for each  
 63 year of the biennium.

130—*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 .....	\$	8,000.00	\$ 8,000.00
3 Such portion of the above not			
4 required by payment of sal-			
5 aries of members of the State			
6 Board of Education may, if			
7 required, be expended for			
8 other personal services.			
9 Other Personal Services.....		7,500.00	7,500.00
10 Current Expenses .....		4,000.00	4,500.00
11 Equipment .....		300.00	300.00
12 Out-of-State Aid to Negroes.....		7,500.00	7,500.00
13 Total .....	\$	27,300.00	\$ 27,800.00

131—*State Board of Education—Vocational Division*

Acct. No. 701

TO BE PAID FROM THE GENERAL SCHOOL FUND

1 Personal Services .....	\$	20,000.00	\$ 20,000.00
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 _____	\$ 192,800.00	\$ 192,800.00

132—*State Board of Education—Rehabilitation Division*  
Acct. No. 702

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Vocational Rehabilitation Serv-		
2	ices _____	\$ 150,000.00	\$ 150,000.00

133—*Department of Education*  
Acct. No. 703

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Salary of State Superinten-		
2	dent of Free Schools _____	\$ 6,000.00	\$ 6,000.00
3	Other Personal Services _____	90,000.00	90,000.00
4	Current Expenses _____	25,000.00	25,000.00
5	Equipment _____	1,950.00	1,800.00
6	Salaries of County Superinten-		
7	dents _____	60,000.00	60,000.00
8	Total _____	\$ 182,950.00	\$ 182,800.00

134—*State Board of School Finance*  
Acct. No. 704

TO BE PAID FROM THE GENERAL SCHOOL FUND

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

135—*Department of Education—Hot Lunches*  
Acct. No. 705

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Personal Services _____	\$ 12,500.00	\$ 12,500.00
2	Current Expenses _____	3,000.00	3,000.00
3	Aid to Counties—Includes hot		
4	lunches and canning for hot		
5	lunches _____	90,000.00	90,000.00
6	Total _____	\$ 105,500.00	\$ 105,500.00

138—*Auditor's Office—Land Department*

Acct. No. 709

## TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Personal Services .....	\$ 54,000.00	\$ 54,000.00
2	Current Expenses .....	2,000.00	2,000.00
3	Equipment .....	1,000.00	1,000.00
4	Total .....	\$ 57,000.00	\$ 57,000.00

139—*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.....	300,040.00	300,040.00
3	Current Expenses .....	115,000.00	115,000.00
4	Equipment .....	10,000.00	10,000.00

5 Total .....

\$ 431,040.00	\$ 431,040.00
---------------	---------------

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

Sec. 3. *Supplemental Appropriations.*—From the State  
 2 Fund, General Revenue, except as otherwise provided,  
 3 there is hereby appropriated the following amounts, as  
 4 itemized, for expenditure during the fiscal year one thou-  
 5 sand nine hundred forty-seven to supplement the  
 6 1946-47 appropriations, and to be available for expenditure  
 7 upon date of passage.

141—*Department of Education*

Acct. No. 6407

1 State Aid to supplement the  
 2 General School Fund to pro-

3	vide Instruction for Home-		
4	bound Crippled Children.....	\$	7,500.00

142—*Department of Education*  
Acct. No. 6405

1	State Aid to supplement the		
2	General School Fund to be		
3	distributed on the discretion		
4	of the Board of School Fi-		
5	nance to assist counties in		
6	maintaining a term of nine		
7	months _____	\$	25,000.00

143—*Teachers Retirement Board*  
Acct. No. 6409

1	Benefit Fund—Payments to Re-		
2	tired Teachers _____	\$	127,400.00

144—*West Virginia School for the Colored Deaf and Blind*  
Acct. No. 334

1	Current Expenses _____	\$	3,250.00
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145—*West Virginia Industrial School for Boys*  
Acct. No. 370

1	Personal Services _____	\$	9,538.00
2	Current Expenses _____		10,000.00

3	Total _____	\$	19,538.00
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146—*West Virginia Industrial School for Colored Boys*  
Acct. No. 371

1	Current Expenses _____	\$	4,000.00
2	Repairs and Alterations.....		2,000.00

3	Total _____	\$	6,000.00
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147—*West Virginia Industrial Home for Girls*  
Acct. No. 372

1	Current Expenses _____	\$	7,500.00
2	Repairs and Alterations .....		2,500.00

3	Total _____	\$	10,000.00
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147a—*West Virginia State Prison for Women*

## Acct. No. 374

1	Personal Services .....	\$	1,300.00
2	Current Expenses .....		1,000.00
3	Equipment .....		1,000.00
<hr/>			
4	Total .....	\$	3,300.00

148—*West Virginia Penitentiary*

## Acct. No. 375

1	Current Expenses .....	\$	30,000.00
2	Repairs and Alterations .....		2,500.00
<hr/>			
3	Total .....	\$	32,500.00

149—*West Virginia Penitentiary—Medium Security Prison*

## Acct. No. 376

1	Current Expenses .....	\$	7,500.00
2	Repairs and Alterations .....		2,500.00
<hr/>			
3	Total .....	\$	10,000.00

150—*West Virginia Colored Children's Home*

## Acct. No. 381

1	Current Expenses .....	\$	2,500.00
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151—*West Virginia Home for Aged and Infirm Colored  
Men and Women*

## Acct. No. 382

1	Current Expenses .....	\$	2,500.00
2	Repairs and Alterations .....		2,000.00
<hr/>			
3	Total .....	\$	4,500.00

152—*West Virginia Department of Veterans Affairs*

## Acct. No. 404

1	Unclassified—Total .....	\$	7,500.00
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153—*Spencer State Hospital*

## Acct. No. 421

1	Current Expenses .....	\$	10,000.00
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154—*Huntington State Hospital*

Acct. No. 422

1	Current Expenses .....	\$	15,000.00
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155—*Lakin State Hospital*

Acct. No. 423

1	Current Expenses .....	\$	10,000.00
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156—*Huntington State Hospital—Barboursville Unit*

Acct. No. 424

1	Current Expenses .....	\$	7,500.00
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157—*Welch Emergency Hospital*

Acct. No. 426

1	Current Expenses .....	\$	14,500.00
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2	Repairs and Alterations .....		4,000.00
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3	Total .....	\$	18,500.00
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158—*Pinecrest Sanitarium*

Acct. No. 431

1	The amount appropriated		
---	-------------------------	--	--

2	"From Collections" for the		
---	----------------------------	--	--

3	fiscal year 1946-47 is hereby		
---	-------------------------------	--	--

4	reduced from \$235,000.00 to		
---	------------------------------	--	--

5	\$200,000.00 for the said fiscal		
---	----------------------------------	--	--

6	year.		
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159—*Andrew S. Rowan Memorial Home*

Acct. No. 437

1	Current Expenses .....	\$	10,000.00
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161—*State Road Commission*

Acct. No. 6406

1	To supplement the State Road		
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2	Fund for Construction and		
---	---------------------------	--	--

3	Reconstruction of Secondary		
---	-----------------------------	--	--

4	Roads. To be transferred to		
---	-----------------------------	--	--

5	the State Road Fund upon		
---	--------------------------	--	--

6	order of the Board of Public		
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7	Works .....	\$	1,000,000.00
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## 162—Department of Agriculture

## Acct. No. 510

1	Aid to Dairy Development .....	\$ 8,800.00
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## 162a—Conservation Commission

## Clarke-McNary

## Acct. No. 523

1	For cooperation with the United	
2	States Department of Agri-	
3	culture in Fire Prevention	
4	and Control .....	\$ 15,000.00

## 163—Adjutant General—State Militia

## Acct. No. 580

1	Personal Services .....	\$ 6,734.00
2	Current Expenses .....	59,140.00
3	Repairs and Alterations .....	25,175.00
4	Equipment .....	14,200.00
5	Compensation of Commanding	
6	Officers, Clerical Service and	
7	Care of Property .....	28,725.00
<hr/>		
8	Total .....	\$ 133,974.00

9 If the National Guard has not  
10 been completely organized  
11 prior to June 30, 1947, then  
12 this appropriation shall con-  
13 tinue until organization of  
14 the National Guard has been  
15 completed.

16 Out of the above appropriation  
17 for current expenses the sum  
18 of \$7,115.00 shall be used to  
19 pay unpaid armory rentals  
20 for the fiscal year 1945-46.

## 165—Department of Public Assistance

## Acct. No. 641

1	To supplement the 1946-47 ap-	
2	propriation for direct relief	\$ 117,000.00

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

Acct. No. 330

1	To pay claim of the Babcock		
2	Coal and Coke Company in		
3	accordance with House Bill		
4	No. 55 .....	\$	336.54

164—*State Board of Education—Rehabilitation Division*

Acct. No. 702

TO BE PAID FROM THE GENERAL SCHOOL FUND

1	Current Expenses .....	\$	30,000.00
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Sec. 4. *Awards for Claims Against the State.*—Appro-  
2 priations to pay awards for claims against the state as  
3 approved and certified by the State Court of Claims are  
4 for the remainder of the fiscal year 1946-47, and to remain  
5 in effect until June 30, 1949.

*Claim Versus State Auditor*

TO BE PAID FROM GENERAL SCHOOL FUND

1	Berkeley Printing & Publishing		
2	Company .....	\$	462.00

*Claim Versus State Board of Control  
West Virginia Children's Home, Elkins*

TO BE PAID FROM GENERAL REVENUE FUND

1	Cogar, Bobby L., infant, by		
2	Ward Huffman, his guardian .....	\$	3,000.00

*Claim Versus State Board of Control  
Hopemont Sanitarium*

TO BE PAID FROM GENERAL REVENUE FUND

1	Cashman, Harold H., M. D. ....	\$	2,000.00
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*Claim Versus State Board of Control  
Huttonsville Medium Security Prison*

TO BE PAID FROM GENERAL REVENUE FUND

1	Davis Trust Co., adm. of estate		
2	of Lucy Ward, deceased .....	\$	2,500.00



*Claim Versus State Board of Control  
Marshall College*

TO BE PAID FROM GENERAL REVENUE FUND

1 Reynolds, James .....	\$	550.00
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*Claim Versus State Board of Control  
Concord State College*

TO BE PAID FROM GENERAL REVENUE FUND

1 Roberts, LeRoy .....	\$	3,341.52
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*Claim Versus State Conservation Commission  
Division of State Parks*

TO BE PAID FROM GENERAL REVENUE FUND

1 Anderson, Melvin O.....	\$	91.27
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*Claim Versus State Conservation Commission  
Division of Forestry*

TO BE PAID FROM GENERAL REVENUE FUND

1 Davis, Harry E.....	\$	29.64
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*Claim Versus State Health Department*

TO BE PAID FROM GENERAL REVENUE FUND

1 McCuskey, Dr. William C.....	\$	383.75
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*Claim Versus State Department of Mines*

TO BE PAID FROM GENERAL REVENUE FUND

1 McVey, E. Y.....	\$	106.71
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*Claim Versus State Department of Probation and Parole*

TO BE PAID FROM GENERAL REVENUE FUND

1 DeMilia, Alfred E., Dr. ....	\$	300.00
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*Claims Versus State Department of Public Assistance*

TO BE PAID FROM GENERAL REVENUE FUND

1 Shepherd, Elma .....	\$	865.00
2 Wilson, Virginia .....		900.00

*Claims Versus State Road Commission*

TO BE PAID FROM STATE ROAD FUND

1 Aetna Casualty & Surety Co. ....	\$	30.28
2 Appalachian Electric Power Co.		252.06
3 Archer, H. D. ....		13.60

4	Baltimore & Ohio Railroad Co.	1,850.00
5	Bond, J. F. ....	150.00
6	Buchanan, Herman .....	85.87
7	Burke, Leo R. ....	9.44
8	Checker White Cab, Inc. ....	50.00
9	Clark, Martha .....	200.00
10	Colonial Glass Co. ....	335.35
11	Cremeans, Frances .....	300.00
12	Ellison, Roy L. ....	45.90
13	Fankhouser, Mrs. R. R. ....	20.00
14	Fankhouser, Mrs. R. R., admx.	
15	of estate of Russel R. Fank-	
16	houser, deceased .....	238.05
17	Gantzer, William G. ....	47.75
18	Garver, B. F. ....	52.94
19	Halstead, E. H. ....	13.01
20	Hamrick, Elvin .....	80.47
21	Henry, Blaine D. ....	196.75
22	Hudson, Charles A. ....	15.30
23	Jamerson, T. L. ....	3.06
24	Johnson, Mildred, infant by	
25	Howard E. Johnson, her next	
26	friend .....	591.00
27	King, Bessie L. ....	51.00
28	King, Leah .....	76.50
29	Lemasters, Rose .....	72.75
30	Main Street News .....	40.75
31	Marks, Jimmie, infant, by Char-	
32	lie Marks, his next friend.....	400.00
33	Mylius, L. C. ....	46.95
34	McClure, Earl C. ....	60.00
35	Neal, William H., Jr. ....	200.00
36	Neel, W. C. ....	34.28
37	Pappalardo, Lui .....	30.60
38	Queen, Clarence .....	49.27
39	Randolph, Russell .....	100.00
40	Ronk, Francis .....	123.44
41	Shafer, Hazel M. ....	24.38
42	Smith, Cleo .....	115.67
43	Stukey, Charles A. ....	24.48

44	Utterback, A. W. _____	500.00
45	Utterback, Mrs. A. W. _____	2,000.00
46	Valvoline Pipe Lines Co. _____	95.19
47	Van Camp, E. L. _____	25.00
48	Bennett, Jacob F. _____	1,560.00
49	(To be paid in monthly in-	
50	stallments of \$52.00 each	
51	from 1-1-47 to 6-30-49).	
52	Cabell, N. B. and W. E. Myles	39.75
53	Davis, Robert _____	100.00
54	Gribble, L. G. _____	250.00
55	Hall, D. Ray _____	57.00
56	McClung, Alice E. _____	720.00
57	(To be paid in monthly in-	
58	stallments of \$30.00 each	
59	from 1-1-47 to 12-31-48.)	
60	Meeker, Davis _____	9.10
61	O'Conner, George E. _____	92.85
62	Pratt, Effie Savage _____	240.00
63	(To be paid in monthly in-	
64	stallments of \$10.00 each	
65	from 1-1-47 to 12-31-48.)	
66	S. G. M. Gas Company _____	4.50
67	Weir-Cove Ice & Coal Company	435.19
68	<i>Claim Versus State Auditor</i>	
69	<i>Criminal Claims Department</i>	
70	Alt, Grant, Sheriff of Pendle-	
71	ton County _____	51.05
72	<i>Claim Versus State Department of</i>	
73	<i>Public Safety</i>	
74	<i>Division of Supplies and Accounting</i>	
75	Kings, Inc. _____	132.77
Total _____		\$ 12,343.30

Sec. 4-a. *Awards for Claims Against the State.*—Appropriations to pay awards for claims against the state as approved by the Legislature are for the remainder of the fiscal year 1946-47, and to remain in effect until June 30, 1949.

6	<i>Claims Versus State Board of Control</i>		
7	<i>West Virginia Penitentiary</i>		
8	TO BE PAID FROM GENERAL REVENUE FUND		
9	Burch, C. L. _____	\$	80.78
10	Robison, Achilles T. _____	\$	4,826.35
11	<i>Claim Versus Adjutant General—State Militia</i>		
12	TO BE PAID FROM GENERAL REVENUE FUND		
13	Butcher, Oscar E. _____	\$	700.00
14	<i>Claim Versus Board of Education</i>		
15	TO BE PAID FROM GENERAL REVENUE FUND		
16	Brigode, Lillian _____	\$	710.00
17	<i>Claim Versus State Board of Control</i>		
18	<i>Huttonsville Medium Security Prison</i>		
19	TO BE PAID FROM GENERAL REVENUE FUND		
20	Davis Trust Company, adm. of		
21	estate of Lucy Ward, deceased	\$	2,500.00
22	<i>Claims Versus State Auditor</i>		
23	TO BE PAID FROM GENERAL SCHOOL FUND		
24	Gain, Charles G. _____	\$	1,000.00
25	Thrift, R. J. Jr. _____	\$	1,500.00
26	<i>Claim Versus State Board of Control</i>		
27	<i>West Virginia Industrial School for Boys</i>		
28	TO BE PAID FROM GENERAL REVENUE FUND		
29	Lambert, O. D. _____	\$	162.20
30	<i>Claims Versus State Conservation Commission</i>		
31	TO BE PAID FROM SPECIAL REVENUE FUND		
32	Morgan, Mae _____	\$	233.00
33	Neville, Charles W. _____	\$	955.00
34	<i>Claim Versus State Board of Control</i>		
35	<i>Weston State Hospital</i>		
36	TO BE PAID FROM GENERAL REVENUE FUND		
37	McFerrin, Thelma _____	\$	3,000.00
38	<i>Claim Versus State Road Commission</i>		
39	TO BE PAID FROM STATE ROAD FUND		
40	Peters, Eva _____	\$	219.30

41	<i>Claim Versus State Road Commission</i>	
42	TO BE PAID FROM GENERAL REVENUE FUND	
43	Upton, Lon E. _____	\$ 1,500.00

Sec. 5. *Capital Expenditures from Surplus Revenues.*—

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

5 (a) The following items are hereby appropriated and  
6 are to be available for expenditure only out of the surplus  
7 in the treasury on the first day of July, 1947, or at the  
8 time release or encumbrance of any such items is made,  
9 subject to the conditions and limitations hereinafter ex-  
10 pressed. On the best information which can be secured  
11 at this time it is estimated the amount of such surplus  
12 will be approximately \$20,000,000.00.

13 Before making funds available or encumbering such  
14 surplus for expenditure hereunder, the Board of Public  
15 Works shall review the revenues of the State from the  
16 first day of July, 1947, to the date that appropriations here-  
17 under are expected to be made available or encumbered  
18 for expenditure hereunder, and determine whether, in its  
19 opinion, revenues then in prospect or on hand will be suf-  
20 ficient to meet all appropriations under this section, and  
21 make a finding with respect thereto.

22 In view of the adoption by the Legislature of H. C. R.  
23 No. 6, it is suggested that the Board of Public Works, prior  
24 to the release of building construction items pertaining to  
25 the state mental hospitals, give consideration to the pos-  
26 sibility of a grant by the federal government of Newton  
27 D. Baker Hospital and, if such grant be tendered, give con-  
28 sideration to the possible use thereof as a state mental  
29 institution.

30 It is suggested that, in the absence of extraordinary cir-  
31 cumstances giving rise to a pressing need for the imme-  
32 diate release of any of the appropriations for the construc-  
33 tion of building or buildings, the Board of Public Works  
34 should not approve and release any of said appropriations  
35 during a period in which the general revenues of the state  
36 have been declining continuously for three months or have

37 undergone an overall decrease in the preceding twelve  
38 months. It is further suggested that if, during the bien-  
39 nium, the cost of construction, in the opinion of said Board,  
40 is excessive, the Board should, prior to releasing any of  
41 said appropriations, examine carefully the need for the  
42 expenditure sought, and, if reasonably possible, postpone  
43 the release of said appropriation until the cost of construc-  
44 tion has declined to a figure considered by it to be reason-  
45 able.

46 (b) The order in which the items of this section are  
47 named does not indicate a preference in order of expendi-  
48 ture. The Board of Public Works may authorize the ex-  
49 penditure of any one or more of said items without regard  
50 to the order in which they are here listed.

51 (c) The amounts of the several items are suggestive,  
52 and are not to be considered as absolute. The board may  
53 revise or reduce any item downward, without restriction,  
54 or eliminate it entirely, and may increase any one or more  
55 of the items by not more than twenty-five per cent, so  
56 long as such increases, if any, as to items so increased and  
57 released do not exceed the total amount made available  
58 under this section, and corresponding decreases or elim-  
59 inations are made to offset increases.

60 (d) Expenditures authorized, which are for construction  
61 purposes, shall be for a complete and usable unit or project  
62 etc., and in any case where additional funds are available,  
63 by aid from a federal agency or other source, such fact may  
64 be considered by the board in determining what items  
65 should at any time be encumbered or released for ex-  
66 penditure: *Provided*, That in making such release the board  
67 shall first determine that all funds available will provide  
68 for completion of a complete and usable project or unit.

69 (e) Any of the items under this section may be released  
70 or encumbrances made therefor at any time after the  
71 first day of July, 1947, as the board may deem proper, sub-  
72 ject to the limitations of subsection (a) herein.

73 Subject to the foregoing conditions, the following appro-  
74 priations are made for the construction, maintenance and  
75 repair of secondary roads, and for the acquisition, con-  
76 struction, including, if necessary, needed land acquisition,

77 preparation of sites for buildings, and equipment of build-	
78 ings, and for the purposes named in this section.	
79 Item 1: Capitol Building and	
80 Grounds, for landscaping, build-	
81 ing sidewalks, and for such	
82 other improvements as may be	
83 designated by the Board of	
84 Public Works .....	\$ 300,000.00
85 Item 2: Capitol Building and	
86 Grounds, for repairs to Cap-	
87 itol Building and Mansion .....	250,000.00
88 Item 3: West Virginia Uni-	
89 versity, for such building or	
90 buildings as may be designated	
91 by the Board of Public Works,	
92 upon recommendation by the	
93 Board of Governors of West	
94 Virginia University .....	1,000,000.00
95 Item 4. West Virginia Uni-	
96 versity, for redemption of West	
97 Virginia University Stadium	
98 Bonds in pursuance of the pro-	
99 visions, conditions and limita-	
100 tions of House Concurrent Res-	
101 olution No. 11 .....	336,750.00
102 Item 5: West Virginia Uni-	
103 versity, to equip Chemistry	
104 Building .....	60,000.00
105 Item 6: West Virginia Uni-	
106 sity—Jackson's Mill 4-H Camp,	
107 for Health Center and Audito-	
108 rium, or for such building or	
109 buildings as may be designated	
110 by the Board of Public Works	17,500.00
111 Item 7. West Virginia Uni-	
112 versity — Agricultural Experi-	
113 ment Station for such building	
114 or buildings as may be desig-	
115 nated by the Board of Public	
116 Works .....	6,000.00

117 Item 8: West Virginia Uni-	
118 versity — Agricultural Experi-	
119 ment Station for purchase of	
120 land—Agronomy Farm .....	7,700.00
121 Item 9: West Virginia Uni-	
122 versity — Kearneysville Farm,	
123 for such building or buildings	
124 as may be designated by the	
125 Board of Public Works .....	10,000.00
126 Item 10. West Virginia Uni-	
127 versity — Reymann Memorial	
128 Farm for such building or	
129 buildings as may be designated	
130 by the Board of Public Works	10,000.00
131 Item 11: Potomac State	
132 School of West Virginia Univer-	
133 sity, for such building or build-	
134 ings as may be designated by	
135 the Board of Public Works up-	
136 on recommendation of the	
137 Board of Governors of West	
138 Virginia University .....	191,000.00
139 Item 12: Marshall College,	
140 for such building or buildings	
141 as may be designated by the	
142 Board of Public Works .....	1,000,000.00
143 Item 13: Fairmont State Col-	
144 lege, for such building or build-	
145 ings as may be designated by	
146 the Board of Public Works, ex-	
147 cept that no more than \$20,-	
148 000.00 of this appropriation may	
149 be spent for the President's	
150 home .....	230,000.00
151 Item 14: Glenville State Col-	
152 lege, for such building or	
153 buildings as may be designated	
154 by the Board of Public Works	29,500.00
155 Item 15: West Liberty State	
156 College, to be used only for	



157 one or more of the following	
158 purposes:	
159 1. To purchase mineral and min-	
160 ing rights under the property	
161 now owned by the state and	
162 used by this spending unit;	
163 2. To purchase surface rights	
164 necessary to insure control of a	
165 watershed adequate for water	
166 supply of this spending unit;	
167 3. To construct an adequate	
168 sewerage disposal system for	
169 the use of this spending unit	75,000.00
170 Item 16: Shepherd College,	
171 for purchase of land for library	
172 site or for such building or	
173 buildings as may be designated	
174 by Board of Public Works .....	105,000.00
175 Item 17: Concord College, for	
176 such building or buildings, in-	
177 cluding repairs and alterations	
178 to swimming pool, as may be	
179 designated by the Board of Pub-	
180 lic Works .....	100,000.00
181 Item 18: West Virginia Insti-	
182 tute of Technology, for such	
183 building or buildings as may	
184 be designated by the Board of	
185 Public Works .....	307,000.00
186 Item 19: West Virginia State	
187 College, for such building or	
188 buildings as may be designated	
189 by the Board of Public Works	200,000.00
190 Item 20: Bluefield State Col-	
191 lege, for such building or	
192 buildings as may be designated	
193 by the Board of Public Works	100,000.00
194 Item 21: West Virginia Schools	
195 for Deaf and Blind, for such	
196 building or buildings as may be	

197 designated by the Board of Pub-	
198 lic Works _____	150,000.00
199 Item 22: West Virginia School	
200 for Colored Deaf and Blind, for	
201 alteration of building _____	6,000.00
202 Item 23: West Virginia Indus-	
203 trial School for Boys, for such	
204 building or buildings including,	
205 if necessary, fireproofing of	
206 buildings, as may be designated	
207 by the Board of Public Works	
208 upon recommendation of the	
209 Board of Control _____	150,000.00
210 Item 24: West Virginia Indus-	
211 trial School for Colored Boys,	
212 for Annex to main building. _____	5,000.00
213 Item 25: West Virginia Indus-	
214 trial School for Colored Girls,	
215 for hog house and cold storage	
216 room _____	3,300.00
217 Item 26: West Virginia Peni-	
218 tentiary, for such building or	
219 buildings as may be designated	
220 by the Board of Public Works	
221 upon recommendation of the	
222 State Board of Control. Out	
223 of the above appropriation the	
224 sum of \$10,000.00 may be ex-	
225 pended for the acquisition of	
226 coal lands _____	110,000.00
227 Item 27: West Virginia Peni-	
228 tentiary — Medium Security	
229 Prison, for purchase of such	
230 lands and mineral as may be	
231 designated by the Board of Pub-	
232 lic Works upon recommenda-	
233 tion of the State Board of Con-	
234 trol _____	25,000.00
235 Item 28: West Virginia Train-	
236 ing School, for such building or	

237 buildings as may be designated	
238 by the Board of Public Works	
239 upon recommendation of the	
240 State Board of Control.....	50,000.00
241 Item 29: Andrew S. Rowan	
242 Memorial Home, for such build-	
243 ing or major repairs and altera-	
244 tions as may be designated by	
245 the Board of Public Works up-	
246 on recommendation of the State	
247 Board of Control .....	150,000.00
248 Item 30: Weston State Hos-	
249 pital, for such building or	
250 buildings or fireproofing exist-	
251 ing buildings, or capital repairs,	
252 as may be designated by the	
253 Board of Public Works upon	
254 recommendation of the State	
255 Board of Control .....	200,000.00
256 Item 31: Weston State Hos-	
257 pital for pasteurizing and cool-	
258 ing plant equipment .....	10,000.00
259 Item 32: Spencer State Hos-	
260 pital, for such building or	
261 buildings and repairs and alter-	
262 ations of buildings, as may be	
263 designated by the Board of	
264 Public Works upon recommen-	
265 dation of the State Board of	
266 Control .....	100,000.00
267 Item 33. Huntington State	
268 Hospital, for such building or	
269 buildings as may be designated	
270 by the Board of Public Works	
271 upon recommendation of the	
272 State Board of Control	200,000.00
273 Item 34: Huntington State	
274 Hospital — Barboursville Unit,	
275 for such building or buildings	
276 as may be designated by the	

277 Board of Public Works upon 278 recommendation of the State 279 Board of Control _____	200,000.00
280 Item 35: Hopemont Sanitari- 281 um, for such building or build- 282 ings as may be designated by 283 the Board of Public Works up- 284 on recommendation of the State 285 Board of Control. No part of 286 any appropriation made for this 287 institution shall be used at any 288 place other than at Hopemont	100,000.00
289 Item 36: Pinecrest Sanitari- 290 um, for such building or build- 291 ings as may be designated by 292 the Board of Public Works up- 293 on recommendation of the State 294 Board of Control _____	25,000.00
295 Item 37: State Road Com- 296 mission, for construction, main- 297 tenance and repair of secondary 298 farm-to-market roads, includ- 299 ing mail routes, milk routes, 300 and school bus routes. Any 301 part of this amount may be 302 used to match federal funds for 303 the above purposes _____	12,000,000.00
304 Item 38: Department of Agri- 305 culture, for purchase of special 306 equipment for use by the Soil 307 Conservation Committee _____	250,000.00
308 Item 39: Department of Pub- 309 lic Safety, for such building or 310 buildings and mineral rights, 311 under lands, as may be desig- 312 nated by the Board of Public 313 Works _____	60,000.00
314 Item 40: Department of Pub- 315 lic Assistance, Acct. No. 405, 316 Public Assistance Grants, (Clas-	

317 sified Aid)—to be allocated by  
318 the Board of Public Works, on  
319 the basis of \$500,000.00 for each  
320 year of the biennium, without  
321 regard to the limitations im-  
322 posed by this section: *Provided,*  
323 That no part of this appropria-  
324 tion shall be expended for ad-  
325 ministrative purposes ..... 1,000,000.00  
326 Item 41. Board of Public  
327 Works, Contingent Fund ..... 500,000.00  
328 The foregoing appropriation of \$500,000.00 may be ex-  
329 pended for the following purposes: (a) To supplement  
330 any appropriation included under the provisions of chap-  
331 ter forty-six, acts of the Legislature, one thousand nine  
332 hundred and thirty-nine, as last amended, for the pur-  
333 pose required by the State Tax Commissioner as set out  
334 therein; for making surveys and causing an independent  
335 audit to be made of the Tax Commissioner's office; for the  
336 expense of making audits of state institutions and reve-  
337 nues of the state, the expense of which is not otherwise  
338 provided for by law. Before release by the Board of Pub-  
339 lic Works of any of the funds appropriated under this  
340 item the Tax Commissioner shall estimate the amount nec-  
341 essary for the purposes outlined in this subsection and  
342 submit this estimate to the board. This estimated amount  
343 shall not be released for any other purpose so long as it is  
344 needed for these purposes: (b) To protect the state's credit  
345 as to bond issues by state institutions, the sum of \$25,000.00;  
346 (c) For advances to state colleges and to the West Virginia  
347 University to protect book store accounts during the period  
348 of readjustment for Veterans' instruction, the sum of \$25,-  
349 000.00; (d) For establishment of a microfilming service in  
350 order to dispose of voluminous records after filming, the  
351 sum of \$35,000.00; (e) For transfer to Inspector's Fund,  
352 Special Revenue to establish a revolving fund for deputy  
353 inspectors, the sum of \$25,000.00; (f) To acquire surplus  
354 property and surplus commodities which may be avail-  
355 able to the state or its agencies during the biennium, the  
356 sum of \$100,000.00; (g) To establish an inventory control

357 of all physical property of the state, the sum of \$50,000.00;  
358 (h) For any other contingencies or needs arising during  
359 the period in which the Legislature is not in session, which  
360 are deemed necessary or essential to the efficient and eco-  
361 nomic operation of the state government.

362 Upon a showing by the Tax Commissioner that addi-  
363 tional amounts are needed for these purposes, outlined in  
364 subsection "a" of this item, the Board of Public Works  
365 shall make available from any unencumbered balances in  
366 said appropriation the amounts so required.

367 In the discretion of the Board of Public Works an amount  
368 not in excess of ten per cent of any of the foregoing items  
369 may be released at any time within the biennium for the  
370 purpose or purposes of covering the expense of prelimin-  
371 ary studies and surveys, for comprehensive overall plan-  
372 ning of buildings and grounds of the state institutions,  
373 filing applications for federal aid, and the preparation of  
374 bidding documents for the construction of any building  
375 or buildings covered by the item.

Sec. 6. *Special Revenue Appropriations.*—There is  
2 hereby appropriated for expenditure during the fiscal years  
3 one thousand nine hundred forty-eight and one thousand  
4 nine hundred forty-nine: 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 and excess  
9 special revenue of the specific state education institution  
10 mentioned in the definition of "collections" in this act.  
11 *Provided, however,* That collections from the sale of farm  
12 and dairy products shall be expended only for the im-  
13 provement and operation of the farm on which such prod-  
14 ucts were raised and for such of the operating and mainte-  
15 nance expenses of the institution making the sales as are  
16 customarily paid out of its current expense account: *Pro-*  
17 *vided, further,* That none of the moneys so appropriated by  
18 this section shall be available for expenditure except in  
19 compliance with and in conformity to the provisions of  
20 Articles 2 and 3, of Chapter 12, Code of West Virginia, and

21 Chapter 39, Acts of the Legislature, Regular Session, one  
22 thousand nine hundred thirty-nine, and unless the spend-  
23 ing unit has filed with the State Director of the Budget  
24 and the State Auditor prior to the beginning of each fiscal  
25 year:

26 (a) An estimate of the amount and sources of all reve-  
27 nues accruing to such fund;

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

Sec. 7. *Appropriations Revived and Extended.*—A part  
2 of an appropriation to a spending unit that remains un-  
3 expended at the end of the fiscal year one thousand nine  
4 hundred forty-eight 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-nine.

Sec. 8. *Specific Statutory Appropriations.*—Whenever  
2 the specific payment of a definite sum of money is required  
3 by general law such sum shall be paid from the proper item  
4 appropriated by this act.

Sec. 9. *Specific Funds and Collection Accounts.*—A fund  
2 or collection account, which by law is dedicated to a  
3 specific 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. 10. *Appropriations for Refunding Erroneous Pay-*  
2 *ments.*—Money that has been erroneously paid into the  
3 state treasury is hereby appropriated out of the fund into  
4 which it was paid for refund to the proper person.

5 When the officer authorized by law to collect money for  
6 the state finds that a sum has been erroneously paid he  
7 shall issue his requisition upon the auditor for the refund-  
8 ing of the proper amount. The auditor shall issue his  
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. 11. *Contingent Fund.*—A contingent fund may be expended as appropriated, with the approval of the Board of Public Works, when the expenditure will improve the governmental service and care for unexpended contingencies. A part of a contingent fund that remains unexpended at the end of the first fiscal year shall automatically become available for expenditure during the second fiscal year.

The expenditure of the governor's civil contingent fund, and the legislative contingent funds shall not be conditioned upon the approval of the Board of Public Works.

Sec. 12. *Sinking Fund Deficiencies.*—There is hereby appropriated to the Board of Public Works a sufficient amount to meet a deficiency that may arise in the fund of the state sinking fund commission because of the failure of any state agency or local taxing district to remit funds necessary for the payment of interest and sinking fund requirements. The Board of Public Works is authorized to transfer from time to time such amounts to the state sinking fund commission as may be necessary for this purpose.

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

Sec. 13. *Appropriations from Taxes and License Fees.*— There is hereby appropriated from all chain store tax fees and general license taxes collected by the state tax commissioner, all necessary salaries and expenses, not to exceed twenty-five per cent of the gross collections authorized by law to be expended in the collection of such chain store tax fees and general license taxes. All such salaries and expenses, authorized by law as aforesaid, shall be paid by the tax commissioner through the state treasurer out of gross collections.



Sec. 14. *Appropriations to Pay Premiums on Bonds of County Clerks.*—There is hereby appropriated out of the General School Fund, to be paid upon the requisition of the Auditor, a sum sufficient to pay premiums on Bonds of County Clerks to protect funds belonging to the said General School Fund, and out of the Special Revenue Fund of the Conservation Commission, to be paid upon the requisition of the Commission, a sum sufficient to pay premiums on Bonds of County Clerks to protect funds belonging to the said Conservation Commission.

Sec. 15. *Appropriations to Pay Costs of Publication of Delinquent Corporations.*—There is hereby appropriated out of the State Fund, General Revenue, out of funds not otherwise appropriated to be paid upon requisition of the auditor and/or the governor, as the case may be, a sum sufficient to pay the cost of publication of delinquent corporations as provided by sections seventy-five and seventy-seven of article twelve, chapter eleven, code of West Virginia.

Sec. 16. *Appropriations for Local Governments.*—  
2 There is hereby appropriated for payment to counties, districts, and municipal corporations such amounts as will be necessary to pay taxes due county, district, and municipal corporations and which have been paid into the treasury:  
6 1. For the redemption of lands;  
7 2. By public service corporations;  
8 3. For tax forfeitures.

Sec. 17. *Printing Costs.*—The cost of printing, binding and stationery for each spending unit shall be paid from the current expense appropriation for the spending unit.

Sec. 18. *Total Appropriation.*—Where only a total sum is appropriated to a spending unit that total sum shall include personal services, current expenses, and capital outlay, except as otherwise provided in title one, section five three.

Sec. 19. *General School Fund.*—The balance of the proceeds of the general school fund remaining after the pay-

3 ment of the appropriations made by this act is appropriated  
4 for expenditure in accordance with section six, article nine,  
5 chapter eighteen of the code of West Virginia, one thou-  
6 sand nine hundred thirty-one, as amended.

Sec. 20. *Reappropriations.*—The date of expiration of  
2 the unencumbered or unexpended parts of any appropria-  
3 tions made by section three-a, title two, chapter eleven,  
4 (Budget Bill) acts of the Legislature, 1945, as amended by  
5 Senate Engrossed Bill No. 4, Special Session of the Legisla-  
6 ture, 1946, is hereby extended to June 30, 1949, and such un-  
7 encumbered or unexpended parts are hereby reappropri-  
8 ated from the date of expiration to June 30, 1949, for the  
9 purposes for which they were originally appropriated:  
10 *Provided, however,* That Item No. 26 of the above men-  
11 tioned section may be expended for construction, main-  
12 tenance, and repair of secondary farm-to-market roads  
13 without regard to matching federal funds. It is further  
14 provided that within the discretion of the Board of Pub-  
15 lic Works a part of these items so reappropriated may be  
16 used for the purpose of comprehensive overall planning  
17 of buildings and grounds of the state institutions. The  
18 provisions of sub-sections c, d, and e of section 3-a, title  
19 two, chapter eleven, acts of the Legislature, 1945, shall  
20 be applicable to the items to which they originally applied.  
21 In view of the adoption by the Legislature of H.C.R. No.  
22 6, it is suggested that the Board of Public Works, prior  
23 to the release of building construction items pertaining  
24 to the state mental hospitals, give consideration to the pos-  
25 sibility of a grant by the federal government of Newton  
26 D. Baker Hospital and, if such grant be tendered, give con-  
27 sideration to the possible use thereof as a state mental in-  
28 stitution.

29 It is suggested that, in the absence of extraordinary cir-  
30 cumstances giving rise to a pressing need for the immedi-  
31 ate release of any of the appropriations, for the construc-  
32 tion of building or buildings, the Board of Public Works  
33 should not approve and release any of said appropriations  
34 during a period in which the general revenues of the state  
35 have been declining continuously for three months or have

36 undergone an overall decrease in the preceding twelve  
37 months. It is further suggested that if, during the bien-  
38 nium, the cost of construction in the opinion of said Board,  
39 is excessive the Board should, prior to releasing any of said  
40 appropriations, examine carefully the need for the expen-  
41 diture sought and, if reasonably possible, postpone the  
42 release of said appropriation until the cost of construction  
43 has declined to a figure considered by it to be reasonable.  
44 The date of expiration of the unexpended balances of all  
45 equipment appropriations to the various state spending  
46 units for the fiscal year 1946-47, is hereby extended to June  
47 30, 1948, and such unexpended balances are hereby re-  
48 appropriated for expenditure during the fiscal year ending  
49 June 30, 1948.

50 The date of expiration of the unexpended balance in  
51 "excess collections" of all educational, benevolent, mental  
52 and correctional institutions for the fiscal year 1946-47  
53 shall not be deemed to have expired but shall be avail-  
54 able for expenditure within the biennium beginning July  
55 1, 1947.

### Title 3. Administration.

#### Section

1. Appropriations conditional.
2. Suspension of certain acts.
3. Limitation on publicity.
4. Constitutionality.

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

Sec. 2. *Suspension of Certain Acts.*—A provision of  
2 another act, or of the code of West Virginia, one thousand  
3 nine hundred thirty-one, as amended, which is in conflict  
4 with the provisions of this act is hereby suspended during  
5 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 in the expenditure of any part of any appropriation made by this act in violation of any of the provisions hereof shall be personally liable therefor.

Sec. 3. *Limitation on Publicity.*—Spending units other than the West Virginia industrial and publicity commission, and the West Virginia Apple Commission shall not expend funds appropriated to them hereunder, or receivable as special revenues or otherwise as a result of acts of the Legislature, in advertising the state as a whole, or in the employment of personnel whose major duties are publicity or promotional work to that end. Spending units which conduct advertising or promotional work as a part of their functioning, shall, in any case where expenditures therefor exceed five hundred dollars, have the program first approved by the director of said commission before any expense in excess of five hundred dollars in any one year is incurred: *Provided, however,* That no funds shall be spent

15 by any agency, unit, department, state officer or employee,  
16 publicizing any individual, state officer or employee.

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

## CHAPTER 28

(House Bill No. 368—By Mr. Carder)

AN ACT to compensate O. D. Lambert for damages to his automobile caused by the same being wrecked after being stolen by an inmate of the West Virginia Industrial School for Boys.

[Passed March 8, 1947; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. Board of control authorized to pay claim of O. D. Lambert.
2. Finding of moral obligation.

WHEREAS, On March 8, 1942, an inmate of the West Virginia Industrial School for Boys stole the automobile of O. D. Lambert; Grafton, West Virginia, and drove the same to Ivydale, West Virginia; and

WHEREAS, Said automobile was driven without oil and the motor badly damaged, as a result of which it cost said O. D. Lambert one hundred sixty-two dollars and twenty cents (\$162.20) to rebuild the burned out motor and for haulage and storage; therefore

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

- Section 1. *Board of Control Authorized to Pay Claim of*  
2 *O. D. Lambert*.—The state board of control is hereby

3 authorized and empowered to pay to the said O. D. Lam-  
4 bert the sum of one hundred sixty-two dollars and twenty  
5 cents (\$162.20) to cover repairs, storage and haulage  
6 caused as a result of his automobile being stolen by an  
7 inmate of the West Virginia Industrial School for Boys.  
8 The sum herein authorized shall be paid from any moneys  
9 now or hereafter appropriated to the state board of con-  
10 trol.

Sec. 2. *Finding of Moral Obligation.*—It is hereby de-  
2 clared to be the finding of the Legislature based upon its  
3 conclusion of fact that the appropriation made in section  
4 one is for the payment of a moral obligation of the state  
5 of West Virginia.

## CHAPTER 29

(Senate Bill No. 6—By Mr. Bean)

AN ACT to compensate C. L. Burch for damages to his truck,  
which was stolen and wrecked by an escaped convict from  
the prison labor camp.

[Passed February 21, 1947; in effect ninety days from passage. Became a law  
without the approval of the Governor.]

### Section

1. Reimbursing C. L. Burch for moneys expended in repairing a truck  
wrecked by an escaped convict.

WHEREAS, In November, one thousand nine hundred thirty-  
nine, a convict who had escaped from a state prison labor camp  
near Wardensville, in Hardy county, West Virginia, compelled  
C. L. Burch, at the point of a gun, to abandon his pick-up truck,  
which was taken by the convict and wrecked by said convict,  
and

WHEREAS, The said C. L. Burch paid eighty dollars and sev-  
enty-eight cents for the repair of said truck, therefore,

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

Section 1. *Reimbursing C. L. Burch for Moneys Expended in Repairing a Truck Wrecked by an Escaped Convict.*—The auditor of the state of West Virginia is hereby authorized and directed to issue his warrant, payable from state fund general revenue, upon the treasurer in favor of C. L. Burch for eighty dollars and seventy-eight cents expended by him in repairing a truck stolen from him and wrecked by an escaped convict who had escaped from the prison labor camp near Wardensville, West Virginia, the Legislature finding that this appropriation is necessary to discharge a moral obligation of the state.

## CHAPTER 30

(Senate Bill No. 233—By Mr. McKinley)

AN ACT to compensate Davis Trust Company, administrator of the estate of Lucy Ward, deceased, for damages for the wrongful death of said Lucy Ward.

{Passed March 8, 1947; in effect from passage. Became a law without the approval of the Governor.}

### Section

1. Reimbursing Davis Trust company, as administrator of the estate of Lucy Ward.

WHEREAS, On January twenty, one thousand nine hundred forty-five, a convict who escaped from the state prison farm at Huttonsville, West Virginia, did carnally attack and rape and murder Lucy Ward of Randolph county, West Virginia, and

WHEREAS, The escape of said convict was due to the gross and inexcusable negligence of a prison labor guard, then in the employ of the state of West Virginia, and

WHEREAS, The heirs at law of said Lucy Ward have suffered not only mental anguish but also loss of her services,  
*Be it enacted by the Legislature of West Virginia:*

Section 1. *Reimbursing Davis Trust Company, as Administrator of the Estate of Lucy Ward.*—The auditor of the state of West Virginia is hereby authorized and directed to issue his warrant, payable from state fund general revenue, upon the treasurer in favor of Davis Trust Company, administrator of the estate of Lucy Ward, deceased, for five thousand dollars to compensate the heirs at law of said Lucy Ward for the loss occasioned them by the rape and murder of said Lucy Ward by an escaped convict from the state prison at Huttonsville, West Virginia, the Legislature finding that this appropriation is necessary to discharge a moral obligation of the state.

C

## CHAPTER 31

(House Bill No. 131—By Mr. Ballard)

AN ACT to compensate Eva Peters for damages to her car caused in an accident occasioned by the blocking of a highway by a snowplow and a truck owned and operated by the state road commission.

[Passed March 8, 1947; in effect from passage. Became a law without the approval of the Governor.]

### Section

1. State road commission authorized to pay claim of Eva Peters.
2. Finding of moral obligation.

WHEREAS, On the night of November 30, 1944, a snowplow and a truck owned and operated by the state road commission, going in opposite directions on the highway leading from Union, West Virginia, stopped alongside each other, blocking the highway; and

WHEREAS, The headlights on the snowplow, headed toward said town of Union, were burning brightly and weather conditions rendered visibility low, and a son of said Eva Peters driv-



ing south from Union in a Chevrolet automobile, owned by said Eva Peters, ran into the rear of the parked truck damaging said automobile to the extent of \$219.30; and

WHEREAS, Said accident could not have been avoided by the driver of claimant's car, and occurred without fault or contributory negligence on the part of said driver; therefore  
*Be it enacted by the Legislature of West Virginia:*

Section 1. *State Road Commission Authorized to Pay Claim of Eva Peters.*—The state road commission, by and through the state road commissioner, is hereby authorized and empowered to pay Eva Peters the sum of two hundred nineteen dollars and thirty cents for damages to her Chevrolet automobile caused in said highway accident on November thirty, one thousand nine hundred forty-four. The sum herein authorized shall be paid from any moneys now or hereafter appropriated to the state road commission.

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

## CHAPTER 32

(House Bill No. 354—By Mr. Ballard)

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

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 3. Attorney General.

#### Section

3. Assistants to attorney general.

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

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

Section 3. *Assistants to Attorney General.*—The attorney general may appoint four assistants to serve at his pleasure and to perform such duties as he may require of them. One of such assistants shall receive a salary not in excess of five thousand seven hundred dollars per annum, and three of them shall each receive a salary not in excess of five thousand four 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 fifty dollars per month.

## CHAPTER 33

(Committee Substitute for Senate Bill No. 163—Originating in the Senate Committee on Finance)

AN ACT to repeal section twenty-two, article one, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, and to amend article one, chapter twenty-five thereof, as amended, by adding thereto a new section to be designated section ten-a, relating to the care, control and custody of the capitol buildings and grounds.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

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

#### **Section**

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

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

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

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

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

6 (1) Furnish guards and janitors for the capitol build-  
7 ings and grounds, together with all the apartments there-  
8 in, or connected therewith, and shall furnish janitorial  
9 supplies, light, heat and ventilation for all the rooms and  
10 corridors of the building. Under the direction of the pres-  
11 ident of the Senate and speaker of the House of Delegates,  
12 the board of control shall have charge of the halls and  
13 committee rooms of the two Houses and keep the same  
14 properly cleaned, warmed and in good order, and shall do  
15 and perform such other duties in relation thereto as either  
16 house may require;

17 (2) Furnish part-time messenger service to the various  
18 state departments. Department heads shall be consulted  
19 with reference to the amount of messenger service re-  
20 quired for their departments and an agreed amount for  
21 such service shall be paid by the department directly to  
22 the board of control. Janitor-messengers, or part-time  
23 messengers, shall receive from the board of control com-  
24 pensation for total services in the same manner as other  
25 employees are paid. Any state department shall, how-  
26 ever, have authority to furnish its own messenger service  
27 without using employees of the board of control;

28 (3) Have immediate control and direction of the switch-  
29 board telephone service for the various departments of  
30 the state capitol. Changes in telephone instruments or  
31 equipment in the various departments of the state capi-  
32 tol shall be referred to the board of control and payment  
33 for any such changes will not be honored by the state

34 auditor unless such changes have been approved by the  
35 board of control. A simple accounting system shall be in-  
36 stalled and maintained by the board of control for all  
37 telephone service to the state departments;

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

39 (5) Direct the making of all minor repairs to and al-  
40 terations of the capitol buildings and grounds. Major re-  
41 pairs and alterations shall be made under the supervision  
42 of the board of control, subject to the direction of the board  
43 of public works.

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

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

## CHAPTER 34

(Senate Bill No. 307—By Mr. Eddy)

AN ACT to amend and reenact section six, article one-a, chap-  
ter twenty-five of the code of West Virginia, one thousand  
nine hundred thirty-one, as amended, relating to the reve-  
nue accruing from coal stripping at the West Virginia  
industrial school for boys.

[Passed March 4, 1947; in effect from passage. Approved by the Governor.]

### Article 1-a. Collection and Expenditure of Money Collected at State Institutions.

#### Section

6. Sale of excess farm and dairy products; expenditure of receipts directed and restricted; revenue from coal stripping at the West Virginia Industrial School for Boys.

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

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

- Section 6. *Sale of Excess Farm and Dairy Products; Expenditure of Receipts Directed and Restricted; Revenue from Coal Stripping at the West Virginia Industrial School for Boys.*—The state board of control shall direct the sale of farm and dairy products of farms operated at the various state institutions, but only those products may be sold which cannot be consumed in the institution at which they are produced. The board shall endeavor to sell excess products to other state institutions.
- The board of control is authorized to deposit all revenue heretofore or hereafter accruing from coal stripping on the farm of the West Virginia industrial school for boys at Pruntytown, West Virginia, in the farm sales fund of that institution. Such revenues, after they have been deposited in such fund, may be used as other moneys authorized by law deposited in such fund: *Provided*, That nothing contained in this section shall affect the validity of said coal stripping transactions.
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## CHAPTER 35

(Senate Bill No. 39—By Mr. Vickers, Mr. President, by request)

AN ACT to authorize the West Virginia board of control to expend the balance in fire insurance account No. 6662-12 for the erection of a storage building and the abatement of smoke and soot from the boilers at the West Virginia penitentiary.

[Passed February 27, 1947; in effect from passage. Approved by the Governor.]

### Section

1. Expenditure of balance in fire insurance account for erection of a storage building and abatement of smoke and soot at the state penitentiary.

WHEREAS, As a result of a fire at the West Virginia penitentiary in one thousand nine hundred forty-four, insurance was collected in the amount of thirty-six thousand four hundred ninety-eight dollars and forty-seven cents, and placed in a special account known as fire insurance account No. 6662-12, from which there has been expended the sum of nineteen thousand eight hundred eight dollars and forty-six cents to repair the damage caused by the said fire, leaving in this account a balance of sixteen thousand six hundred ninety dollars and one cent,

Section 1. *Expenditure of Balance in Fire Insurance Account for Erection of a Storage Building and Abatement of Smoke and Soot at the State Penitentiary.*—The West Virginia board of control is hereby authorized to expend a balance of sixteen thousand six hundred ninety dollars and one cent in fire insurance account No. 6662-12 for the erection of a storage building and the abatement of smoke and soot from the boilers at the penitentiary.

## CHAPTER 36

(Com. Sub. for Senate Bill No. 38—Originating in the Senate Committee on Finance)

AN ACT to authorize the West Virginia board of control, within the biennium beginning July first, one thousand nine hundred forty-seven, and ending June thirtieth, one thousand nine hundred forty-nine, to expend from excess collections in the prison industries account, an amount not to exceed one hundred thousand dollars for fireproofing and rendering safe old cell blocks at the West Virginia penitentiary.

[Passed February 27, 1947; in effect from passage. Approved by the Governor.]

### Section

1. Expenditures for fireproofing and rendering safe old cell blocks at the state penitentiary.

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

Section 1. *Expenditures for Fireproofing and Rendering Safe Old Cell Blocks at the State Penitentiary.*—In the event that collections in the prison industries account, within the biennium beginning July first, one thousand nine hundred forty-seven and ending June thirtieth, one thousand nine hundred forty-nine, exceed the amount necessary to purchase manufacturing supplies, equipment, machinery, and materials, to pay necessary personnel in charge, and to defray the necessary expenses incident thereto, the West Virginia board of control is authorized to expend from such excess collections an amount not to exceed one hundred thousand dollars to fireproof and otherwise render safe the old cell blocks at the penitentiary.

## CHAPTER 37

(House Bill No. 25—By Mr. Speaker, Mr. Amos)

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

[Passed February 11, 1947; in effect ninety days from passage. Approved by the Governor.]

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

#### Section

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

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

That section one, article one-a, chapter twenty-five of the

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

Section 1. *Enrollment and Other Fees at Educational Institutions; Refund of Fees.*—The governing boards of state educational institutions shall fix enrollment, tuition, registration, and other fees for each semester or school term for the different classes or categories of students enrolling at the state educational institutions. The schedule of fees, and any changes in the schedule, shall be entered in the minutes of the meetings of the governing board, and the governing board shall file with the state auditor and state budget director a certified copy of such schedule and changes.

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

## CHAPTER 38

(Senate Bill No. 339—By Mr. Hardesty)

AN ACT to amend and reenact section thirty-three, article eight, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the fees for expenses to be charged and collected by the commissioner of banking.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

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

#### Section

#### 33. Fees for expenses.



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

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

Section 33. *Fees for Expenses.*—For making an examination of any corporation under his supervision the commissioner of banking shall charge and collect from such corporation and pay into the state treasury, fees and expenses as follows:

If the examination be made in the state of West Virginia, for the first twenty-five thousand dollars of the assets as shown by the books of the corporation on the date of examination, fifty dollars; and four cents for each additional one thousand dollars of such assets.

If any examination be made at a place outside of this state, the fees shall be at the rate above provided, except that there shall be an additional charge for each examination of twice the amount of the railroad fare from the city of Charleston to the place where the examination is made together with all other actual and necessary expenses in connection therewith.

## CHAPTER 39

(Senate Bill No. 117—By Mr. Love)

AN ACT to amend article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section, numbered six-a, relating to engineering corporations.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Article 1. Provisions Relating to Corporations Generally.

#### Section

6-a. Engineering corporations.

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

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

Section 6-a. *Engineering Corporations.*—After the effective date of this act, no corporation shall be chartered in this state under any name which includes the word “engineer,” “engineers,” “engineering” or any combination of the same, unless the purpose of the corporation is to practice professional engineering as defined by chapter thirty, article thirteen of the code of West Virginia, as amended, and one or more of the incorporators is a registered professional engineer as therein defined.

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## CHAPTER 40

(Senate Bill No. 71—By Mr. Bambrick, by request)

AN ACT to amend article thirteen, chapter thirty-one of the code of West Virginia one thousand nine hundred thirty-one, as amended, by adding thereto a new section designated section thirteen, providing a method of reciprocity between service plans.

[Passed March 1, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 13. Hospital Service Corporation and Medical Service Corporation.

#### Section

13. Reciprocity with other service plans defined; payment authorized.

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

Section 13. *Reciprocity With Other Service Plans Defined; Payment Authorized.*—Hospital and medical service corporations licensed and operating under the provisions

4 of this article are hereby authorized to promote and en-  
5 courage reciprocity with other licensed hospital or medi-  
6 cal plans, both within and without this state, in expanding  
7 their services to subscribers. In the event that a sub-  
8 scriber to a plan requires emergency hospital or medical  
9 service, or, in the event that the particular services that  
10 he receives are not available through the plan to which  
11 he subscribes, such plan is hereby authorized to make  
12 payment on behalf of such subscriber for such service on  
13 a basis not to exceed its schedule of fees to be paid hos-  
14 pitals or physicians, previously approved by the insurance  
15 commissioner and on file in his office.

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## CHAPTER 41

(Senate Bill No. 340—By Mr. Bambrick)

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 auditor as attorney in fact for all corporations.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 1. Provisions Relating to Corporations Generally.

#### Section

71. Auditor attorney in fact for all corporations.

#### *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.*—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

5 every foreign corporation doing business herein, with au-  
6 thority to accept service of notice and process on behalf  
7 of and upon whom service of notice and process may be  
8 made in this state for and upon every such corporation.  
9 No act of such corporation appointing the auditor such  
10 attorney in fact shall be necessary. Immediately after  
11 being served with or accepting any such process or notice,  
12 of which process or notice two copies for each defendant  
13 shall be furnished the auditor with the original notice or  
14 process, the auditor shall file in his office a copy of such  
15 process or notice, with a note thereon endorsed of the  
16 time of service, or acceptance, as the case may be, and  
17 transmit such process, or notice, by registered mail to such  
18 corporation at the address last furnished by it, as required  
19 by law. But no process or notice shall be served on the  
20 auditor or accepted by him less than ten days before  
21 the return day thereof. Such corporation shall pay the  
22 annual fee prescribed in article twelve, chapter eleven  
23 of this code for the services of the auditor as its attorney  
24 in fact.

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## CHAPTER 42

(Senate Bill No. 281—By Mr. Love)

AN ACT to amend article eight, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be designated section two-a, and to amend and reenact sections two, eight and nine of such article, relating to the care and feeding of prisoners in county jails.

[Passed March 7, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 8. Jail and Jailer.

#### Section

2. Jailer; care of jail.
- 2-a. Feeding and care of prisoners; purchase of food and supplies; records; payment of costs.
8. Federal prisoners.
9. Prisoners under civil process.

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

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

Sec. 2. *Jailer; Care of Jail.*—The sheriff of every county shall be the keeper of the jail thereof, but he may, with the assent of the county court, appoint a jailer of the said county, and may take from him a bond with security conditioned for the faithful performance of his duties. The jailer may be a deputy sheriff and shall take an oath of office like other officers. He shall keep the jail in a clean, sanitary and healthful condition. When any prisoner is sick the jailer shall see that he has adequate medical and dental attention and nursing, and so far as possible keep him separate from other prisoners. Any such medical care and nursing as the jailer may be required to furnish shall be paid for by the county court. A failure on the part of the jailer to perform any of the duties herein required with respect to any prisoner in his jail shall be a contempt of any court of record under whose commitment such prisoner is confined, and shall be punished as other contempts of such court.

Sec. 2-a. *Feeding and Care of Prisoners; Purchase of Food and Supplies; Records; Payment of Costs.*—On and after the first day of January, one thousand nine hundred forty-nine, the county court of each county shall provide wholesome and sufficient food and clean and sufficient bedding for all prisoners confined in the county jail, and shall furnish the soaps, disinfectants and other supplies needed by the jailer in the performance of his duties. The county court may require the jailer to act as its agent for the purpose of purchasing, preparing and serving food for prisoners. If, however, the jailer is not named as such agent, he shall make available to the county court, for use in the preparation and serving of food for prisoners, the services of prisoners, to the number requested by the county court. The county court may employ a cook

16 and such other employees as may be necessary in the  
17 performance of duties required of it by this section.

18 All purchases of food, bedding, and other supplies shall  
19 whenever practicable be made at wholesale. Invoices or  
20 itemized statements of account from each vendor of  
21 food, bedding, and other supplies shall be obtained, and  
22 payment of such statements or invoices shall not be au-  
23 thorized by the county court unless and until the county  
24 court has ascertained that the merchandise has been  
25 received and that the terms of the purchase have been  
26 complied with on the part of the vendor. The county  
27 court shall not provide for the feeding of prisoners on a  
28 contract or fee basis.

29 The county court shall keep or cause to be kept a daily  
30 record showing the total number of prisoners confined  
31 in the jail of the county, the number of prisoners ad-  
32 mitted, the number released, and the time of each such  
33 admittance and of each such release. Such record shall  
34 show such information separately as to the prisoners of  
35 the county, of each municipality, and of the United  
36 States. The county court shall also keep or cause to  
37 be kept such other accounts and records as will enable  
38 it to show the per capita daily cost of the feeding and  
39 care of prisoners in each calendar month.

40 The county court shall require to be kept a daily record  
41 of foods served prisoners and, in all counties having a  
42 county health officer, said health officer shall, at least  
43 once a month, inspect such lists and make such recom-  
44 mendations and suggestions as he may deem proper re-  
45 garding daily diets and foods.

46 All actual costs incurred by the county court for sal-  
47 aries and for the purchase of food, bedding and other  
48 supplies shall be paid out of the same funds as payments  
49 to sheriffs of fees for the feeding and care of prisoners  
50 were made immediately prior to the effective date of  
51 this act.

Sec. 8. *Federal Prisoners.*—The jail of any county may  
2 be used for the confinement of persons committed thereto  
3 under the laws of the United States. The jailer thereof  
4 shall receive, keep and discharge such persons pursuant

5 to the commitment, as provided in the laws of the United  
6 States. For a failure of duty as to any such prisoner, the  
7 jailer shall be liable to the United States, or to the creditor  
8 at whose suit the prisoner is in custody, in like manner as  
9 in the case of a prisoner committed under the authority of  
10 the state. No person arrested on civil process shall, under  
11 this section, be committed to any other jail than that of  
12 the county within which such person may reside or be  
13 found.

14 The United States or the creditor, as the case may be,  
15 shall be responsible to the county court for payment of  
16 the costs for the maintenance of any person confined in a  
17 county jail as provided in this section.

18 All provisions of this section which were in effect im-  
19 mediately prior to the passage of this act shall continue  
20 in full force and effect until the thirty-first day of Decem-  
21 ber, one thousand nine hundred forty-eight.

Sec. 9. *Prisoners Under Civil Process.*—The party at  
2 whose suit any person is confined in jail under civil proc-  
3 ess shall be responsible to the county court for the main-  
4 tenance of such person during such confinement, and  
5 payment therefor shall be due monthly. Upon failure  
6 of such party to make payment when due, the jailer may  
7 discharge the prisoner when ordered to do so by the  
8 county court unless the prisoner is held under other  
9 process, but the county court shall have the right to sue  
10 for the amount due as for other money due on contract.  
11 The jailer may require a bond payable to the county court  
12 as security for the payment of such maintenance before  
13 receiving a person on civil process. Any party who shall  
14 have paid for such maintenance of such a prisoner may,  
15 upon motion before the circuit court of such county, or  
16 by action before any justice having jurisdiction, obtain  
17 judgment against the person who was so confined, or his  
18 personal representative, for the amount so paid, with  
19 interest thereon, from the time of such payment.

20 All provisions of this section which were in effect im-  
21 mediately prior to the passage of this act shall continue  
22 in full force and effect until the thirty-first day of De-  
23 cember, one thousand nine hundred forty-eight.

## CHAPTER 43

(Senate Bill No. 292—By Mr. Bowling and Mr. McKown)

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 8, 1947; in effect from passage. Approved by 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 the  
4 sheriff for keeping and feeding each prisoner, other than  
5 federal prisoners or prisoners held under civil process as  
6 provided by law, an amount to be computed in accord-  
7 ance with the following schedule, based on the population  
8 figures appearing in the latest official census:

9 (1) In counties having a population of more than sev-  
10 enty-five thousand, forty-seven cents per day while such  
11 prisoner is actually in jail, and fifty-seven cents per day  
12 while such prisoner is working outside the jail under the  
13 authority of the county court;

14 (2) In counties having a population of more than thir-  
15 ty-five thousand but not more than seventy-five thousand,  
16 fifty-two cents per day while such prisoner is actually in  
17 jail, and sixty-two cents per day while such prisoner is



18 working outside the jail under the authority of the county  
19 court;

20 (3) In counties having a population of more than  
21 twenty thousand but not more than thirty-five thousand,  
22 fifty-seven cents per day while such prisoner is actually  
23 in jail, and sixty-seven cents per day while such prisoner  
24 is working outside the jail under the authority of the  
25 county court;

26 (4) In counties having a population of twenty thou-  
27 sand or less, sixty-two cents per day while such prisoner  
28 is actually in jail, and seventy-two cents per day while  
29 such prisoner is working outside the jail under the au-  
30 thority of the county court.

31 The limitation per day shall not include cost of personal  
32 service, bed or bedding, soaps and disinfectants and items  
33 of like kind, the cost of all of which shall be paid out of  
34 the allowance fixed by the county court under the provi-  
35 sions of present law. All supplies of whatever kind for  
36 keeping and feeding prisoners shall be purchased upon  
37 the requisition of the sheriff under such rules and regu-  
38 lations as may be prescribed by the county court. At the  
39 end of each month the sheriff shall file with the county  
40 court a detailed statement showing the name of each  
41 prisoner, date of commitment and date of discharge, and  
42 number of days in jail, and shall also file an itemized  
43 statement showing each purchase and the cost thereof  
44 for keeping and feeding prisoners.

45 The county court shall allow the actual and necessary  
46 expenses incurred or expended in arresting, pursuing or  
47 transporting persons accused or convicted of crimes and  
48 offenses, and in conveying or transferring to or from any  
49 state institution to which any person may be committed  
50 from his county, where by law the sheriff is authorized  
51 to convey or transfer such person, and may allow the  
52 actual and necessary expenses incurred or expended in  
53 serving summonses, notices and other official papers in  
54 connection with the sheriff's office. The amount of such  
55 expenses so allowed, however, shall not in the aggregate  
56 exceed the total fees earned by the sheriff for any year for  
57 serving such papers. Every sheriff shall file monthly, un-

58 der oath, a full and accurate account of all his actual and  
59 necessary expenses mentioned in this section before pay-  
60 ment thereof shall be allowed by the county court: *Pro-*  
61 *vided*, That the allowance to sheriffs for expenses in the  
62 keeping of prisoners shall be effective only through De-  
63 cember thirty-first, one thousand nine hundred forty-  
64 eight.

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## CHAPTER 44

(Com. Sub. for Senate Bill No. 195—Originating in the Senate Committee on  
Counties and Municipal Corporations)

AN ACT to amend and reenact section five and sections five-  
(one) to five-(fifty-six), inclusive, article two, chapter  
eleven of the code of West Virginia, one thousand nine hun-  
dred thirty-one, as amended, relating to the compensation  
of county assessors.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the  
Governor.]

### Article 2. Assessors.

#### Section

5. Annual salary of assessors.

5-(1) to 5-(55). Salaries of assessors in the various counties of the  
state.

5-(56). Additional compensation; salaries paid out of county fund.

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

That section five, and sections five-(one) to five-(fifty-six),  
inclusive, article two, chapter eleven of the code of West Vir-  
ginia, one thousand nine hundred thirty-one, as amended, be  
amended and reenacted to read as follows:

Section 5. *Annual Salary of Assessors.*—The annual  
2 salary of the assessor in each county shall, on and after  
3 January one, one thousand nine hundred forty-nine, be  
4 in the amounts set forth in sections one-(one) to one-  
5 (fifty-five), inclusive, of this article.

Sec. 5-(1). *Barbour County*.—For the county of Barbour, two thousand two hundred dollars.

Sec. 5-(2). *Berkeley County*.—For the county of Berkeley, two thousand dollars;

Sec. 5-(3). *Boone County*.—For the county of Boone, two thousand seven hundred dollars.

Sec. 5-(4). *Braxton County*.—For the county of Braxton, two thousand three hundred dollars.

Sec. 5-(5). *Brooke County*.—For the county of Brooke, two thousand eight hundred dollars.

Sec. 5-(6). *Cabell County*.—For the county of Cabell, four thousand dollars.

Sec. 5-(7). *Calhoun County*.—For the county of Calhoun, one thousand two hundred dollars.

Sec. 5-(8). *Clay County*.—For the county of Clay, one thousand seven hundred dollars.

Sec. 5-(9). *Doddridge County*.—For the county of Doddridge, one thousand eight hundred dollars.

Sec. 5-(10). *Fayette County*.—For the county of Fayette, not less than four thousand two hundred dollars nor more than four thousand eight hundred dollars, to be fixed by the county court.

Sec. 5-(11). *Gilmer County*.—For the county of Gilmer, one thousand eight hundred dollars.

Sec. 5-(12). *Grant County*.—For the county of Grant, one thousand five hundred dollars.

Sec. 5-(13). *Greenbrier County*.—For the county of Greenbrier, two thousand dollars.

Sec. 5-(14). *Hampshire County*.—For the county of Hampshire, one thousand seven hundred dollars.

Sec. 5-(15). *Hancock County*.—For the county of Hancock, three thousand dollars.

Sec. 5-(16). *Hardy County*.—For the county of Hardy, one thousand eight hundred dollars.

2     Sec. 5-(17). *Harrison County*.—For the county of Harrison, four thousand dollars.

2     Sec. 5-(18). *Jackson County*.—For the county of Jackson, one thousand five hundred dollars.

2     Sec. 5-(19). *Jefferson County*.—For the county of Jefferson, two thousand six hundred dollars.

2     Sec. 5-(20). *Kanawha County*.—For the county of Kanawha, five thousand dollars.

2     Sec. 5-(21). *Lewis County*.—For the county of Lewis, two thousand six hundred dollars.

2     Sec. 5-(22). *Lincoln County*.—For the county of Lincoln, two thousand three hundred dollars.

2     Sec. 5-(23). *Logan County*.—For the county of Logan, four thousand dollars.

2     Sec. 5-(24). *Marion County*.—For the county of Marion, three thousand dollars.

2     Sec. 5-(25). *Marshall County*.—For the county of Marshall, three thousand dollars.

2     Sec. 5-(26). *Mason County*.—For the county of Mason, one thousand eight hundred dollars;

2     Sec. 5-(27). *McDowell County*.—For the county of McDowell, three thousand nine hundred dollars.

2     Sec. 5-(28). *Mercer County*.—For the county of Mercer, four thousand eight hundred dollars.

2     Sec. 5-(29). *Mineral County*.—For the county of Mineral, two thousand dollars.

2     Sec. 5-(30). *Mingo County*.—For the county of Mingo, three thousand three hundred dollars.

2     Sec. 5-(31). *Monongalia County*.—For the county of Monongalia, two thousand six hundred dollars.

2     Sec. 5-(32). *Monroe County*.—For the county of Monroe, one thousand five hundred dollars.

2       Sec. 5-(33). *Morgan County*.—For the county of Morgan, one thousand two hundred dollars.

2       Sec. 5-(34). *Nicholas County*.—For the county of Nicholas, one thousand eight hundred twenty dollars.

2       Sec. 5-(35). *Ohio County*.—For the county of Ohio, three thousand eight hundred dollars.

2       Sec. 5-(36). *Pendleton County*.—For the county of Pendleton, one thousand five hundred dollars.

2       Sec. 5-(37). *Pleasants County*.—For the county of Pleasants, one thousand eight hundred dollars.

2       Sec. 5-(38). *Pocahontas County*.—For the county of Pocahontas, one thousand two hundred dollars.

2       Sec. 5-(39). *Preston County*.—For the county of Preston, two thousand eight hundred dollars.

2       Sec. 5-(40). *Putnam County*.—For the county of Putnam, two thousand four hundred dollars.

2       Sec. 5-(41). *Raleigh County*.—For the county of Raleigh, three thousand six hundred dollars.

2       Sec. 5-(42). *Randolph County*.—For the county of Randolph, two thousand seven hundred dollars.

2       Sec. 5-(43). *Ritchie County*.—For the county of Ritchie, one thousand eight hundred dollars.

2       Sec. 5-(44). *Roane County*.—For the county of Roane, one thousand eight hundred dollars.

2       Sec. 5-(45). *Summers County*.—For the county of Summers, one thousand eight hundred dollars.

2       Sec. 5-(46). *Taylor County*.—For the county of Taylor, two thousand two hundred fifty dollars.

2       Sec. 5-(47). *Tucker County*.—For the county of Tucker, one thousand eight hundred dollars.

2       Sec. 5-(48). *Tyler County*.—For the county of Tyler, two thousand four hundred dollars.

2       Sec. 5-(49). *Upshur County*.—For the county of Upshur, two thousand dollars.

2       Sec. 5-(50). *Wayne County*.—For the county of Wayne, three thousand three hundred dollars.

2       Sec. 5-(51). *Webster County*.—For the county of Webster, two thousand dollars.

2       Sec. 5-(52). *Wetzel County*.—For the county of Wetzel, two thousand six hundred dollars.

2       Sec. 5-(53). *Wirt County*.—For the county of Wirt, one thousand one hundred dollars.

2       Sec. 5-(54). *Wood County*.—For the county of Wood, two thousand eight hundred dollars.

2       Sec. 5-(55). *Wyoming County*.—For the county of Wyoming, three thousand dollars.

2       Sec. 5-(56). *Additional Compensation; Salaries Paid Out of County Fund*.—In addition to the above salary each  
3       assessor shall receive a commission of ten per cent on all  
4       state school, road and municipal capitation taxes collected  
5       by him. The salaries of assessors and their deputies, assistants and employees shall be paid out of the county  
7       fund at the time and in the manner now provided by law  
8       for paying other county officers.

## CHAPTER 45

(House Bill No. 453—By Mr. Adkins and Mr. Tucker)

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

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

## **Article 1. County Courts Generally.**

### **Section**

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

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

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

That section five 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, as last amended by chapter thirty-three, acts of the Legislature, regular session, one thousand nine hundred forty-five, 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

14 undue deterioration thereof; to supervise and control the  
15 purchase of furniture, fixtures and equipment, and janitors'  
16 and other supplies, for their county; to attend the  
17 annual meeting of county assessors, and such district  
18 meetings as may be called by the state tax commissioner,  
19 on matters pertaining to the work of the county assessors  
20 and county courts as boards of review and equalization;  
21 to review and equalize the assessments made by the  
22 assessors; to inspect and review the lists of property,  
23 both real and personal, made up by the assessor and his  
24 deputies for taxable purposes, and to point out to the  
25 assessor any property, real or personal, which the said  
26 assessors of their respective counties may have overlooked  
27 or omitted to place on said tax lists; to call to the  
28 attention of the assessor all real estate or personal property  
29 belonging to churches, lodges, schools or other charitable  
30 institutions which may have been overlooked or  
31 omitted by the assessor or his deputies in making up his  
32 lists of property for entry on the land and personal property  
33 books, to cooperate with the county public assistance  
34 council and supervise the general management of the  
35 fiscal affairs and business of each county.

36 Compensation shall be allowed and paid out of the  
37 county treasury, in the same manner as salaries are paid,  
38 to each county commissioner of each county (except as  
39 otherwise provided by law for the county of Ohio), for  
40 services performed for such county concerning the visiting  
41 of the poor, inspection of jails, bridges and bridge  
42 approaches, and for visiting detention homes for children;  
43 and for providing for and supervising the repair  
44 and maintenance of the county courthouse, jails, houses  
45 for the poor, and other county property, and for supervising  
46 and controlling the purchase of furniture, fixtures  
47 and equipment and janitors' and other supplies of their  
48 county; and for attending the annual meeting of assessors  
49 and such district meetings as may be called by the state  
50 tax commissioner, on matters pertaining to the work of  
51 assessors and county courts as boards of review and  
52 equalization; for reviewing and equalizing the assessments  
53 made by the assessor; for inspecting and reviewing



54 ing the lists of property, both real and personal, made  
55 up by the assessor and his deputies for taxable purposes,  
56 and for pointing out to the assessor any property, real  
57 or personal, which the said assessors of their respective  
58 counties may have overlooked or omitted to place on said  
59 tax lists; for calling to the attention of the assessor all  
60 real estate or personal property belonging to churches,  
61 lodges, schools or other charitable institutions which may  
62 have been overlooked or omitted by the assessor or his  
63 deputies in making up his lists of property for entry on  
64 the land and personal property books; and for duties of  
65 the county commissioners in cooperating with the county  
66 public assistance council, and for supervising and gen-  
67 eral management of the fiscal affairs and business of  
68 each county, within their counties, and other business  
69 by such commissioners, in addition to compensation for  
70 services in court, the sums of money hereinafter provided  
71 in the following sections five-(one) to five-(fifty-four),  
72 inclusive.

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

Sec. 5-(2). *Berkeley County*.—For the county of Berke-  
2 ley, the president of the court seventy-five dollars and  
3 the other members of the court fifty dollars per  
4 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.

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

2     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 Gil-  
2     mer, twenty-five dollars per month.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 5-(40). *Raleigh County*. — For the county of  
2 Raleigh, the president of the county court one hundred  
3 seventy-five dollars per month and other members of  
4 the court one hundred sixty dollars per month.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## CHAPTER 46

(Senate Bill No. 282—By Mr. Love)

AN ACT to amend and reenact sections one and one-(one) to one-(fifty-five), inclusive, and section twelve, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the salaries and expenses of sheriffs.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

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

#### Section

##### 1. Salaries of sheriffs.

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

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

That sections one and one-(one) to one-(fifty-five), inclusive, and 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 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, four thousand dollars.

Sec. 1-(3) *Boone County.*—For the county of Boone, three thousand six hundred dollars.

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

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

Sec. 1-(6) *Cabell County*.—For the county of Cabell,  
2 seven thousand five hundred dollars.

Sec. 1-(7) *Calhoun County*.—For the county of Cal-  
2 houn county, two thousand dollars.

Sec. 1-(8) *Clay County*.—For the county of Clay, two  
2 thousand dollars.

Sec. 1-(9) *Doddridge County*.—For the county of  
2 Doddridge, two thousand five hundred dollars.

Sec. 1-(10) *Fayette County*.—For the county of Fay-  
2 ette, seven thousand five hundred dollars.

Sec. 1-(11) *Gilmer County*.—For the county of Gil-  
2 mer, two thousand four hundred dollars.

Sec. 1-(12) *Grant County*.—For the county of Grant,  
2 two thousand dollars.

Sec. 1-(13) *Greenbrier County*.—For the county of  
2 Greenbrier, three thousand two hundred dollars.

Sec. 1-(14) *Hampshire County*.—For the county of  
2 Hampshire, two thousand four hundred dollars.

Sec. 1-(15) *Hancock County*.—For the county of Han-  
2 cock, three thousand eight hundred dollars.

Sec. 1-(16) *Hardy County*.—For the county of Hardy,  
2 one thousand eight hundred dollars.

Sec. 1-(17) *Harrison County*.—For the county of Har-  
2 rison, six thousand dollars.

Sec. 1-(18) *Jackson County*.—For the county of Jack-  
2 son, two thousand dollars.

Sec. 1-(19) *Jefferson County*.—For the county of Jef-  
2 ferson, three thousand two hundred dollars.

Sec. 1-(20) *Kanawha County*.—For the county of Kan-  
2 awha, seven thousand five hundred dollars.

2      Sec. 1-(21) *Lewis County*.—For the county of Lewis,  
2      three thousand dollars.

2      Sec. 1-(22) *Logan County*.—For the county of Logan,  
2      six thousand five hundred dollars.

2      Sec. 1-(23) *Lincoln County*.—For the county of Lin-  
2      coln, three thousand dollars.

2      Sec. 1-(24) *Marion County*.—For the county of Ma-  
2      rion, six thousand five hundred dollars.

2      Sec. 1-(25) *Marshall County*.—For the county of Mar-  
2      shall, three thousand eight hundred dollars.

2      Sec. 1-(26) *Mason County*.—For the county of Mason,  
2      three thousand dollars.

2      Sec. 1-(27) *Mercer County*.—For the county of Mer-  
2      cer, six thousand dollars.

2      Sec. 1-(28) *Mineral County*.—For the county of Min-  
2      eral, three thousand dollars.

2      Sec. 1-(29) *Mingo County*.—For the county of Mingo,  
2      five thousand dollars.

2      Sec. 1-(30) *Monongalia County*.—For the county of  
2      Monongalia, five thousand dollars.

2      Sec. 1-(31) *Monroe County*.—For the county of Mon-  
2      roe, one thousand eight hundred dollars.

2      Sec. 1-(32) *McDowell County*.—For the county of  
2      McDowell, seven thousand dollars.

2      Sec. 1-(33) *Morgan County*.—For the county of Mor-  
2      gan, one thousand five hundred dollars.

2      Sec. 1-(34) *Nicholas County*.—For the county of  
2      Nicholas, two thousand eight hundred dollars.

2      Sec. 1-(35) *Ohio County*.—For the county of Ohio,  
2      five thousand dollars.

2      Sec. 1-(36) *Pendleton County*.—For the county of  
2      Pendleton, one thousand six hundred dollars.

Sec. 1-(37) *Pleasants County*.—For the county of  
2 Pleasants, two thousand four hundred dollars.

Sec. 1-(38) *Pocahontas County*.—For the county of  
2 Pocahontas, two thousand five hundred dollars.

Sec. 1-(39) *Preston County*.—For the county of Pres-  
2 ton, three thousand five hundred dollars.

Sec. 1-(40) *Putnam County*.—For the county of Put-  
2 nam, two thousand four hundred dollars.

Sec. 1-(41) *Raleigh County*.—For the county of  
2 Raleigh, seven thousand dollars.

Sec. 1-(42). *Randolph County*.—For the county of  
2 Randolph, three thousand six hundred dollars.

Sec. 1-(43) *Ritchie County*.—For the county of Ritchie,  
2 three thousand dollars.

Sec. 1-(44) *Roane County*.—For the county of Roane,  
2 two thousand four hundred dollars.

Sec. 1-(45) *Summers County*.—For the county of  
2 Summers, three thousand dollars.

Sec. 1-(46) *Taylor County*.—For the county of Taylor,  
2 two thousand four hundred dollars.

Sec. 1-(47) *Tucker County*.—For the county of Tucker,  
2 two thousand seven hundred dollars.

Sec. 1-(48) *Tyler County*.—For the county of Tyler,  
2 two thousand seven hundred dollars.

Sec. 1-(49) *Upshur County*.—For the county of Up-  
2 shur, two thousand seven hundred dollars.

Sec. 1-(50) *Wayne County*.—For the county of Wayne,  
2 four thousand eight hundred dollars.

Sec. 1-(51) *Webster County*.—For the county of Web-  
2 ster, three thousand dollars.

Sec. 1-(52) *Wetzel County*.—For the county of Wetzel,  
2 three thousand six hundred dollars.



Sec. 1-(53) *Wirt County*.—For the county of Wirt, one thousand six hundred fifty dollars.

Sec. 1-(54) *Wood County*.—For the county of Wood, five thousand dollars.

Sec. 1-(55) *Wyoming County*.—For the county of Wyoming, four thousand eight hundred dollars.

Sec. 12. *Allowance for Expenses for Sheriff*.—On and after the first day of January, one thousand nine hundred forty-nine, the county court shall allow the actual and necessary expenses incurred or expended in arresting, pursuing, or transporting persons accused or convicted of crimes and offenses, and in conveying or transferring any person to or from any state institution to which he may be committed from his county, where by law the sheriff is authorized to convey or transfer such person, and may allow the actual and necessary expenses incurred or expended in serving summonses, notices and other official papers in connection with the sheriff's office. The amount of such expenses so allowed, however, shall not in the aggregate exceed the total fees earned by the sheriff for any year for serving such papers. Every sheriff shall file monthly, under oath, a full and accurate account of all his actual and necessary expenses mentioned in this section before payment thereof shall be allowed by the county court.

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## CHAPTER 47

(Senate Bill No. 76—By Mr. Winters and Mr. McKown)

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 thirty-six, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to assistants and stenographers or clerks for prosecuting attorneys; salaries; and when the court may appoint attorney to prosecute.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

## **Article 7. Salaries, Deputies and Assistants and Their Salaries.**

### **Section**

6. Assistants, stenographers and clerks for prosecuting attorney; salaries; when court may appoint attorney to prosecute.

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

That section six, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter thirty-six, acts of the Legislature, regular session, one thousand nine hundred forty-five, 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 the county in which he is appointed, for any cause for which his principal might be removed. The compensation of such assistant shall be paid by the principal, except in the counties of Barbour, Berkeley, Boone, Brooke, Cabell, Calhoun, Clay, Fayette, Harrison, Hancock, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Nicholas, Ohio, Putnam, Raleigh, Randolph, Summers, Taylor, Upshur, Wayne, Webster, Wetzel, Wood and Wyoming, and in said counties the county court thereof shall allow annually to such assistants such compensation to be paid out of the county treasury as is deemed reasonable by the court, except that in Hancock county the sal-

27 ary of such assistant shall not be less than one thousand  
28 two hundred dollars nor more than one thousand eight  
29 hundred dollars; in Ohio county for the first assistant, three  
30 thousand dollars, and for the second assistant not to exceed  
31 two thousand four hundred dollars; in Kanawha county  
32 for the first assistant, not less than five thousand and not  
33 more than six thousand dollars, and for the second as-  
34 sistant not less than five thousand nor more than six  
35 thousand dollars; in Cabell county for the first assistant,  
36 not less than twenty-four hundred and not more than  
37 thirty-six hundred dollars, and for the second assistant  
38 not more than twenty-four hundred dollars; in McDowell  
39 county, not less than three thousand dollars nor more  
40 than three thousand six hundred dollars for each assist-  
41 ant; in Marion county, not less than three thousand nor  
42 more than three thousand six hundred dollars; in Raleigh  
43 county, not more than three thousand dollars; in Mingo  
44 county, not to exceed three thousand dollars; in Harrison  
45 county, not less than one thousand five hundred nor more  
46 than four thousand five hundred dollars; in Mercer county,  
47 four thousand two hundred dollars; in Summers and Wood  
48 counties, not less than one thousand nor more than two  
49 thousand dollars; in Logan county, not less than three  
50 thousand dollars nor more than three thousand six hun-  
51 dred dollars; in Fayette county for the first assistant, not  
52 less than three thousand six hundred nor more than four  
53 thousand two hundred dollars, and for the second assistant  
54 not to exceed two thousand eight hundred dollars; in Boone  
55 and Wyoming counties, not less than one thousand two  
56 hundred nor more than two thousand four hundred dol-  
57 lars; in Barbour county, one thousand dollars; in Mononga-  
58 lia county, two thousand four hundred dollars; in Wayne  
59 county, two thousand five hundred dollars; in Berkeley  
60 county, not to exceed one thousand eight hundred dollars;  
61 in Lewis, Lincoln, Marshall, Mason, Mineral, Nicholas and  
62 Upshur counties, not to exceed twelve hundred dollars, and  
63 in Randolph county not to exceed one thousand five hun-  
64 dred dollars; in Webster and Wetzel counties, not less  
65 than six hundred nor more than nine hundred dollars;  
66 in Taylor county, not to exceed six hundred dollars; in

67 Putnam and Calhoun counties, three hundred dollars. In  
68 each case such compensation shall include the compen-  
69 sation provided by law for such assistant's services as  
70 attorney for boards of education and other administra-  
71 tive boards and officers of the county.

72 In any case in which it would, in the opinion of the  
73 court, be improper for the prosecuting attorney and his  
74 assistant (if he has one) to act, or if the prosecuting at-  
75 torney and his assistant be unable to act, such court shall  
76 appoint some competent practicing attorney to prosecute  
77 such cases; and upon the performance of the service for  
78 which he was appointed, the court shall certify that fact,  
79 with its opinion of what would be a reasonable allowance  
80 to such attorney for the service rendered, to the county  
81 court of the county, and such sum, or a different sum,  
82 when allowed by the county court, shall be paid out of  
83 the county treasury: *Provided*, That nothing in this sec-  
84 tion shall be construed to prohibit the employment by  
85 any person of a competent attorney or attorneys to assist  
86 in the prosecution of any person or corporation charged  
87 with crime.

88 In each of the counties herein named, except Harrison  
89 and Fayette and including Greenbrier, Lewis, Hampshire,  
90 Pocahontas, Putnam, Ritchie, Roane and Upshur, the pros-  
91 ecuting attorney may employ a stenographer for his office  
92 at a salary, payable out of the county treasury, of not less  
93 than nine hundred nor more than two thousand dollars *per*  
94 annum; except, the annual salary of such stenographer in  
95 Barbour, Lewis, Pocahontas, Taylor and Roane counties  
96 shall not exceed one thousand two hundred dollars; in  
97 Calhoun, Putnam, Ritchie and Upshur counties, shall not  
98 exceed nine hundred dollars; in Hampshire county shall  
99 not be less than one thousand dollars nor more than twelve  
100 hundred dollars; in Berkeley county, shall not be less than  
101 six hundred dollars nor exceed one thousand five hundred  
102 dollars; in Boone county, shall be one thousand eight hun-  
103 dred dollars; and in Braxton county, shall be twelve hun-  
104 dred twenty dollars; in Webster county, shall be nine hun-  
105 dred dollars; in Jefferson, Tyler and Gilmer counties, shall  
106 not exceed nine hundred dollars: *Provided*, That in each

107 of the last four named counties the prosecuting attorney  
108 may not employ a stenographer except with the consent of  
109 the county court entered of record.

110 In the county of Harrison, the prosecuting attorney may  
111 employ two stenographers for his office at a salary for  
112 each stenographer of not less than nine hundred nor more  
113 than one thousand two hundred dollars per annum, pay-  
114 able out of the county treasury.

115 In the counties of Clay and Wetzel, the prosecuting  
116 attorney may employ a clerk or stenographer for his  
117 office at a salary of one thousand two hundred dollars  
118 per annum, payable out of the county treasury; except,  
119 that in the county of Clay, in lieu of the appointment of  
120 such clerk or stenographer, the prosecuting attorney may  
121 employ a practicing attorney of said county as his assist-  
122 ant at a salary of not less than one thousand nor more  
123 than one thousand five hundred dollars per annum, pay-  
124 able out of the county treasury.

125 In the counties of Mingo and Preston, the prosecuting  
126 attorney may employ one stenographer for his office at  
127 a salary not to exceed two thousand four hundred dollars  
128 per annum for the county of Mingo and one thousand  
129 eight hundred dollars per annum for the county of Pres-  
130 ton, payable out of the county treasury.

131 In the county of Jackson, the prosecuting attorney may  
132 employ one stenographer or clerk for his office at a sal-  
133 ary of six hundred dollars per annum, payable out of the  
134 county treasury.

135 In the county of Mercer, the prosecuting attorney may  
136 employ one stenographer or clerk for his office at a salary  
137 of not to exceed the sum of two thousand four hundred  
138 dollars per annum, payable out of the county treasury.

139 In the counties of Hardy and Grant, the prosecuting  
140 attorney may employ one stenographer or clerk for his  
141 office with the consent of the county court, at a salary  
142 not to exceed five hundred dollars per annum, payable  
143 out of the county treasury as salaries of county officials  
144 are paid. The amount of said salary for one thousand  
145 nine hundred forty-five for Hardy and Grant counties,  
146 shall be fixed by the county court of each of said counties

147 at its first regular meeting after the effective date of this  
148 act and annually thereafter at its first regular meeting  
149 in each year.

150 In the counties of Mason and Wyoming, the prosecuting  
151 attorney may employ one stenographer at a salary to be  
152 fixed by the county court and payable out of the treasury  
153 of said county.

154 In the county of Kanawha the prosecuting attorney  
155 may employ one stenographer at a salary not to exceed  
156 two thousand five hundred dollars per annum to be fixed  
157 by the county court and payable out of the treasury of  
158 said county.

159 In the county of Hancock the prosecuting attorney may  
160 employ one stenographer at a salary of not more than  
161 two thousand four hundred dollars per annum, payable  
162 out of the treasury of said county.

163 In the county of Randolph the prosecuting attorney  
164 may employ one stenographer at a salary of not less than  
165 one thousand five hundred dollars per annum and not  
166 more than two thousand dollars per annum to be fixed  
167 by the county court and payable out of the treasury of  
168 said county.

169 In the county of Fayette the prosecuting attorney may  
170 employ one stenographer at a salary of not to exceed  
171 twenty-four hundred dollars per year to be fixed by the  
172 county court and payable out of the treasury of said  
173 county.

174 In the county of McDowell, the prosecuting attorney  
175 may employ one stenographer at a salary of not less than  
176 one thousand five hundred dollars nor more than two  
177 thousand four hundred dollars per year to be fixed by  
178 the county court and payable out of the treasury of such  
179 county.

## CHAPTER 48

(Com. Sub. for Senate Bill No. 263—Originating in the Senate Committee on Counties and Municipal Corporations)

AN ACT to amend and reenact section two, sections two-(one) to two-(fifty-two), inclusive; section three, sections three-(one) to three-(fifty-two), inclusive; section four; and section five, sections five-(one) to five-(fifty-five), inclusive, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to salaries of clerks and joint clerks of county and circuit courts, and prosecuting attorneys.

[Passed March 8, 1947; 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

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-(1) to 5-(55). Salaries of prosecuting attorneys in the various counties of the state.

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

That section two, sections two-(one) to two-(fifty-two) inclusive; sections three, sections three-(one) to three-(fifty-two), inclusive; section four and section five, sections five-(one) to five-(fifty-five), inclusive, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

- Section 2. *Salaries of County Clerks.*—The annual compensation of the clerk of the county court of each county shall, on and after January one, one thousand nine hundred fifty-one, 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 seven hundred dollars.

2       Sec. 2-(4). *Braxton County*.—For the county of Braxton, two thousand eight hundred dollars.

2       Sec. 2-(5). *Brooke County*.—For the county of Brooke, two thousand four 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 nine 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, not less than four thousand two hundred dollars  
3 nor more than four thousand eight hundred dollars, to  
4 be fixed by the county court.

2       Sec. 2-(11). *Gilmer County*.—For the county of Gilmer, two thousand one hundred dollars.

2       Sec. 2-(12). *Greenbrier County*.—For the county of Greenbrier, three thousand 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 Jack-  
son, one thousand eight hundred dollars.

2       Sec. 2-(17). *Jefferson County*.—For the county of Jef-  
ferson, two thousand two hundred dollars.

2       Sec. 2-(18). *Kanawha County*.—For the county of Kan-  
awha, seven 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 Lin-  
coln, two thousand seven hundred dollars.

2       Sec. 2-(21). *Logan County*.—For the county of Logan,  
four thousand five 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 Mar-  
shall, 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 Mer-  
cer, five thousand dollars.

2       Sec. 2-(27). *Mineral County*.—For the county of Min-  
eral, three thousand dollars.

2       Sec. 2-(28). *Mingo County*.—For the county of Mingo,  
three thousand six hundred 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 Mon-  
roe, one thousand eight hundred dollars.

2       Sec. 2-(31). *Morgan County*.—For the county of Mor-  
gan, 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, two thousand dollars.

2     Sec. 2-(35). *Pocahontas County*.—For the county of Pocahontas, two thousand four hundred dollars.

2     Sec. 2-(36). *Preston County*.—For the county of Preston, three thousand 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 five 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 fifty dollars.

2     Sec. 2-(44). *Tucker County*.—For the county of Tucker, two thousand four hundred dollars.

2     Sec. 2-(45). *Tyler County*.—For the county of Tyler, two thousand four hundred dollars.

2     Sec. 2-(46). *Upshur County*.—For the county of Upshur, three thousand dollars.

2     Sec. 2-(47). *Wayne County*.—For the county of Wayne, three thousand dollars.

2     Sec. 2-(48). *Webster County*.—For the county of Webster, two thousand six hundred dollars.

2     Sec. 2-(49). *Wetzel County*.—For the county of Wetzel, two thousand eight hundred dollars.

2     Sec. 2-(50). *Wirt County*.—For the county of Wirt, one thousand two hundred dollars.

2     Sec. 2-(51). *Wood County*.—For the county of Wood, three thousand six hundred dollars.

2     Sec. 2-(52). *Wyoming County*.—For the county of Wyoming, three thousand six hundred dollars.

2     Sec. 3. *Salaries of Circuit Clerks*.—The annual compensation of the clerk of the circuit court (or clerk of the circuit and criminal or intermediate or other court of limited jurisdiction) in each county shall, on and after January one, one thousand nine hundred fifty-one, be in the amounts set forth in sections three-(one) to three-(fifty-two), inclusive, of this article.

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

2     Sec. 3-(2). *Berkeley County*.—For the county of Berkeley, two thousand two hundred dollars.

2     Sec. 3-(3). *Boone County*.—For the county of Boone, two thousand seven hundred dollars.

2     Sec. 3-(4). *Braxton County*.—For the county of Braxton, two thousand six hundred dollars.

2     Sec. 3-(5). *Brooke County*.—For the county of Brooke, two thousand four hundred dollars.

2     Sec. 3-(6). *Cabell County*.—For the county of Cabell, five thousand dollars.

2     Sec. 3-(7). *Calhoun County*.—For the county of Calhoun, one thousand two hundred dollars.

2     Sec. 3-(8). *Clay County*.—For the county of Clay, one thousand six hundred dollars.

Sec. 3-(9). *Doddridge County*.—For the county of  
2 Doddridge, one thousand seven hundred dollars.

Sec. 3-(10). *Fayette County*.—For the county of Fay-  
2 ette, not less than four thousand two hundred dollars nor  
3 more than four thousand eight hundred dollars, to be  
4 fixed by the county court.

Sec. 3-(11). *Gilmer County*.—For the county of Gilmer,  
2 one thousand eight hundred dollars.

Sec. 3-(12). *Greenbrier County*.—For the county of  
2 Greenbrier, two thousand two hundred dollars.

Sec. 3-(13). *Hampshire County*.—For the county of  
2 Hampshire, one thousand four hundred forty dollars.

Sec. 3-(14). *Hancock County*.—For the county of Han-  
2 cock, two thousand seven hundred dollars.

Sec. 3-(15). *Harrison County*.—For the county of Har-  
2 rison, four thousand dollars.

Sec. 3-(16). *Jackson County*.—For the county of Jack-  
2 son, one thousand five hundred dollars.

Sec. 3-(17). *Jefferson County*.—For the county of Jeff-  
2 erson, two thousand six hundred dollars.

Sec. 3-(18). *Kanawha County*.—For the county of Ka-  
2 nawha, seven thousand five hundred dollars.

Sec. 3-(19). *Lewis County*.—For the county of Lewis,  
2 two thousand two hundred dollars.

Sec. 3-(20). *Lincoln County*.—For the county of Lin-  
2 coln, two thousand three hundred dollars.

Sec. 3-(21). *Logan County*.—For the county of Logan,  
2 four thousand five hundred dollars.

Sec. 3-(22). *Marion County*.—For the county of Ma-  
2 rion, four thousand eight hundred dollars.

Sec. 3-(23). *Marshall County*.—For the county of Mar-  
2 shall, three thousand dollars.

Sec. 3-(24). *Mason County*.—For the county of Mason,  
2 one thousand eight hundred dollars.

Sec. 3-(25). *McDowell County*.—For the county of Mc-  
2 Dowell, four thousand five hundred dollars.

Sec. 3-(26). *Mercer County*.—For the county of Mer-  
2 cer, five thousand dollars.

Sec. 3-(27). *Mineral County*.—For the county of Min-  
2 eral, three thousand dollars.

Sec. 3-(28). *Mingo County*.—For the county of Mingo,  
2 three thousand six hundred dollars.

Sec. 3-(29). *Monongalia County*.—For the county of  
2 Monongalia, three thousand six hundred dollars.

Sec. 3-(30). *Monroe County*.—For the county of Mon-  
2 roe, one thousand three hundred twenty dollars.

Sec. 3-(31). *Morgan County*.—For the county of Mor-  
2 gan, one thousand dollars.

Sec. 3-(32). *Nicholas County*.—For the county of Nich-  
2 olas, two thousand dollars.

Sec. 3-(33). *Ohio County*.—For the county of Ohio,  
2 five thousand five hundred dollars.

Sec. 3-(34). *Pleasants County*.—For the county of  
2 Pleasants, one thousand eight hundred fifty dollars.

Sec. 3-(35). *Pocahontas County*.—For the county of  
2 Pocahontas, two thousand one hundred dollars.

Sec. 3-(36). *Preston County*.—For the county of Pres-  
2 ton, two thousand seven hundred dollars.

Sec. 3-(37). *Putnam County*.—For the county of Put-  
2 nam, two thousand dollars.

Sec. 3-(38). *Raleigh County*.—For the county of Ra-  
2 leigh, four thousand two hundred dollars.

Sec. 3-(39). *Randolph County*.—For the county of  
2 Randolph, three thousand dollars.

2     Sec. 3-(40). *Ritchie County*.—For the county of Ritchie, two thousand one hundred dollars.

2     Sec. 3-(41). *Roane County*.—For the county of Roane, one thousand eight hundred dollars.

2     Sec. 3-(42). *Summers County*.—For the county of Summers, one thousand eight hundred dollars.

2     Sec. 3-(43). *Taylor County*.—For the county of Taylor, two thousand two hundred fifty dollars.

2     Sec. 3-(44). *Tucker County*.—For the county of Tucker, two thousand two hundred dollars.

2     Sec. 3-(45). *Tyler County*.—For the county of Tyler, two thousand two hundred dollars.

2     Sec. 3-(46). *Upshur County*.—For the county of Upshur, two thousand seven hundred dollars.

2     Sec. 3-(47). *Wayne County*.—For the county of Wayne, two thousand seven hundred dollars.

2     Sec. 3-(48). *Webster County*.—For the county of Webster, two thousand four hundred dollars.

2     Sec. 3-(49). *Wetzel County*.—For the county of Wetzel, two thousand four hundred dollars.

2     Sec. 3-(50). *Wirt County*.—For the county of Wirt, nine hundred dollars.

2     Sec. 3-(51). *Wood County*.—For the county of Wood, three thousand dollars.

2     Sec. 3-(52). *Wyoming County*.—For the county of Wyoming, three thousand six hundred dollars.

2     Sec. 4. *Salaries of Joint Clerks of County and Circuit 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 held  
5 by the same person, including the compensation for new  
6 duties imposed by acts of the Legislature, sessions of one  
7 thousand nine hundred forty-five and one thousand nine

8 hundred forty-seven, on and after July one, one thousand  
9 nine hundred forty-seven, shall be as follows: Hardy  
10 county, two thousand two hundred dollars; Grant county,  
11 two thousand four hundred dollars; Pendleton county,  
12 two thousand two hundred dollars.

Sec. 5. *Salaries of Prosecuting Attorneys.*—The annual  
2 compensation of the prosecuting attorney in each county,  
3 including the compensation provided by law for his serv-  
4 ices as attorney for boards of education and other admin-  
5 istrative boards and officers in the county, shall, on and  
6 after January one, one thousand nine hundred forty-nine,  
7 be in the amounts set forth in sections five- (one) to five-  
8 (fifty-five), inclusive, of this article.

Sec. 5-(1). *Barbour County.*—For the county of Bar-  
2 bour, two thousand dollars.

Sec. 5-(2). *Berkeley County.* — For the county of  
2 Berkeley, two thousand two hundred dollars.

Sec. 5-(3). *Boone County.*—For the county of Boone,  
2 two thousand seven hundred dollars.

Sec. 5-(4). *Braxton County.*—For the county of Brax-  
2 ton, two thousand one hundred dollars.

Sec. 5-(5). *Brooke County.*—For the county of Brooke,  
2 two thousand five hundred dollars.

Sec. 5-(6). *Cabell County.*—For the county of Cabell,  
2 four thousand eight hundred dollars.

Sec. 5-(7). *Calhoun County.*—For the county of Cal-  
2 houn, one thousand two hundred dollars.

Sec. 5-(8). *Clay County.*—For the county of Clay, one  
2 thousand six hundred dollars.

Sec. 5-(9). *Doddridge County.* — For the county of  
2 Doddridge, one thousand two hundred dollars.

Sec. 5-(10). *Fayette County.*—For the county of Fay-  
2 ette, not less than four thousand two hundred dollars nor  
3 more than four thousand eight hundred dollars, to be  
4 fixed by the county court.

2     Sec. 5-(11). *Gilmer County*.—For the county of Gilmer, one thousand five hundred dollars.

2     Sec. 5-(12). *Grant County*.—For the county of Grant, one thousand dollars.

2     Sec. 5-(13). *Greenbrier County*.—For the county of Greenbrier, two thousand five hundred dollars.

2     Sec. 5-(14). *Hampshire County*.—For the county of Hampshire, one thousand four hundred forty dollars.

2     Sec. 5-(15). *Hancock County*.—For the county of Hancock, three thousand dollars.

2     Sec. 5-(16). *Hardy County*.—For the county of Hardy, one thousand dollars.

2     Sec. 5-(17). *Harrison County*.—For the county of Harrison, four thousand dollars.

2     Sec. 5-(18). *Jackson County*.—For the county of Jackson, one thousand two hundred dollars.

2     Sec. 5-(19). *Jefferson County*.—For the county of Jefferson, two thousand four hundred dollars.

2     Sec. 5-(20). *Kanawha County*.—For the county of Kanawha, seven thousand five hundred dollars.

2     Sec. 5-(21). *Lewis County*.—For the county of Lewis, not less than two thousand dollars nor more than two thousand four hundred dollars.

2     Sec. 5-(22). *Lincoln County*.—For the county of Lincoln, two thousand four hundred dollars.

2     Sec. 5-(23). *Logan County*.—For the county of Logan, four thousand eight hundred dollars.

2     Sec. 5-(24). *Marion County*.—For the county of Marion, four thousand eight hundred dollars.

2     Sec. 5-(25). *Marshall County*.—For the county of Marshall, three thousand dollars.

2     Sec. 5-(26). *Mason County*.—For the county of Mason, two thousand dollars.



2     Sec. 5-(27). *McDowell County*.—For the county of McDowell, six thousand dollars.

2     Sec. 5-(28). *Mercer County*.—For the county of Mercer, five thousand dollars.

2     Sec. 5-(29). *Mineral County*.—For the county of Mineral, two thousand dollars.

2     Sec. 5-(30). *Mingo County*.—For the county of Mingo, four thousand eight hundred dollars.

2     Sec. 5-(31). *Monongalia County*.—For the county of Monongalia, four thousand dollars.

2     Sec. 5-(32). *Monroe County*.—For the county of Monroe, one thousand two hundred dollars.

2     Sec. 5-(33). *Morgan County*.—For the county of Morgan, one thousand dollars.

2     Sec. 5-(34). *Nicholas County*.—For the county of Nicholas, two thousand two hundred dollars.

2     Sec. 5-(35). *Ohio County*.—For the county of Ohio, four thousand seven hundred dollars.

2     Sec. 5-(36). *Pendleton County*.—For the county of Pendleton, one thousand dollars.

2     Sec. 5-(37). *Pleasants County*.—For the county of Pleasants, one thousand two hundred dollars.

2     Sec. 5-(38). *Pocahontas County*.—For the county of Pocahontas, two thousand dollars.

2     Sec. 5-(39). *Preston County*.—For the county of Preston, three thousand dollars.

2     Sec. 5-(40). *Putnam County*.—For the county of Putnam, two thousand one hundred dollars.

3     Sec. 5-(41). *Raleigh County*.—For the county of Raleigh, not less than three thousand nor more than four thousand eight hundred dollars.

2     Sec. 5-(42). *Randolph County*.—For the county of Randolph, three thousand dollars.

2       Sec. 5-(43). *Ritchie County*.—For the county of Ritchie,  
2   one thousand two hundred dollars.

2       Sec. 5-(44). *Roane County*.—For the county of Roane,  
2   one thousand five hundred dollars.

2       Sec. 5-(45). *Summers County*.—For the county of Sum-  
2   mers, two thousand dollars.

2       Sec. 5-(46). *Taylor County*.—For the county of Taylor,  
2   two thousand two hundred fifty dollars.

2       Sec. 5-(47). *Tucker County*.—For the county of Tucker,  
2   one thousand seven hundred dollars.

2       Sec. 5-(48). *Tyler County*.—For the county of Tyler,  
2   one thousand five hundred dollars.

2       Sec. 5-(49). *Upshur County*.—For the county of Up-  
2   shur, one thousand five hundred dollars.

2       Sec. 5-(50). *Wayne County*.—For the county of Wayne,  
2   three thousand dollars.

2       Sec. 5-(51). *Webster County*.—For the county of Web-  
2   ster, two thousand four hundred dollars.

2       Sec. 5-(52). *Wetzel County*.—For the county of Wetzel,  
2   two thousand dollars.

2       Sec. 5-(53). *Wirt County*.—For the county of Wirt, six  
2   hundred dollars.

2       Sec. 5-(54). *Wood County*.—For the county of Wood,  
2   three thousand six hundred dollars.

2       Sec. 5-(55). *Wyoming County*.—For the county of  
2   Wyoming, not less than three thousand dollars, nor more  
3   than four thousand dollars.

## CHAPTER 49

(House Bill No. 11—By Mr. Davis).

AN ACT to amend and reenact section three, article three, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the manner and method of sale of county and district owned property.

[Passed February 14, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 3. County Property.

#### Section

3. Sale of county or district property.

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

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

Section 3. *Sale of County or District Property.*—In  
2 all instances where the county court of a county is by  
3 law authorized to sell or dispose of any property, either  
4 real or personal, belonging to the county or held by it for  
5 the use of any district thereof, the same shall be sold at  
6 public auction, at the front door of the courthouse of the  
7 county, and such sale shall be conducted by the president  
8 of the county court, but before making any such sale,  
9 notice of the time, terms and place of sale shall be given  
10 by publication thereof once each week for two consecu-  
11 tive weeks in some newspaper of general circulation in  
12 said county, which notice shall contain a brief description  
13 of the property to be sold: *Provided, however,* That this  
14 section shall not apply to the sale of any one item of  
15 property of less value than one thousand dollars: *Pro-*  
16 *vided, further,* That the provisions of this section con-  
17 cerning sale at public auction shall not apply to a county  
18 court selling or disposing of its property for a public use  
19 to the state of West Virginia, or its political subdivisions,

20 including county boards of education, for an adequate  
21 consideration without considering alone the present com-  
22 mercial or market value of the property.

## CHAPTER 50

(House Bill No. 394—By Mr. Harmer and Mr. Tucker)

AN ACT to amend and reenact section six, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter thirty-eight, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to allowances to circuit judges for stationery, postage and stenographic work.

[Passed March 8, 1947; 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, as last amended and reenacted by chapter thirty-eight, acts of the Legislature, regular session, one thousand nine hundred forty-five, 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 and fifty dollars per month. Such sums shall be paid

- 9 monthly out of the state treasury, but not until the judge  
10 submits an itemized statement covering the same.  
11 All acts or parts of acts in conflict and inconsistent here-  
12 with are hereby repealed.

## CHAPTER 51

(Senate Bill No. 216—By Mr. Morris)

AN ACT to amend and reenact section thirteen, article one, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the duties and compensation of the crier of the supreme court of appeals.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 1. Supreme Court of Appeals.

#### Section

13. Duties of crier; compensation.

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

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

- Section 13. *Duties of Crier; Compensation.*—The crier  
2 of the supreme court of appeals shall attend the sessions  
3 of the court, maintain order therein, have its halls kept  
4 constantly clean, ventilated and supplied with water when  
5 necessary, obey the orders and directions of the court,  
6 and in all respects be under its direction and authority,  
7 for which he shall be allowed the sum of six dollars  
8 for each day of the term, Sundays excepted, to be paid  
9 out of the state treasury upon the certificate of the court.

## CHAPTER 52

(Senate Bill No. 305—By Mr. Love)

AN ACT to amend article seven, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding to said article a new section to be designated section seven, relating to the provision of and payment for transcripts of testimony and proceedings in trials of indigent persons convicted of a misdemeanor or felony.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Article 7. Official Reporters.

#### Section

7. Transcripts to be furnished indigent persons under conviction; payment therefor.

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

That article seven, chapter fifty-one 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. *Transcripts to be Furnished Indigent Persons under Conviction; Payment Therefor.*—In any case where in the court has appointed counsel for an indigent person under indictment for either a misdemeanor or felony and such indigent accused has been tried and found guilty under such indictment and desires to seek an appeal or writ of error from the court's judgment on such conviction, the court, upon written request of such convicted person's counsel setting forth the grounds upon which the appeal or writ of error will be sought, shall authorize and direct the court reporter to furnish a transcript of the testimony and proceedings of the trial, or such part or parts thereof as counsel shall have indicated in his request to be necessary, to the convicted person, without charge to him, for use in seeking his appeal or writ of error, and the cost of such transcript in the case of a misdemeanor conviction

17 shall be certified by the judge of the court to the county  
18 court of the county wherein the accused person was con-  
19 victed and shall be paid out of the county treasury there-  
20 of, and in cases of felony convictions the cost of such tran-  
21 script shall be certified by the judge of the court to the  
22 auditor of the state and shall be paid out of the treasury  
23 of the state from the appropriation for criminal charges.

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## CHAPTER 53

(Senate Bill No. 102—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact chapter twenty, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-three, relating to the recording by county clerks of discharges other than dishonorable, and certificates of satisfactory service held by veterans and to the furnishing by county clerks to veterans and their dependents of copies of certain public records, and providing that such chapter, as hereby amended, shall be designated section twelve-a, article four, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

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[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 4. General Provisions Relating to Clerks of Courts.

#### Section

12-a. Free recordation of discharges, other than dishonorable, and certificates of satisfactory service; free issuance to veterans and dependents of copies of certain records.

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

That chapter twenty, acts of the legislature of West Virginia, regular session, one thousand nine hundred forty-three, be amended and reenacted, and as amended be designated section twelve-a, article four, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to read as follows:

Section 12-a. *Free Recordation of Discharges, Other than Dishonorable, and Certificates of Satisfactory Service; Free Issuance to Veterans and Dependents of Copies of Certain Records.*—A discharge, other than dishonorable, from the armed forces of the United States, and a certificate of satisfactory service in said armed forces held by any and all persons, shall be recorded by a county clerk in a special record book, free of any and all fees or costs therefor. This book shall be kept on file in the office of the clerk of the county court of the county in which the person holding such discharge or certificate resides: *Provided*, That upon application to the vital statistics department, or any other agency authorized to issue birth certificates in this state, the original discharge or certificate, or a certified copy from the clerk's office, where same is recorded, shall be taken as proof of the date of birth of the veteran for all purposes, and no other or further proof shall be required.

The county clerk of any county shall furnish copies of records of a discharge, other than dishonorable, certificate of satisfactory service, marriage, divorce, adoption, birth or death, which he may have in his possession, without fee, to veterans of any war, soldiers in service, or the dependents of such veterans or soldiers, when these records are necessary to obtain benefits from the federal or state governments.

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## CHAPTER 54

(Senate Bill No. 346—By Mr. Johnston)

AN ACT to amend and reenact sections fifteen, sixteen and seventeen, article one, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to the administrative office of the supreme court of appeals and prescribing the powers and duties of the director thereof.



[Passed March 8, 1947; in effect ninety days 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. Director; duties.

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

That sections fifteen, sixteen, and seventeen, article one, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one as last amended be amended and re-enacted to read as follows:

Section 15. *Administrative Office of the Supreme Court; Director; Salary; Seal.*—There shall be and is hereby established an administrative office of the supreme court of appeals. The executive secretary of the judicial council shall be ex officio director thereof and shall serve as such director without additional compensation. The director, when directed by the supreme court of appeals, shall cause a seal of office to be made for said office of such design as said court shall approve, and judicial notice shall be taken of such seal.

Sec. 16. *Employees; Appointment; Compensation; Prohibiting Practice in State Courts.*—The ex officio 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 said court shall fix their compensation. During his term of office or employment no officer or employee of said office shall engage, directly or indirectly, in the practice of law in any of the courts of the state.

Sec. 17. *Director; Duties.*—The director shall, when authorized by the supreme court of appeals, be the administrative officer of said court and shall have charge, under the supervision and direction of the supreme court of appeals, of:

6 (a) All administrative matters relating to the offices  
7 of the clerks of the circuit and intermediary courts and  
8 of the offices of justice of the peace, and all other clerical  
9 and administrative personnel of said courts; but nothing  
10 contained in this act shall be construed as affecting the  
11 authority of the courts to appoint their administrative or  
12 clerical personnel;

13 (b) Examining the state of the dockets of the various  
14 courts and securing information as to their needs for as-  
15 sistance, if any, and the preparation of statistical data  
16 and reports of the business transacted by the courts.

17 (c) The preparation of a proper budget to secure the  
18 appropriation of moneys for the maintenance, support  
19 and operation of the courts;

20 (d) The purchase, exchange, transfer and distribution  
21 of equipment and supplies, as may be needful or desir-  
22 able;

23 (e) Such other matters as may be assigned to him by  
24 the supreme court of appeals. The clerks of the circuit  
25 courts, intermediate courts and courts of the justices of  
26 the peace shall comply with any and all requests made  
27 by the director or his assistants for information and  
28 statistical data bearing on the state of the dockets of  
29 such courts, or such other information as may reflect the  
30 business transacted by them;

31 (f) *Annual Report of Activities and Estimates of Ex-*  
32 *penditures.*—The director, when required to do so by the  
33 supreme court of appeals, shall submit annually to the  
34 court a report of the activities of the administrative office  
35 and of the state of business of the courts, together with  
36 the statistical data compiled by him, with his recommen-  
37 dations.

38 All acts or parts of acts in conflict herewith are hereby  
39 repealed.

## CHAPTER 55

(House Bill No. 7—By Mr. Moore, of Marshall)

AN ACT to amend and reenact section one-b, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the terms of the circuit courts of the counties of Marshall, Tyler and Wetzel, composing the second judicial circuit, and the time for the commencing and holding of said terms.

[Passed January 29, 1947; in effect ninety days from passage. Approved by the Governor.]

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

#### Section

##### 1-b. Second circuit.

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

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

- Section 1-b. *Second Circuit.*—For the county of Marshall shall, on the second Tuesday in February, June and October.
- For the county of Tyler, on the second Tuesday in March, July and November.
- For the county of Wetzel, on the second Tuesday in January, May and September.

## CHAPTER 56

(House Bill No. 167—By Mr. Ballard)

AN ACT to amend and reenact section one-k, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the terms of the cir-

cuit courts of the counties of Pocahontas, Greenbrier, Monroe and Summers, composing the eleventh judicial circuit, and the time for the commencing and holding of said terms.

[Passed February 18, 1947; in effect from passage. Approved by the Governor.]

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

### **Section**

1-k. Eleventh circuit.

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

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

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

## **CHAPTER 57**

(House Bill No. 168—By Mr. Mullins)

AN ACT to amend and reenact section one-n, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the terms of the circuit court in the fourteenth judicial circuit.

[Passed February 18, 1947; in effect ninety days from passage. Approved by the Governor.]

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

1-n. Fourteenth circuit.

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

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

Section 1-n. *Fourteenth Circuit.*— For the county of  
2 Braxton on the second Monday in March, July and No-  
3 vember.

4 For the county of Clay on the first Monday in February,  
5 June and October.

6 For the county of Gilmer on the fourth Monday in Feb-  
7 ruary, June and October.

8 For the county of Webster on the second Monday in  
9 January, May and September.

## CHAPTER 58

(Senate Bill No. 42—By Mr. Taylor)

AN ACT to amend and reenact section one-x, article two, chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, fixing the time for holding the regular terms of court for the twenty-fourth judicial circuit.

[Passed March 7, 1947; in effect from passage. Approved by the Governor.]

**Article 2. Circuit Courts; Circuit, Criminal and Intermediate Courts.****Section**

1-x. Twenty-fourth circuit.

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

That section one-x, article two, chapter fifty-one of the code

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

- Section 1-x. *Twenty-fourth Circuit*.—For the county  
2 of Mingo, on the first Monday in January, May and Sep-  
3 tember.  
4 For the county of Wayne, on the second Monday in  
5 March and July, and the fourth Monday in November.

## CHAPTER 59

(Senate Bill No. 37—By Mr. Vickers, Mr. President)

AN ACT to amend article eleven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, by adding a new section, designated as section one-b, relative to sentencing female felons to the West Virginia state prison for women.

[Passed February 28, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 11. General Provisions Concerning Crimes.

#### Section

- 1-b. Female felons, sentence upon conviction.

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

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

- Section 1-b. *Female Felons, Sentence Upon Conviction*.  
2 —Upon conviction of a female for a felony and subsequent  
3 sentence of confinement, the trial court shall sentence her  
4 to be confined at the West Virginia state prison for women  
5 at Pence Springs.

## CHAPTER 60

(House Bill No. 13—By Mr. Davis)

AN ACT to amend and reenact section eight, article twelve, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the holding of coroner inquests and preliminary hearings, and fees and expenses; the burial of the body and expenses; and instances in which inquests, autopsies, and chemical analyses are required when requested by the prosecuting attorney, without the consent of the next of kin.

[Passed February 19, 1947; in effect from passage. Approved by the Governor.]

### Article 12. Inquests.

#### Section

8. Burial of body and expenses; fees of jurors and officers holding inquests; preliminary hearings and fees; when no inquest necessary; inquests, autopsies and chemical analyses necessary upon request of prosecuting attorney; no consent of next of kin required in certain instances.

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

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

Section 8. *Burial of Body and Expenses; Fees of Jurors and Officers Holding Inquests; Preliminary Hearings and Fees; When No Inquest Necessary; Inquests, Autopsies and Chemical Analyses Necessary upon Request of Prosecuting Attorney; No Consent of Next of Kin Required in Certain Instances.*—If the dead person be a stranger, and when the inquest be taken or the coroner or justice called to view the body thinks it unnecessary to have an inquest, he shall cause the body to be decently buried, or forwarded to its proper destination. If the coroner or justice certify the deceased has not sufficient estate in this state to pay the expenses of the burial, the coroner's or justice's fees, and the expenses of the inquest, if one was taken, shall, when allowed by the county court

15 of the county, be paid out of the treasury of the county.  
16 In other cases, all such charges shall be paid out of the  
17 estate of the deceased; or, if it prove insufficient, out of  
18 the treasury of the county, unless the inquest be upon  
19 the body of a convict in the penitentiary, in which case  
20 the same shall be paid out of the state treasury, after  
21 being allowed by the executive. Each juror impaneled  
22 as herein provided shall receive for his services two dol-  
23 lars for each day he shall be necessarily engaged in hold-  
24 ing the inquest and making the return thereof; the con-  
25 stable shall receive three dollars for summoning a jury  
26 and witnesses for an inquest, and the coroner or justice  
27 shall receive for his services five dollars for each day  
28 necessarily engaged in holding the inquest and making  
29 return thereof, to be allowed and paid as aforesaid.  
30 Should the coroner or justice, upon such notice, make a  
31 preliminary examination of the facts connected with a  
32 death by some probable unlawful act, and ascertain that  
33 there was not good cause to believe it was by some  
34 unlawful act, he shall not hold an inquest except upon  
35 request of the prosecuting attorney, and such coroner  
36 or justice, in case an examination is made and no inquest  
37 held, shall be allowed a fee of five dollars for such ex-  
38 amination, to be paid as herein provided: *Provided, fur-*  
39 *ther,* That a county prosecuting attorney who has inves-  
40 tigated the death of any person and reasonably believes  
41 that an unlawful act has been committed may request  
42 the coroner or justice to hold an inquest or make an au-  
43 topsy or take a chemical analysis upon the dead body, in  
44 which case, the coroner or justice shall, when required  
45 by the prosecuting attorney, also summon a physician  
46 or physicians to make an autopsy or take a chemical an-  
47 alysis upon the dead body without the necessity of ob-  
48 taining the consent of the next of kin. A coroner or jus-  
49 tice shall not, without the consent of the prosecuting at-  
50 torney authorize any autopsy or chemical analysis upon  
51 a dead body unless the justice or coroner has first ob-  
52 tained the consent, in writing, of the next of kin, and the  
53 cost shall be paid by the county court upon the order of  
54 the prosecuting attorney.



## CHAPTER 61

(Senate Bill No. 169—By. Mr. Mitchell)

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

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Article 11. General Provisions Concerning Crimes.

#### Section

##### 1. Classification of offenses.

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

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

Section 1. *Classification of Offenses.*—Offenses are  
2 either felonies or misdemeanors. Such offenses as are pun-  
3 ishable with death or confinement in the penitentiary are  
4 felonies; all other offenses are misdemeanors.  
5 The word “penitentiary” as used in this section shall  
6 mean and include any and all institutions provided by  
7 the state for the confinement of persons sentenced to con-  
8 finement in the penitentiary, notwithstanding that trans-  
9 fers of such persons from any one of such institutions to  
10 another may be authorized

## CHAPTER 62

(House Bill No. 115—By Mr. Davis)

AN ACT to repeal sections ten, eleven, and twelve, article three, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to

amend and reenact section nine of such article, relating to the commitment and discharge of persons charged with a crime, when such persons are mentally ill or mentally defective.

[Passed March 5, 1947; in effect ninety days from passage. Approved by the Governor.]

### **Article 3. Trial of Criminal Cases.**

#### **Section**

9. Commitment and discharge of mentally ill persons or mental defectives charged with crime.

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

That sections ten, eleven, and twelve, article three, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one as amended be repealed, and that section nine of such article be amended and reenacted to read as follows:

#### **Section 9. Commitment and Discharge of Mentally Ill**

- 2 *Persons or Mental Defectives Charged with Crime.*—  
3 Whenever any person charged with or convicted of a  
4 crime, or acquitted thereof because of his mental condi-  
5 tion, is thought to be mentally ill or mentally defective,  
6 the judge of the court of record in which he was so  
7 charged, convicted, or acquitted, may on his own motion  
8 inquire into the mental condition of such person. The  
9 judge of such court or the judge of any other court of  
10 record of the county in which such person may be found,  
11 shall make such inquiry upon the application of an in-  
12 ferior court not of record in which such person was so  
13 charged, convicted, or acquitted, or upon the application of  
14 the official in charge of any penitentiary, prison, jail or  
15 lockup in which such person may be confined. The judge  
16 shall appoint two physicians to examine such person and  
17 report in writing on his mental condition. If on the basis  
18 of the reports the judge is satisfied that such person is  
19 mentally ill or mentally defective, he may order that such  
20 person be committed to a state institution. The sheriff or  
21 other officer in charge of such person shall immediately

22 deliver him to the superintendent of the institution to  
23 which he was committed, and it shall be the duty of the  
24 superintendent to admit and care for him. When any  
25 person committed as provided in this section has been  
26 found by the superintendent not to be mentally ill or men-  
27 tally defective, or whenever such person has recovered,  
28 the superintendent shall give notice thereof to the judge  
29 of the court by whose order he was committed and shall  
30 deliver him to the proper officer upon the order of the  
31 court. If a person committed as provided in this section  
32 is awaiting indictment or trial, or has been arraigned or  
33 is being tried, proceedings against him shall be stayed un-  
34 til his recovery. Upon his recovery the court shall order  
35 that he be returned for the disposition of the charges  
36 against him. Thereupon the court shall proceed to dis-  
37 pose of the case as if there had been no commitment. If  
38 the person committed is a prisoner serving sentence, the  
39 time during which he is in the institution shall be com-  
40 puted as part of the time for which he was sentenced.

## CHAPTER 63

(House Bill No. 121—By Mr. Piper)

AN ACT to amend and reenact section five, article two, chap-  
ter sixty-two, of the code of West Virginia, one thousand  
nine hundred thirty-one, as last amended and reenacted  
by chapter twenty-four, acts of the Legislature, regular  
session, one thousand nine hundred forty-one, relating to  
allegations in indictments, warrants, or informations.

[Passed February 28, 1947; in effect from passage. Approved by the Governor.]

### Article 2. Presentments and Indictments.

#### Section

5. Indictment for embezzlement; what description and proof of money sufficient in prosecutions for embezzlement, and other crimes.

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

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

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

And in any indictment, warrant or information in which it is necessary to describe money current in this state, a description of such money as "United States Currency" will be sufficient without specifying the number and denomination thereof, and such description shall be construed to mean national bank notes, United States Treasury notes, Federal Reserve notes, certificates for either gold or silver coin, fractional coin, currency, or any other form of money issued by the United States government and current as money in this state.

## CHAPTER 64

(Senate Bill No. 35—By Mr. Vickers, Mr. President, by request)

AN ACT to amend and reenact sections two and three, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter ninety-four, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to the appointment of an inspector, executive officer and other commissioned officers, non-commissioned officers, troopers and civilian employees; and to the forming of companies or platoons, training of members of the department of public safety and other police officers and to salaries and bonds of members.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 2. Department of Public Safety.

#### Section

2. Appointment of inspector, executive officer and other commissioned officers, non-commissioned officers, troopers and civilian employees.
3. Companies and platoons and how constituted; training of members and other peace officers; salaries and bonds of members.

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

That sections two and three, 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 2. *Appointment of Inspector, Executive Officer and Other Commissioned Officers, Non-commissioned Officers, Troopers and Civilian Employees.*—The superintendent shall appoint, from the enlisted membership of the department, an inspector with the rank of major who shall be next in authority to the superintendent, and for the purpose of operating and maintaining the executive offices, training school, radio communications system, scientific laboratory, keeping records relating to crimes,

10 criminals and motor vehicle accidents, maintaining a sys-  
11 tem of supplies and accounting and carrying on other  
12 necessary services he shall appoint an executive officer  
13 with the rank of captain, two lieutenants, and not more  
14 than two master sergeants, one supply sergeant, two  
15 master technical sergeants, two technical sergeants, four  
16 sergeants, seven corporals and ten troopers. Technicians  
17 from the ranks of sergeant, corporal and trooper may be  
18 appointed and designated by the superintendent. He shall  
19 also appoint such civilian employees as may be necessary  
20 whose salaries shall be fixed by the board of public works.

21 The inspector, executive officer, lieutenants, master ser-  
22 geants, supply sergeant, master technical sergeants, tech-  
23 nical sergeants, sergeants and sergeant technicians, cor-  
24 porals and corporal technicians, troopers and trooper  
25 technicians shall be enrolled and enlisted as members  
26 of the department of public safety and shall be entitled to  
27 wear the insignia of rank as is provided by law or au-  
28 thorized by department regulations.

Sec. 3. *Companies and Platoons and How Constituted;*

2 *Training of Members and Other Peace Officers; Salaries*  
3 *and Bonds of Members.*—The superintendent shall create,  
4 appoint and equip a department of public safety which  
5 shall, in addition to the personnel provided for in section  
6 two of this article, consist of four companies or platoons.  
7 Each company or platoon shall be composed of one cap-  
8 tain, one lieutenant, one first sergeant, five sergeants,  
9 ten corporals and such number of troopers as the super-  
10 intendent may decide best, but such number of troopers  
11 in any company or platoon shall not at any time be less  
12 than twenty-five nor more than sixty-five.

13 The superintendent shall provide adequate facilities  
14 for the training of all members of the department and  
15 shall prescribe a basic training course for newly enlisted  
16 members. He shall also provide advanced or in service  
17 training from time to time for all members of the de-  
18 partment. The superintendent may, in his discretion, hold  
19 training classes for other peace officers in the state with-

20 out cost to such officers, except actual expenses for food,  
21 lodging and school supplies.

22 Members of the department shall receive salaries, as  
23 follows:

24 The inspector shall receive an annual salary of four  
25 thousand two hundred dollars; the executive officer and  
26 the captains shall each receive an annual salary of three  
27 thousand three hundred sixty dollars; lieutenants shall  
28 each receive an annual salary of three thousand dollars;  
29 the master sergeants, supply sergeant, master technical  
30 sergeants and first sergeants shall each receive an annual  
31 salary of twenty-five hundred eighty dollars; technical  
32 sergeants shall each receive an annual salary of twenty-  
33 five hundred twenty dollars; sergeants and sergeant tech-  
34 nicians shall each receive an annual salary of twenty-four  
35 hundred dollars; corporals and corporal technicians shall  
36 each receive an annual salary of twenty-two hundred  
37 eighty dollars; and each newly enlisted trooper shall re-  
38 ceive a salary of one hundred dollars monthly during  
39 the period of his basic training and upon the satisfactory  
40 completion of such training and assignment to active  
41 duty each such trooper shall receive, during the re-  
42 mainder of his first year's service, a salary of one hun-  
43 dred fifty dollars monthly. During the second year of his  
44 service in the department each trooper shall receive an  
45 annual salary of nineteen hundred twenty dollars; dur-  
46 ing the third year of his service each trooper shall re-  
47 ceive an annual salary of twenty hundred forty dollars;  
48 and during the fourth year of his service and thereafter  
49 as long as he shall remain at the grade of trooper, each  
50 trooper shall receive an annual salary of twenty-one hun-  
51 dred sixty dollars.

52 In applying the foregoing salary schedule where salary  
53 increases are provided for continuous service, members  
54 of the department in service at the time this article be-  
55 comes effective shall be given credit for prior service and  
56 shall be paid such salaries as the same length of service  
57 will entitle them to receive under the provisions hereof.

58 Each member of the department of public safety, ex-  
59 cept the superintendent and civilian employees, shall,

60 before entering upon the discharge of his duties, execute  
61 a bond with security in the sum of three thousand five  
62 hundred dollars payable to the state of West Virginia,  
63 conditioned for the faithful performance of his duties as  
64 such, and such bond shall be approved as to form by the  
65 attorney general, and as to sufficiency by the board of  
66 public works and the same shall be filed with the secre-  
67 tary of state and preserved in his office.

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## CHAPTER 65

(Senate Bill No. 192—By Mr. Jackson, of Logan)

AN ACT to authorize the superintendent of the department of public safety to expend in the fiscal year ending June thirtieth, one thousand nine hundred forty-seven, from funds appropriated pursuant to the provisions of chapter eleven, acts of the Legislature, one thousand nine hundred forty-five, and available in account number five hundred seventy, moneys in excess of two hundred five thousand dollars for subsistence for officers and enlisted men of said department.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Section

1. Superintendent of department of public safety authorized to expend funds heretofore appropriated for subsistence of members of department.

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

- Section 1. *Superintendent of Department of Public Safety Authorized to Expend Funds Heretofore Appropriated for Subsistence of Members of Department.*—  
The superintendent of the department of public safety is authorized and empowered to expend in the fiscal year ending June thirtieth, one thousand nine hundred forty-seven, from funds appropriated pursuant to the provi-



8 sions of chapter eleven, acts of the Legislature, one thou-  
9 sand nine hundred forty-five, and available in account  
10 number five hundred seventy, moneys in excess of two  
11 hundred five thousand dollars for subsistence for officers  
12 and enlisted men of said department.

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## CHAPTER 66

(Senate Bill No. 237—By Mr. Jackson, of Logan, by request)

AN ACT to amend and reenact section twenty-eight, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred twenty-two, acts of the Legislature, regular session, one thousand nine hundred forty-five, and to add to said article sections twenty-eight-a to twenty-eight-k, inclusive, relating to retirement, and to death, disability and retirement awards and benefits for members of the department of public safety and former members of said department and dependent members of their families and to authorize the retirement board to control and disburse retirement funds for such purpose.

[Passed March 8, 1947: in effect from passage. Approved by the Governor.]

### Article 2. Department of Public Safety.

#### Section

- 28. Retirement; awards and benefits.
- 28-a. Credit on service required for retirement to be allowed members for time served in armed forces in World War II.
- 28-b. Disability incurred in performance of duty; awards and benefits.
- 28-c. Disability from other causes; awards and benefits.
- 28-d. Physical examinations; recall to active duty; termination of disability awards.
- 28-e. Retired member not to exercise police authority; retention of group insurance.
- 28-f. Death of member in performance of duty; dependents; awards and benefits.
- 28-g. Death of member from non-service connected causes; dependents; awards and benefits.
- 28-h. Death of member after retirement, or after serving twenty years; dependents; awards and benefits.
- 28-i. Termination of benefits for dependents.
- 28-j. Discharge or resignation of members; refunds to members.
- 28-k. Death of member not eligible for benefits; refund to dependents.

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

That section twenty-eight, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, be amended and reenacted and that sections twenty-eight-a to twenty-eight-k, inclusive, be added to said article, all to read as follows:

Section 28. *Retirement; Awards and Benefits.* — (a)

2 The retirement board shall retire any member of the  
3 department of public safety when such member

4 (1) Shall have attained the age of fifty-five years and  
5 shall have completed twenty-five years of service as a  
6 member of said department, or

7 (2) Has completed twenty-five years of service as a  
8 member of said department and shall have attained the  
9 age of fifty-five years, or

10 (3) Has attained the age of fifty-five years, and shall  
11 have completed twenty-five years of service as a mem-  
12 ber of said department.

13 (b) The retirement board shall retire any member of  
14 said department of public safety when such member  
15 shall have lodged with the secretary of the retirement  
16 board the voluntary petition in writing of such member  
17 for retirement, and

18 (1) Has or shall have completed not less than twenty-  
19 five years of service as a member of said department, or

20 (2) Has or shall have attained the age of fifty years  
21 and has or shall have completed not less than twenty  
22 years of service as a member of said department, or

23 (3) Being under the age of fifty years has or shall  
24 have completed twenty years of service as a member of  
25 said department.

26 (c) When the retirement board shall retire any mem-  
27 ber under any of the foregoing provisions of this section,  
28 said board shall, by order in writing, make an award  
29 directing that such member shall be entitled to receive  
30 annually and that there shall be paid to such member  
31 from the death, disability and retirement fund in equal  
32 monthly installments during the natural lifetime of such  
33 member while in status of retirement one or the other of

34 two amounts, whichever shall be the greater, namely:

35 (1) Either an amount equal to three per cent of the  
36 aggregate of salary paid to such member during the  
37 whole period of service as a member of the department  
38 of public safety; or

39 (2) When such period of service has or shall have  
40 been more than

41 (a) Twenty years but less than twenty-one years,  
42 the sum of nine hundred sixty dollars;

43 (b) Twenty-one years but less than twenty-two years,  
44 the sum of one thousand eight dollars;

45 (c) Twenty-two years but less than twenty-three  
46 years, the sum of one thousand fifty-six dollars;

47 (d) Twenty-three years but less than twenty-four  
48 years, the sum of one thousand one hundred four dollars.

49 (e) Twenty-four years but less than twenty-five years,  
50 the sum of one thousand one hundred fifty-two dollars;

51 (f) Twenty-five years, the sum of one thousand two  
52 hundred dollars.

53 It is provided, however, that when a member has or  
54 shall have served twenty years or longer but less than  
55 twenty-five years as a member of said department and  
56 shall be retired under any of the provisions of this sec-  
57 tion before he shall have attained the age of fifty years,  
58 payment of monthly installments of the amount of re-  
59 tirement award to such member shall commence on the  
60 date such member shall attain the age of fifty years.

Sec. 28-a. *Credit on Service Required for Retirement*  
2 *to be Allowed Members for Time Served in Armed Forces*  
3 *in World War II.*—Any member of the department of  
4 public safety who has been commissioned, enlisted or  
5 inducted into the armed forces of the United States or,  
6 being a member of the reserve officers' corps, has been  
7 called to active duty in said armed forces since the first  
8 day of September, one thousand nine hundred forty, and  
9 prior to the close of hostilities in World War II, shall be  
10 entitled to and receive credit on the minimum period of  
11 service required by law for retirement on retirement pay  
12 from the service of the department of public safety for

13 a period equal to the full time he has or shall, pursuant  
14 to such commission, enlistment, induction or call, have  
15 served with said armed forces: *Provided*, That such mem-  
16 ber has been or shall (1) be honorably discharged from  
17 said armed forces, and (2) within ninety days after hon-  
18 orable discharge from said armed forces shall present  
19 himself to the superintendent and offer to resume service  
20 as an active member of the department: *Provided, how-*  
21 *ever*, That no such member shall be entitled to any credit,  
22 privilege or benefit under the provisions of this section  
23 who shall by any voluntary act on his part, whether by  
24 reenlistment, waiver of discharge, acceptance of com-  
25 mission or otherwise, extend or participate in extension  
26 of the period of service of such member with such armed  
27 forces beyond the period of service therewith for which  
28 such member was originally commissioned, enlisted, in-  
29 ducted or called: *Provided further*, That the amount  
30 of retirement pay to which any such member shall be  
31 entitled shall be calculated and determined as if such  
32 member had continued in the active service of the de-  
33 partment at the rank or grade to him appertaining at the  
34 time of such commission, induction, enlistment or call,  
35 during a period coextensive with the time such member  
36 shall have served with said armed forces pursuant to such  
37 commission, induction, enlistment or call. The superin-  
38 tendent of said department is authorized to transfer and  
39 pay over each month into said death, disability and re-  
40 tirement fund from moneys that shall be appropriated  
41 for said department a sum equal to eighteen per cent  
42 of the aggregate of salary which all said members would  
43 have been entitled to receive had they continued in the  
44 active service of said department during a period co-  
45 extensive with the time such members shall have served  
46 with said armed forces pursuant to said commission, in-  
47 duction, enlistment or call. If any member on leave of  
48 absence and while serving with the armed forces of the  
49 United States pursuant to commission, enlistment, in-  
50 duction or call as aforesaid shall die as a result of illness  
51 or injury from any cause while a member of such armed  
52 forces of the United States, all moneys which shall have

53 been deducted from his salary as a member of the de-  
54 partment and deposited in the death, disability and re-  
55 tirement fund created by section twenty-seven of this  
56 article shall, if such member was not at the time of his  
57 death eligible for retirement benefits under any of the  
58 provisions of this article, be withdrawn from said fund  
59 and paid over to the widow of such member, if any, and  
60 if none, to the children of such member, and if there be  
61 no widow or children, to the dependent parent or parents,  
62 and if there be no widow or children or dependent par-  
63 ents, then the same shall remain in the fund.

Sec. 28-b. *Disability Incurred in Performance of Duty;*  
2 *Awards and Benefits.*—Any member of said department  
3 who has been or shall become physically or mentally  
4 permanently disabled by injury, illness or disease result-  
5 ing from any occupational risk or hazard inherent in or  
6 peculiar to the services required of members of said de-  
7 partment and incurred pursuant to or while such mem-  
8 ber was or shall be engaged in the performance of his  
9 duties as a member of said department shall, if, in the  
10 opinion of the retirement board, he is by reason of such  
11 cause unable to perform adequately the duties required  
12 of him as a member of said department, be retired from  
13 active service by the retirement board and thereafter  
14 such member shall be entitled to receive annually and  
15 there shall be paid to such member from the death, dis-  
16 ability and retirement fund in equal monthly install-  
17 ments during the natural lifetime of such member or  
18 until such disability shall sooner terminate, an amount  
19 equal to four per cent of the total salary which would  
20 have been earned by him during twenty-five years of  
21 service in said department based on his average earnings  
22 while employed as a member of said department. If such  
23 disability shall be permanent and total to the extent that  
24 such member is or shall be incapacitated ever to engage  
25 in any gainful employment, such member shall be en-  
26 titled to receive annually and there shall be paid to such  
27 member from the death, disability and retirement fund  
28 in equal monthly installments during the natural life-

29 time of such member or until such disability shall sooner  
30 terminate, an amount equal to five per cent of the total  
31 salary which would have been earned by him during  
32 twenty-five years of service in said department based on  
33 his average earnings while employed as a member of said  
34 department.

35 The superintendent is authorized to expend moneys  
36 from funds appropriated for the department of public  
37 safety in payment of medical, surgical, laboratory, x-ray,  
38 hospital, ambulance and dental expenses and fees, and  
39 reasonable costs and expenses incurred in purchase of  
40 artificial limbs and other approved appliances which may  
41 be reasonably necessary for any member of said depart-  
42 ment who has or shall become temporarily, permanently  
43 or totally disabled by injury, illness or disease resulting  
44 from any occupational risk or hazard inherent in or  
45 peculiar to the service required of members of said de-  
46 partment and incurred pursuant to or while such mem-  
47 ber was or shall be engaged in the performance of his  
48 duties as a member of said department. Whenever the  
49 superintendent shall determine that any disabled mem-  
50 ber is ineligible to receive any of the aforesaid benefits  
51 at public expense the superintendent shall, at the request  
52 of such disabled member, refer such matter to the retire-  
53 ment board for hearing and final decision.

Sec. 28-c. *Disability From Other Causes; Awards and*  
2 *Benefits.*—If any member while in active service of said  
3 department has or shall, in the opinion of the retirement  
4 board, become permanently disabled to the extent that  
5 such member cannot adequately perform the duties re-  
6 quired of a member of the department from any cause  
7 other than those set forth in the next preceding section  
8 and not due to vicious habits, intemperance or wilful  
9 misconduct on his part, such member shall be retired  
10 by the retirement board and, if such member at the time  
11 of such retirement under this section, shall have served  
12 less than twenty years as a member of said department,  
13 such member shall be entitled to receive annually and  
14 there shall be paid to such member, while in status of

15 retirement, from the death, disability and retirement  
16 fund in equal monthly installments during a period equal  
17 to one-half the time such member has served as a member  
18 of said department, a sum equal to three per cent of the  
19 total salary which would have been earned by him dur-  
20 ing twenty-five years of service in said department based  
21 on his average earnings while employed as a member of  
22 said department; but if such member, at the time of such  
23 retirement under the terms of this section, shall have  
24 served twenty years or longer as a member of said de-  
25 partment, such member shall be entitled to receive an-  
26 nually and there shall be paid to such member from the  
27 death, disability and retirement fund in equal monthly  
28 installments, commencing on the date such member shall  
29 be retired and continuing during the natural lifetime of  
30 such member while in status of retirement, one or the  
31 other of the two amounts, based upon either the aggre-  
32 gate of salary paid to such member during the whole per-  
33 iod of service of such member or the period of twenty  
34 years or longer during which such member at the time  
35 of such retirement has, or shall have served as a member  
36 of said department, whichever shall be the greater, to be  
37 determined in the manner provided by paragraphs (1)  
38 and (2) of subsection (c) of section twenty-eight of this  
39 article.

Sec. 28-d. *Physical Examinations; Recall to Active  
2 Duty; Termination of Disability Awards.*—The superin-  
3 tendent may require any member who has been or who  
4 shall be retired with compensation on account of disability  
5 to submit to a physical and/or mental examination by a  
6 physician or physicians selected or approved by the re-  
7 tirement board and cause all costs incident to such exam-  
8 ination including hospital, laboratory, x-ray, medical and  
9 physicians' fees to be paid out of funds appropriated to  
10 defray the current expense of said department, and a  
11 report of the findings of such physician or physicians shall  
12 be submitted in writing to the retirement board for its  
13 consideration. If from such report or from such report  
14 and hearing thereon the retirement board shall be of

15 opinion and find that such disabled member shall have  
16 recovered from such disability to the extent that he is  
17 able to perform adequately the duties of a member of said  
18 department, the superintendent shall order such member  
19 to reassume active duty as a member of said department  
20 and thereupon all payments from the death, disability  
21 and retirement fund shall be terminated.

Sec. 28-e. *Retired Member Not to Exercise Police  
2 Authority; Retention of Group Insurance.*—A member  
3 who has been or shall be retired shall not while in re-  
4 tirement status exercise any of the powers conferred upon  
5 active members by section eleven of this article; but shall  
6 be entitled to receive free of cost to such member and  
7 retain as his separate property one complete standard  
8 uniform prescribed by section nine of this article: *Pro-*  
9 *vided*, That such uniform may be worn by a member in  
10 retirement status only on such occasions as shall be pre-  
11 scribed by the superintendent. The superintendent is  
12 authorized to maintain at public expense for the benefit  
13 of all members in retirement status that group life insur-  
14 ance mentioned in section nine of this article. The super-  
15 intendent, when he shall be of opinion that the public  
16 safety shall require, may recall to active duty during  
17 such period as the superintendent shall determine any  
18 member who shall be retired under the provisions of sec-  
19 tion twenty-eight of this article, provided the consent of  
20 such member to reassume duties of active membership  
21 shall first be had and obtained. When any member in re-  
22 tirement shall reassume status of active membership such  
23 member, during the period he shall remain in active status,  
24 shall not be entitled to receive retirement pay or benefits  
25 but in lieu thereof shall be entitled to receive that rate of  
26 salary and allowance pertinent to the rank or grade held  
27 by such member when retired. When such member shall  
28 be released from active duty he shall reassume the status  
29 of retirement and shall thereupon be entitled to receive  
30 appropriate benefits as provided by this article: *Provided*,  
31 That the amount of such benefits shall in no event be less



32 than the amount determined by the order of the retire-  
33 ment board previously made in his behalf.

Sec. 28-f. *Death of Member in Performance of Duty; Dependents; Awards and Benefits.*—The widow or the children under the age of eighteen years or dependent parent or parents of any member who has lost or shall lose his life by reason of injury, illness or disease resulting from any occupational risk or hazard inherent in or peculiar to the service required of members while such member was or shall be engaged in the performance of his duties as a member of said department, or if said member shall die from any cause after having been retired pursuant to the provisions of section twenty-eight-b of this article, shall be entitled to receive and shall be paid from the death, disability and retirement fund benefits as follows: To the widow annually, in equal monthly installments during her lifetime or until her remarriage, an amount equal to two per cent of the total salary which would have been earned by said deceased member during twenty-five years of service in said department based on his average earnings while employed as a member of said department. In addition thereto such widow shall be entitled to receive and there shall be paid to her ten dollars monthly for each child until such child shall attain the age of eighteen years. If such widow shall die or remarry or if there be no widow there shall be paid monthly to such child or children from the death, disability and retirement fund the sum of twenty dollars each until such child or children shall respectively attain the age of eighteen years. If there be no widow and no child or children, there shall be paid annually in equal monthly installments from said death, disability and retirement fund to the dependent parents of said deceased member during their joint lifetimes a sum equal to the amount which a widow, without children, would have received: *Provided*, That when there shall be but one dependent parent surviving, such parent shall be entitled to receive during his or her lifetime one-half the amount which both parents, if living, would have been entitled to receive.

2       Sec. 28-g. *Death of Member From Non-Service Con-*  
3 *necting Causes; Dependents; Awards and Benefits.*—In any  
4 case where a member while in active service of said de-  
5 partment, before having completed twenty years of serv-  
6 ice as a member of said department, has died or shall die  
7 from any cause other than those specified in section  
8 twenty-eight-f of this article and not due to vicious  
9 habits, intemperance or wilful misconduct on his part,  
10 there shall be paid annually in equal monthly installments  
11 from said death, disability and retirement fund to the  
12 widow of such member during a period equal to one-half  
13 the time such member served as a member of said depart-  
14 ment, or until the time during such period said widow  
15 shall remarry, a sum equal to one and one-half per cent  
16 of the total salary which would have been earned by him  
17 during twenty-five years of service in said department  
18 based on his average earnings while employed as a mem-  
19 ber of said department. If there be no widow or during  
20 the period aforesaid such widow shall remarry there  
21 shall be paid from said fund to each child of said deceased  
22 member the sum of twenty dollars monthly until such  
23 child or children respectively shall attain the age of  
24 eighteen years. If there be no widow and no child or child-  
25 ren there shall be paid annually in equal monthly install-  
26 ments from said fund to the dependent parents of said  
27 deceased member during their joint lifetimes a sum equal  
28 to the amount which a widow would have been entitled  
29 to receive, provided, when there shall be but one depend-  
30 ent parent surviving then such dependent parent shall  
31 be entitled to receive during his or her lifetime one-half  
32 the amount which both parents, if living, would have  
been entitled to receive.

2       Sec. 28-h. *Death of Member After Retirement, or Af-*  
3 *ter Serving Twenty Years; Dependents; Awards and*  
4 *Benefits.*—When any member of said department has here-  
5 tofore completed or hereafter shall complete twenty  
6 years of service or longer as a member of said department  
7 and has died or shall die from any cause or causes other  
than those specified in section twenty-eight-b of this ar-

8 ticle before having been retired by the retirement board,  
9 and when a member in retirement status has died or shall  
10 die after having been retired by the retirement board un-  
11 der the provisions of section twenty-eight of this article,  
12 there shall be paid annually in equal monthly installments  
13 from said fund to the widow of said member, commencing  
14 on the date of the death of said member and continuing  
15 during her lifetime or until her remarriage an amount  
16 equal to one-half the retirement benefits said deceased  
17 member was receiving while in status of retirement, or  
18 would have been entitled to receive to the same effect as  
19 if such member had been retired under the provisions of  
20 section twenty-eight of this article immediately prior to  
21 the time of his death; and in addition thereto said widow  
22 shall be entitled to receive and there shall be paid to her  
23 from said fund the sum of ten dollars monthly for each  
24 child under the age of eighteen years until such child or  
25 children respectively shall attain the age of eighteen  
26 years: *Provided*, That no widow of any member who shall  
27 die after having been retired by the retirement board  
28 shall be entitled to receive any benefits under the terms  
29 of this section unless such widow shall have been mar-  
30 ried to such member during at least one full year prior  
31 to the date such member shall have been retired by the  
32 retirement board and: *Provided further*, That a child born  
33 to said dependent wife after such member was placed on  
34 retirement shall not be entitled to any benefits nor shall  
35 such dependent wife be entitled to receive benefits for  
36 such child. If such widow shall not be entitled to benefits  
37 or shall die or remarry, or if there be no widow there shall  
38 be paid monthly from said fund to each child under the  
39 age of eighteen years of said deceased member the sum  
40 of twenty dollars until such child or children respectively  
41 attain the age of eighteen years. If there be no widow or  
42 no widow eligible to receive benefits and no child or  
43 children there shall be paid annually in equal monthly  
44 installments from said fund to the dependent parents of  
45 said deceased member during their joint lifetimes a sum  
46 equal to the amount which a widow without children  
47 would have been entitled to receive: *Provided*, That when

48 there shall be but one dependent parent surviving such  
49 parent shall be entitled to receive during his or her life-  
50 time one-half the amount which both parents, if living,  
51 would have been entitled to receive.

Sec. 28-i. *Termination of Benefits for Dependents.*—

2 When any widow of a member shall die or remarry while  
3 receiving or being entitled to receive any benefits under  
4 this article, such widow shall not from the date of such  
5 remarriage, nor shall her estate from the date of her  
6 death, be entitled to receive any benefits hereunder what-  
7 soever: *Provided*, That in any case where under the terms  
8 of this article benefits are provided for a child or children  
9 surviving the death or remarriage of such widow, pay-  
10 ment of such benefits to such child or children shall be  
11 calculated for payment from the date such widow shall  
12 die or remarry.

Sec. 28-j. *Discharge or Resignation of Members; Re-*

2 *funds to Members.*—Any member who shall be discharged  
3 by order of the superintendent after such member has or  
4 shall have served two full years or more as a member of  
5 said department shall, at the request of such member,  
6 be entitled to receive from said fund a sum equal to the  
7 aggregate of the principal amount of moneys deducted  
8 from his salary and paid into said death, disability and  
9 retirement fund as provided and required by section  
10 twenty-seven of this article: *Provided*, That the superin-  
11 tendent shall forthwith refund to any member that has  
12 or shall have served more than two but less than twenty  
13 years as a member of said department and has resigned  
14 or shall resign or that has been or shall be discharged  
15 from the service for cause in accordance with recommen-  
16 dation of a majority of a board of five officers of the depart-  
17 ment, a sum equal to the aggregate of the principal amount  
18 of all moneys deducted from the salary of such member  
19 and paid into said fund as aforesaid: *Provided further*,  
20 That if any such refund shall be made to any member such  
21 member shall not be entitled to any benefits provided by  
22 this article, and should any such member thereafter be  
23 again enlisted as a member of said department no credit or

24 any period of service required of a member as a condition  
25 of retirement shall be allowed to such member on account  
26 of such former service, unless following such reenlist-  
27 ment such member shall redeposit in said fund the am-  
28 ount of the refund, together with interest thereon at the  
29 rate of four per cent per annum from the date of with-  
30 drawal to the date of redeposit, in which case he shall re-  
31 ceive the same credit on account of his former service as  
32 if no refund had been made: *And provided further*, That  
33 when any member has or shall have served as a member  
34 of said department during twenty years or longer and  
35 shall, in the opinion of the superintendent, become unfit  
36 for any reason for further active service such member  
37 shall, in lieu of being discharged, be retired by the retire-  
38 ment board under the provision or provisions of this ar-  
39 ticle most favorable to such member.

Sec. 28-k. *Death of Member Not Eligible for Benefits;*  
2 *Refund to Dependents.*—If any member while in active  
3 status shall die after having served two full years or lon-  
4 ger as a member of said department and the retirement  
5 board shall be of opinion after hearing thereon that the  
6 dependent or dependents of said member are ineligible  
7 under the provisions of this article to receive any of the  
8 benefits provided herein, the superintendent shall refund  
9 to the widow, if surviving, but if not surviving, to the  
10 children of such member, and if there be no widow or  
11 children, to the dependent parents, a sum equal to the  
12 aggregate of the principal amount of all moneys deduct-  
13 ed from the salary of such member and paid into said  
14 fund as aforesaid, and if there be no widow or children  
15 or dependent parent or parents, then the same shall re-  
16 main in the fund. Whenever any such refund shall be  
17 made the widow or other dependents of such deceased  
18 member shall not be entitled to any other rights or bene-  
19 fits on account of said fund under the provisions of this  
20 article.

## CHAPTER 67

(Senate Bill No. 100—By Mr. Morris)

AN ACT to amend and reenact section eight, article two, chapter twenty-five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to a special revenue fund administered by the director of the department of purchases for the volume purchase of commodities for use of all state departments, boards and institutions.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Article 2. Sales, Purchases or Contracts.

#### Section

8. Special revenue fund for volume purchases.

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

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

#### Section 8. *Special Revenue Fund for Volume Purchases.*

2 —For the purpose of permitting volume purchases of com-  
3 modities, consisting of office supplies, printing, binding  
4 and stationery for the use of all state departments, boards  
5 and institutions, and for maintaining a stock of commod-  
6 ities in current use in state departments and institutions,  
7 there is hereby created a special revenue fund to be ad-  
8 ministered by the director of the department of purchases.  
9 The amount of the fund shall be fixed by the governor  
10 upon the recommendation of the director and if at the  
11 end of the fiscal year the cash balance plus inventory  
12 value exceeds the amount so fixed, the excess shall be  
13 transferred by the auditor to the general revenue fund  
14 and become a part of the general revenues of the state.  
15 In addition to paying for purchases herein described,  
16 there may be paid from the fund all costs of preserving  
17 inventories, including storage, equipment and salaries and

18 wages of employees; such expenditures shall not exceed  
19 five thousand dollars annually. The fund shall be accu-  
20 mulated and administered as follows:

21 (1) The balance of the appropriations, and all accre-  
22 tions thereto, made under chapter nine, acts of the Legis-  
23 lature, one thousand nine hundred thirty-five, and subse-  
24 quent appropriations, shall be transferred to the special  
25 revenue fund.

26 (2) Charges for commodities sold to the various state  
27 departments, boards and institutions at a price to include  
28 total cost shall be deposited in the fund.

29 (3) To provide additional money for volume pur-  
30 chases the director, within his discretion, may require  
31 state departments, boards and institutions at the begin-  
32 ning of each fiscal year to transfer from appropriations  
33 for current expense to the fund, sums sufficient to pur-  
34 chase inventories for use during the fiscal year. The di-  
35 rector shall credit such transfers to the account of each  
36 department, board or institution and the cost of products  
37 purchased during the fiscal year shall be charged to the  
38 accounts of the respective departments, boards or insti-  
39 tutions. At the end of the fiscal year the balances of the  
40 accounts shall be returned to the appropriations from  
41 which they were transferred.

## CHAPTER 68

(Senate Bill No. 243—By Mr. Love)

AN ACT to amend article two, chapter forty-eight of the code of  
West Virginia, one thousand nine hundred thirty-one, by  
adding thereto a new section to be known as section  
eleven-a, relating to divorce suits involving minors.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Article 2. Divorce.

#### Section

11-a. Infant parties to suit.

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

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

Section 11-a. *Infant Parties to Suit.*—An infant plaintiff or defendant in any divorce or annulment suit shall appear, answer, demur or plead by a next friend, and no guardian ad litem shall be required unless specifically ordered by the court or the judge hearing the cause.

## CHAPTER 69

(Senate Bill No. 140—By Mr. Vickers, Mr. President)

AN ACT to amend article three, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section twenty-five, relating to the removal of the disability of minority of veterans and their wives in certain cases.

[Passed February 18, 1947; in effect from passage. Approved by the Governor.]

### **Article 3. Property, Rights and Liabilities of Married Women; Husband and Wife.**

#### **Section**

25. Disability of minority of veterans and their wives removed in certain cases.

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

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

Section 25. *Disability of Minority of Veterans and Their Wives Removed in Certain Cases.*—The disability



3 of minority of any person otherwise eligible for guaranty  
4 or insurance of a loan pursuant to the serviceman's re-  
5 adjustment act of one thousand nine hundred forty-four,  
6 as amended, (Public Law three hundred forty-six, sev-  
7 enty-ninth Congress, as amended), and of the minor  
8 spouse of any eligible veteran irrespective of his or her  
9 age, in connection with any transaction entered into pur-  
10 suant to such act as amended, is hereby removed, for all  
11 purposes in connection with such transaction including,  
12 but not limited to, incurring of indebtedness or obliga-  
13 tions and acquiring, encumbering, selling, releasing, or  
14 conveying property, or any interest therein, and litigating  
15 or settling controversies arising therefrom, if all or part  
16 of any obligations incident to such transaction be guar-  
17 anteed or insured by the administrator of veterans' af-  
18 fairs pursuant to such act: *Provided, however,* That this  
19 act shall not be construed to impose any other or greater  
20 rights or liabilities than would exist if such person and  
21 such spouse were under no such disability.

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## CHAPTER 70

(Com. Sub. for Senate Bill No. 56—Originating in the Senate Committee on the Judiciary)

AN ACT to amend article two, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be numbered section thirty-one, relating to the validation of divorce decrees, and limiting the time in which certain divorce decrees may be contested.

[Passed March 1, 1947; in effect from passage. Approved by the Governor.]

### Article 2. Divorce.

#### Section

31. Validation of certain divorce decrees; limitation on suits contesting such decrees.

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

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

Section 31. *Validation of Certain Divorce Decrees; Limitation on Suits Contesting Such Decrees.*—All decrees of divorce heretofore entered by courts of this state, having jurisdiction of suits for divorce, wherein maturity of the cause at rules has been waived, consent given for hearing, the cause placed upon the docket and set for hearing and a final decree and judgment entered by the court therein, shall be recognized as having full force and effect from the date of their rendition and entry as though said divorce causes had been regularly matured at rules, placed upon the docket and regularly set for hearing, unless any interested party shall move the court that entered such decree, to set aside said decree, or initiate a suit or action to contest such decree before the first day of July, one thousand nine hundred forty-seven: *Provided,* That no suit, action, motion or proceeding shall be instituted or entertained in any court of this state on and after the first day of July, one thousand nine hundred forty-seven, for the purpose of attacking or setting aside any such decree.

## CHAPTER 71

(Senate Bill No. 290—By Mr. Eddy)

AN ACT to amend article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section, to be designated section eight-a, providing for the appointment of a farm and home safety committee to advise and cooperate with the agricultural extension division of West Virginia University in the conduct and promotion of a program of farm and home safety.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

## Article 11. West Virginia University.

### Section

8-a. Farm and home safety program; advisory committee.

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

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

Section 8-a. *Farm and Home Safety Program; Advisory Committee.*—The board of governors of West Virginia University is hereby authorized to appoint an advisory committee on farm and home safety, to be composed of seven members, representing various groups and agencies interested in the promotion of farm and home safety. It shall be the duty of the committee to advise and cooperate with the agricultural extension division in the conduct and promotion of such a program. The agricultural extension division shall have authority to accept funds from any public or private agencies to be expended by it for the purposes of this section.

## CHAPTER 72

(House Bill No. 23—By Mr. Speaker, Mr. Amos)

AN ACT to repeal sections two, twelve, sixteen and seventeen, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact sections one, three, four, five and fifteen, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the state board of education.

[Passed March 7, 1947; in effect ninety days from passage. Approved by the Governor.]

**Article 2. State Board of Education.****Section**

1. State board of education.
2. Repealed.
3. Meetings of state board; expenses of members.
4. Organization of state board; secretary.
5. General powers and duties.
12. Repealed.
15. Report to governor by state board.
16. Repealed.
17. Repealed.

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

That sections two, twelve, sixteen and seventeen, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that sections one, three, four, five and fifteen, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 1. *State Board of Education.*—There shall be  
2 a state board of education, to be known as the West Vir-  
3 ginia board of education, which shall be a corporation and  
4 as such may contract and be contracted with, plead and  
5 be impleaded, sue and be sued, and have and use a com-  
6 mon seal. The state board shall consist of ten members,  
7 of whom one shall be the state superintendent of schools,  
8 ex officio, who shall not be entitled to vote. The other  
9 nine members shall be citizens of the state, appointed by  
10 the governor, by and with the advice and consent of the  
11 Senate, for overlapping terms of nine years, except that  
12 the original appointments shall be for terms of one, two,  
13 three, four, five, six, seven, eight and nine years, respec-  
14 tively. At least one but not more than two members shall  
15 be appointed from each congressional district, and at least  
16 one member shall be of the Negro race.

17 No more than five of the appointive members shall be-  
18 long to the same political party and not more than two  
19 members shall be graduates of the same institution of  
20 higher education. No person shall be eligible for appoint-  
21 ment to membership on the state board who is a member

22 of any political party executive committee or holds any  
23 other public office or public employment under the fed-  
24 eral government or under the government of this state  
25 or any of its political subdivisions, or who is an appointee  
26 or employee of the board. Members shall be eligible for  
27 reappointment.

28 The governor shall appoint all members of the state  
29 board as soon after the effective date hereof as is prac-  
30 ticable for respective terms of office beginning on the first  
31 day of July, one thousand nine hundred forty-seven. Any  
32 vacancy on the board shall be filled by the governor by  
33 appointment for the unexpired term. The terms of office  
34 of present members of the state board shall expire on the  
35 thirtieth day of June, one thousand nine hundred forty-  
36 seven.

37 No member of the state board may be removed from  
38 office by the governor except for official misconduct, in-  
39 competence, neglect of duty, or gross immorality and then  
40 only in the manner prescribed by law for the removal by  
41 the governor of state elective officers.

42 Before exercising any authority or performing any  
43 duties as a member of the state board, each member shall  
44 qualify as such by taking and subscribing to the oath of  
45 office prescribed by section five, article four of the con-  
46 stitution, the certificate whereof shall be filed with the  
47 secretary of state. A suitable office or offices in the state  
48 department of education at the state capitol shall be pro-  
49 vided for the use of the state board.

### Sec. 3. *Meetings of State Board; Expenses of Members.*

2 —The state board shall hold at least six meetings in every  
3 year at such times and places as it may prescribe. It may  
4 meet at such other times as may be necessary, such meet-  
5 ings to be held upon its own resolution or at the call of  
6 the president of the board. The members shall serve  
7 without compensation, but every member shall be re-  
8 imbursed from the general school fund for actual ex-  
9 penses incident to the performance of his duties, upon  
10 presentation of an itemized sworn statement thereof.

Sec. 4. *Organization of State Board; Secretary.*—At  
2 its first regular meeting in every year, the state board  
3 shall elect one of its members as president, who shall not  
4 succeed himself as president, and one as vice-president of  
5 the board. The state superintendent shall be the chief  
6 executive officer of the state board, and subject to its di-  
7 rection shall execute its policies.

8 The state board shall appoint a secretary and fix his  
9 salary, to be paid out of the general school fund upon  
10 warrants drawn by the state superintendent. The secre-  
11 tary shall keep a record of the proceedings of the state  
12 board and shall perform such other duties as it may pre-  
13 scribe.

Sec. 5. *General Powers and Duties.*—Subject to and  
2 in conformity with the constitution and laws of this state,  
3 the state board of education shall determine the educa-  
4 tional policies of the state, except as to the West Virginia  
5 university and Potomac state school, and shall make rules  
6 for carrying into effect the laws and policies of the state  
7 relating to education, including rules relating to the phys-  
8 ical welfare of pupils, the education of feeble-minded and  
9 physically disabled or crippled children of school age,  
10 school attendance, evening and continuation or part-time  
11 day schools, school extension work, the classification of  
12 schools, the issuing of certificates upon credentials, the  
13 distribution and care of free textbooks by the county  
14 boards of education, the general powers and duties of  
15 county boards of education, and of teachers, principals,  
16 supervisors and superintendents, and such other matters  
17 pertaining to the public schools of the state as may seem  
18 to the state board to be necessary and expedient.

Sec. 15. *Report to Governor by State Board.*—On the  
2 first day of October of each year, or as soon thereafter as  
3 practicable, the state board, through the state superin-  
4 tendent, shall make to the governor and to the Legislature  
5 a full report concerning the public schools and the educa-  
6 tional institutions under its control and management, to-  
7 gether with its recommendations in respect to needed  
8 legislation.

## CHAPTER 73

(House Bill No. 22—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section one, article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the continuation, management and control of West Virginia University and to the constitution, rights, powers and duties of the board of governors.

[Passed February 20, 1947; in effect July 1, 1947. Approved by the Governor.]

### Article 11. West Virginia University.

#### Section

1. Continuation; board of governors.

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

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

Section 1. *Continuation; Board of Governors.* — The  
2 West Virginia University, heretofore established and lo-  
3 cated at Morgantown, in Monongalia county, shall be  
4 continued, and shall be known as "West Virginia Uni-  
5 versity." The business and educational affairs of the  
6 university shall be under the control, supervision and  
7 management of the board of governors, which shall be a  
8 corporation, and as such may contract and be contracted  
9 with, sue and be sued, plead and be impleaded, and have  
10 and use a common seal. The board of governors shall  
11 consist of nine members, all of whom shall be citizens of  
12 the state, to be appointed by the governor, by and with  
13 the advice and consent of the senate, for overlapping terms  
14 of nine years, except that the original appointments shall  
15 be for terms of one, two, three, four, five, six, seven, eight,  
16 and nine years, respectively. At least one but not more  
17 than two members shall be appointed from each congres-  
18 sional district and at least four members shall be gradu-

19 ates of West Virginia University. No more than five  
20 members shall belong to the same political party. No per-  
21 son shall be eligible for membership on the board of gov-  
22 ernors who is a member of any political party executive  
23 committee, or who holds any other public office or public  
24 employment under the federal government or under the  
25 government of this state or any of its political subdivi-  
26 sions, or who is an appointee or employee of the board.  
27 Members shall be eligible for reappointment.

28 The governor shall appoint all members of the board of  
29 governors as soon after the effective date hereof as is  
30 practicable, for respective terms of office beginning on the  
31 first day of July, one thousand nine hundred forty-seven.  
32 Any vacancy on the board of governors shall be filled by  
33 the governor by appointment for the unexpired term.  
34 The terms of office of present members of the board of  
35 governors shall expire on the thirtieth day of June, one  
36 thousand nine hundred forty-seven.

37 No member may be removed from office by the gover-  
38 nor except for official misconduct, incompetence, neglect  
39 of duty, or gross immorality, and then only in the man-  
40 ner prescribed by law for the removal by the governor of  
41 state elective officers.

42 Before exercising any authority or performing any du-  
43 ties as a member of the board of governors, each member  
44 shall qualify as such by taking and subscribing to the  
45 oath of office prescribed by section five, article four of the  
46 constitution, the certificate whereof shall be filed in the  
47 office of the secretary of state. A suitable office or offices  
48 for the board shall be provided in the buildings of West  
49 Virginia University.

50 The board of governors shall have general control, su-  
51 pervision and management of the business and educa-  
52 tional affairs of the university and of Potomac state school,  
53 and shall have full authority to employ all officers, teach-  
54 ers and other employees of such institutions and fix their  
55 yearly or monthly salaries.

56 The board of governors shall meet annually in June at  
57 the university in the performance of its duties, and may  
58 meet at such other times and places as may be necessary



59 for the best interests of the institutions under its control.  
60 Special meetings may be called by the board when in ses-  
61 sion, or by the president, who shall not succeed himself  
62 as president of the board. The board shall at each annual  
63 meeting elect one of its members as president and one  
64 as vice-president of the board, and shall appoint a secre-  
65 tary and fix his salary, the same to be paid out of the  
66 funds appropriated by the Legislature for the university.  
67 The president of the university shall be the chief execu-  
68 tive officer of the board. The members of the board shall  
69 serve without compensation, but every member shall be  
70 reimbursed from the appropriation made by the Legisla-  
71 ture for the support of the university for actual expenses  
72 incident to the performance of his duties, upon presenta-  
73 tion of an itemized sworn statement thereof.

74 On the first day of October of each year, or as soon  
75 thereafter as practicable, the board of governors shall  
76 make to the governor and to the Legislature a full report  
77 concerning the educational institutions under its control  
78 and management, together with its recommendations in  
79 respect to needed legislation.

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## CHAPTER 74

(Senate Bill No. 214—By Mr. McKown)

AN ACT authorizing the West Virginia high school athletic association and the West Virginia high school athletic union to establish and maintain plans to provide benefits to their respective member-schools of said association and union for certain injuries and other contingencies sustained by high school students, engaging in high school athletic activities conducted or sponsored by the high school in which such students are enrolled, and exempting the West Virginia High School Athletic Association and the West Virginia High School Athletic Union from all provisions of the insurance laws of the state of West Virginia.

[Passed February 24, 1947; in effect from passage. Approved by the Governor.]

**Section**

1. High school athletic association and high school athletic union benefit plans.

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

Section 1. *High School Athletic Association and High School Athletic Union Benefit Plans.*—The West Virginia high school athletic association and the West Virginia high school athletic union may establish and maintain plans to provide benefits to their respective member-schools of said association and union for certain injuries and other contingencies sustained by students by reason of such students engaging and participating in the athletic activities conducted or sponsored by the high school in which such students are enrolled, without being subject to any of the provisions of the insurance laws of the state of West Virginia.

## CHAPTER 75

(House Bill No. 71—By Mr. Flannery and Mr. Powell)

AN ACT to amend and reenact section two, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to basic salaries for public school teachers and advanced salaries for experience.

[Passed March 3, 1947; in effect July 1, 1947. 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 one, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as

amended, be amended and reenacted, to read as follows:

Section 2. *Salaries for Teachers; Basic Salaries; Advanced Salaries.*—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 forty-five dollars a month.

(2) For teachers holding short course certificates, not less than one hundred fifty 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 sixty-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 seventy 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 two hundred 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 two hundred twenty-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 two hundred thirty dollars a month.

Basic salaries shall be uniform throughout the state for teachers holding equivalent credentials.

39 A teacher teaching his first regular term of school shall  
40 be paid the basic salary in accordance with his certifica-  
41 tion classification.

42 Upon the change of the certification classification of a  
43 teacher, the basic salary of that teacher shall be that of  
44 the new certification classification.

45 (B) Advanced salaries shall mean any salaries great-  
46 er than basic salaries. Advanced salary increments shall  
47 be the increments added to the basic salaries of teachers  
48 for experience and for such other services as recognized  
49 herein. Salary increments for teaching experience shall  
50 be those set forth in the following schedule:

51 (1) For teachers who hold the short course or certifi-  
52 cate of lower grade, the rate of salary shall be the basic  
53 salary plus at least six dollars a month for the second  
54 term, and the basic salary plus an additional annual in-  
55 crease of at least six dollars a month for each year taught  
56 thereafter to and including the seventh year.

57 (2) For teachers who hold the third-class elementary  
58 (standard normal) certificate, the rate of salary shall be  
59 the basic salary plus at least six dollars a month for the  
60 second term; and the basic salary plus an additional an-  
61 nual increase of at least six dollars a month for each year  
62 taught thereafter to and including the ninth year.

63 (3) For teachers who hold the second-class collegiate  
64 certificate, the rate of salary shall be the basic salary  
65 plus at least six dollars a month for the second term;  
66 and the basic salary plus an additional annual increase  
67 of at least six dollars a month for each year taught there-  
68 after to and including the eleventh year.

69 (4) For teachers who hold the collegiate elementary,  
70 first-class high school, or other certificates of equal rank,  
71 based on a bachelor's degree earned in an approved in-  
72 stitution, the rate of salary shall be the basic salary plus  
73 at least six dollars a month for the second term; and the  
74 basic salary plus an additional annual increase of at least  
75 six dollars a month for each year taught thereafter to  
76 and including the fourteenth year.

77 (5) For teachers who have received a master's degree  
78 in an institution qualified and approved to do graduate

79 work, holding a collegiate elementary certificate, first-  
80 class high school, or other certificate of equal rank, the  
81 rate of salary shall be the basic salary plus at least six  
82 dollars a month for the second term; and the basic salary  
83 plus an additional annual increase of at least six dollars  
84 a month for each year taught thereafter to and including  
85 the seventeenth year.

86 Boards of education may fix higher salaries for high  
87 school and elementary school principals, teachers of one-  
88 teacher schools, and any teacher assigned to or employed  
89 for duties other than or in addition to his regular instruc-  
90 tional duties, by the addition of further increments con-  
91 sistent with the duties performed. Such additional salary  
92 increments shall conform to the regulations of the state  
93 board of education.

94 Advanced salaries shall be uniform throughout the dis-  
95 trict for teachers holding similar credentials and in the  
96 same classification as to experience and duties.

97 Upon the change of the certification classification of  
98 the teacher, his advanced salary increments as provided  
99 in this section shall be added to his new basic salary cre-  
100 ated by the change in the certification classification.

101 In determining the number of regular terms of school  
102 a teacher has taught, boards of education shall credit as  
103 regular teaching, service in the armed forces of the  
104 United States in the World War, and active work in edu-  
105 cational positions other than teaching, but no teacher  
106 shall be given credit for teaching more than one regular  
107 term in any school year.

108 Any board of education failing to comply with the pro-  
109 visions of this section may be compelled to do so by  
110 mandamus.

111 All acts and parts of acts inconsistent with this act are  
112 hereby repealed.

## CHAPTER 76

(Com. Sub. for House Bill No. 103—Originating in the House Committee on Education)

AN ACT to amend and reenact sections three, five, thirteen-a, fourteen, twenty-three, twenty-four 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-five, all relating to the benefits and coverage provided for members of the state teachers' retirement system.

[Passed March 7, 1947; in effect July 1, 1947. Approved by the Governor.]

### Article 7-a. State Teachers' Retirement System.

#### Section

3. Definitions.
5. Membership of the retirement board.
- 13-a. Resumption of service by retired teachers.
14. Contributions by members.
23. Withdrawal and death benefits.
24. Disposition of accumulated contributions.
26. Allowance upon retirement.
35. Additional coverage.

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

That sections three, five, thirteen-a, fourteen, twenty-three, twenty-four, 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 section thirty-five, 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

10 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 educa-  
18 tion, the board of governors of West Virginia university,  
19 any county board of education, the state department of  
20 education or the teachers' retirement board, if such per-  
21 son was formerly employed as a teacher in the public  
22 schools; (k) all classroom teachers, principals, and edu-  
23 cational administrators in schools under the supervision  
24 of the 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' re-  
35 tirement system provided for in this article.

36 "Present teacher" shall mean any person who was a  
37 teacher within the seven years beginning July first, one  
38 thousand nine hundred thirty-nine, and whose member-  
39 ship in the retirement system has been continuous.

40 "New entrant" shall mean a member of the retirement  
41 system who is not a present teacher.

42 "Present member" shall mean a present teacher who is  
43 a member of the retirement system.

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  
52 of prior service, or if prior service is less than fifteen  
53 years, the average annual salary for that period. If the  
54 records for determining each annual salary needed cannot  
55 reasonably be established by the retirement board, then  
56 the term shall mean the average annual salary of the  
57 teacher for years for which records are available.

58 "Accumulated contributions" shall mean the sum of all  
59 the amounts deducted from the compensation of a con-  
60 tributor 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  
66 of the accumulated contributions and deposits payable  
67 to former members, or to the beneficiaries of deceased  
68 members, as provided in this article. The rate for refund  
69 interest shall be the average annual rate of interest, cal-  
70 culated to one decimal place, earned on retirement board  
71 investments in effect at the end of the fiscal year for  
72 which the interest is due, according to the sworn state-  
73 ment of the fund custodian required by section nineteen  
74 of this article. In no case shall interest be paid on contri-  
75 butions received 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 teach-  
85 ers whether or not a part of such compensation is received  
86 from other funds, federal or otherwise, than those pro-  
87 vided by the state or its subdivisions.

88 "Annuities" shall mean the annual retirement payments  
89 for life granted beneficiaries in accordance with this ar-



90 ticle. All annuities shall be paid in twelve monthly pay-  
91 ments 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 univer-  
99 sities in this state.

100 The masculine gender shall be construed so as to in-  
101 clude the feminine.

102 Age in excess of seventy years shall be deemed to be  
103 seventy years.

Sec. 5. *Membership of the Retirement Board.*—The re-  
2 tirement board shall consist of the following seven mem-  
3 bers: (a) The governor, who shall be ex officio chairman;  
4 (b) the state superintendent of free schools; (c) the state  
5 director of the budget; (d) the state insurance commis-  
6 sioner; (e) and three members of the retirement system.

7 The teachers, who are now serving as board members,  
8 shall serve the terms for which they were elected by the  
9 members of the retirement system. The first and second  
10 elections held after the effective date of this section shall  
11 be for the four and five-year term respectively; thereafter,  
12 all elections shall be for six-year terms. The manner and  
13 mode of such election shall be determined by the retire-  
14 ment board. All elective terms shall begin on the first  
15 day of July.

16 Vacancies occurring in the terms of the elected member-  
17 ship of the retirement board shall be filled within sixty  
18 days for unexpired periods by the retirement board. If  
19 the retirement board does not fill such vacancy within  
20 sixty days, the chairman shall appoint a member of the  
21 retirement system to serve for the remainder of the un-  
22 expired term.

23 Before exercising any authority or performing any  
24 duties as a member of the retirement board, each member  
25 shall qualify as such by taking and subscribing to the oath

26 of office prescribed by section five, article four of the con-  
27 stitution, the certificates whereof shall be filed with the  
28 secretary of state. A suitable office or offices for the use  
29 of the retirement board shall be provided by the board  
30 of public works without cost to the retirement board.

Sec. 13-a. *Resumption of Service by Retired Teachers.*—

2 For the purpose of this section, reemployment of a former  
3 or retired teacher as a teacher shall in no way impair  
4 such teacher's eligibility for a prior service pension, or  
5 any other benefit provided by this article.

6 Retired teachers, who qualified for an annuity because  
7 of age or service, shall not receive prior service allow-  
8 ance from the retirement board when employed as a  
9 teacher and when regularly employed by the state of  
10 West Virginia. The payment of such allowance shall be  
11 discontinued on the first day of the month within which  
12 such employment begins, and shall be resumed on the first  
13 day of the month succeeding the month within which  
14 such employment ceased. The annuity paid any such  
15 teacher on first retirement resulting from the teachers'  
16 accumulation fund and the employers' accumulation fund  
17 shall continue throughout the governmental service and  
18 thereafter according to the option selected by the teacher  
19 upon first retirement.

20 Retired teachers, who qualified for an annuity because  
21 of disability, shall receive no further retirement pay-  
22 ments, if the retirement board finds that the disability of  
23 the teacher no longer exists; payment shall be discon-  
24 tinued on the first day of the month within which such  
25 finding is made. If such retired teacher returns to service  
26 as a teacher, he shall contribute to the teachers' accumu-  
27 lation fund as a member of the system. His prior service  
28 eligibility, if any, shall not be impaired because of his  
29 disability retirement. His accumulated contributions and  
30 interest which were transferred to the benefit fund upon  
31 his retirement shall be returned to his individual account  
32 in the teachers' accumulation fund, minus retirement pay-  
33 ments received which were not supported by such con-  
34 tributions and interest. Upon subsequent retirement, he

35 shall receive credit for all of his contributory experience,  
36 anything to the contrary in this article notwithstanding.

37 The retirement board is herewith authorized to require  
38 of the retired teachers and their employers such reports  
39 as it deems necessary to effectuate the provisions of this  
40 section.

Sec. 14. *Contributions by Members.*—At the end of each  
2 month, every member of the retirement system shall con-  
3 tribute four per cent of his monthly earnable compensa-  
4 tion to the teachers' accumulation fund, not to exceed one  
5 hundred dollars per school year. In the calculation of the  
6 contribution, a fraction of a cent shall be deemed to be  
7 a cent. The contributions shall be deducted from the  
8 salaries of the members as hereinafter prescribed, and  
9 every member shall be deemed to have given his consent  
10 to such deductions. No deductions, however, shall be  
11 made from the earnable compensation of a teacher, who  
12 retired because of age or service, and then resumed serv-  
13 ice as a teacher.

14 Payment by an employer to a member of the sum speci-  
15 fied in the employment contract minus the amount of the  
16 employee's contributions shall be deemed to be a full dis-  
17 charge of the employer's contractual obligation as to earn-  
18 able compensation.

19 Upon request and payment of one dollar service fee  
20 by contributor the retirement board shall send the con-  
21 tributor a statement of his accumulated contributions.  
22 Membership dues in annual or voluntary organizations  
23 shall be disbursed from such service fees, or from interest  
24 on member's loans, upon approval by the retirement  
25 board, anything in this code to the contrary notwithstand-  
26 ing.

27 Each contributor shall file with the retirement board or  
28 with the employer to be forwarded to the retirement  
29 board an enrollment form showing the date of birth and  
30 other data needed by the retirement board for the proper  
31 operation of the retirement system. Upon notice from  
32 the retirement board to employer that contributor has  
33 failed to file such form as prescribed, the employer shall

34 withhold salary of contributor until needed form is filed  
35 with the retirement board.

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

5 (a) Four months after a contributor quits service as  
6 a teacher, he shall, on demand, be paid his accumulated  
7 contributions plus refund interest up to the date of quit-  
8 ting service, if he is then no longer under contract, verbal  
9 or otherwise, to serve as a teacher; or

10 (b) If such contributor has completed twenty years of  
11 total service, he may elect to receive at retirement age  
12 an annuity which is the actuarial equivalent of his accu-  
13 mulated contributions plus the employer's contributions.

14 Upon the death of a contributor, his accumulated con-  
15 tributions plus refund interest shall be paid to his estate  
16 or to such persons as he shall have nominated by written  
17 designation duly executed and filed with the retirement  
18 board.

Sec. 24. *Disposition of Accumulated Contributions.*—  
2 When a contributor ceases to be a member because of  
3 absence from service as a teacher, his accumulated con-  
4 tributions with refund interest up to the date of quitting  
5 service shall be returned to him, or to his legal repre-  
6 sentative. Five years after cessation of membership, if  
7 the contributor or his legal representative cannot be  
8 found, his accumulated contributions with refund interest  
9 shall be forfeited to the retirement system and credited  
10 to the reserve fund.

Sec. 26. *Allowance Upon Retirement.*—Upon retire-  
2 ment, a member shall be granted an annuity which shall  
3 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  
8 the employer up to the time of the member's retirement.

9 which shall equal the sum in subsection (a) of this section minus deposits with regular interest on deposits.

11 (c) Where prior service credit has been granted, an allowance of one and twenty-five hundredths per cent of the members average final salary multiplied by the number of years of prior service credited to him.

15 (d) The actuarial equivalent of the amounts that would have accumulated under subsection (a) and (b) of this section, if the member had contributed to his individual account until he was fifty years old, at the annual rate of his past actual contributions, but this subsection shall apply only as additional income to members who qualify for disability retirement before they are fifty years old.

23 The disability annuities of all teachers retired for disability shall be based upon a disability table prepared by a competent actuary, approved by the retirement board.

27 For the purposes of subsection (c):

28 (1) An allowance for prior service shall in no case exceed one-half of the member's average final salary.

30 (2) Average final salary shall in no instance be deemed to exceed the sum of two thousand five hundred dollars, or to be less than nine hundred and sixty dollars.

33 All annuities shall be paid in twelve monthly payments. In computing such monthly payments, fractions of a cent shall be deemed a cent. Such monthly payments shall cease with the payment for the month within which the beneficiary dies, and shall begin with the payment for the month succeeding the month within which the annuitant became eligible under this article for the annuity granted; in no case, however, shall an annuitant, qualifying for an annuity because of age or service, receive more than four monthly payments which are retroactive after board approval of annuity applications.

44 In case the retirement board receives data affecting the approved annuity of a retired teacher, the annuity shall be changed in accordance with such data, the change being effective with the payment for the month within which the board received the new data.

49 An annuity application shall be cancelled immediately,  
50 if applicant dies before the retirement board approves  
51 such application.

52 The provisions of this section shall apply to the com-  
53 putation of all monthly allowances paid to beneficiaries  
54 after the effective date hereof.

Sec. 35. *Additional Coverage*.—Nonteaching employees  
2 shall mean all persons, except teachers, regularly em-  
3 ployed for full time service by the following educational  
4 agencies: (a) any county board of education, (b) the  
5 state board of education, (c) the board of governors of  
6 West Virginia university, (d) and the teachers' retire-  
7 ment board.

8 Such non-teaching employees shall be entitled to all the  
9 rights, privileges, and benefits provided for teachers by  
10 this article, upon the same terms and conditions as are  
11 herein prescribed for teachers.

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## CHAPTER 77

(Com. Sub. for House Bill No. 35—Originating in the House Committee on Education)

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 amended, relating to the compensation of county superintendents of schools.

[Passed March 3, 1947; in effect July 1, 1947. 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 amended, be amended and reenacted, to read as follows:

Section 4. *Compensation.*—On or before the fifteenth day of June of the year in which the superintendent is appointed, the board shall fix the annual salary of the superintendent for the period of appointment for the term beginning on the first day of July following, but in no case shall the salary be less than twenty-five hundred dollars nor more than the following amounts, both exclusive of state aid, in counties as determined by population figure of the last federal census: Three thousand seven hundred dollars in counties with population from one thousand to twenty-eight thousand nine hundred ninety-nine; three thousand nine hundred dollars in counties with population from twenty-nine thousand to fifty-nine thousand nine hundred ninety-nine; four thousand dollars in counties with population from sixty thousand to ninety-three thousand nine hundred ninety-nine; and six thousand five hundred dollars in counties with population of ninety-four thousand and up. The board shall pay the salary from the general current expense fund of the district.

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## CHAPTER 78

(House Bill No. 91—By Mr. White, of Cabell)

AN ACT to amend and reenact section nine, article eight, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, relating to compulsory school attendance.

[Passed February 27, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 8. Compulsory School Attendance.

#### Section

9. Compulsory education of deaf and blind; offenses; penalties; enumeration of deaf and blind.

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

That section nine, article eight, 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 9. *Compulsory Education of Deaf and Blind;*

2 *Offenses; Penalties; Enumeration of Deaf and Blind.—*

3 Every parent, guardian or other person having control of  
4 any mentally normal minor over six years of age, who  
5 is defective in sight or hearing to the extent that he can-  
6 not be benefited by instruction in the public schools,  
7 shall be required to send such minor to the West Vir-  
8 ginia schools for the deaf and the blind at Romney. Such  
9 minor shall continue to attend such schools for a term  
10 of at least thirty-six weeks each year until he has com-  
11 pleted the course of instruction prescribed for such  
12 schools by the state board of education, or has been dis-  
13 charged by the superintendent of said school: *Provided,*  
14 *however,* That minors of the Negro race who come under  
15 the requirements of this section shall be placed in the  
16 West Virginia school for the colored deaf and blind.

17 Any such deaf or blind minor shall be exempt from  
18 attendance at said schools for any of the following rea-  
19 sons: (a) Instruction by a private tutor or in another  
20 school approved by the state board of education for a  
21 time equal to that required by the first paragraph of  
22 this section; (b) physical incapacity for school work;  
23 (c) any other reason deemed good and sufficient by the  
24 superintendents of such schools, with the approval of  
25 the state board of education.

26 Any parent, guardian or other person in charge of such  
27 minor or minors who fails or refuses to comply with the  
28 requirements of this section shall be guilty of a misde-  
29 meanor, and, upon conviction thereof, shall be fined not  
30 less than ten nor more than thirty dollars for each of-  
31 fense. Failure for the period of one week within the  
32 school year to send such minor to school shall consti-  
33 tute an offense: *Provided,* That the time necessary for  
34 such minor to travel from his home to the school shall  
35 not be counted as time absent from school.

36 Any person who induces or attempts to induce such



37 blind or deaf minor to absent himself from school, or who  
38 employs or harbors such minor unlawfully, while said  
39 school is in session, shall be guilty of a misdemeanor,  
40 and, upon conviction thereof, shall be fined not less than  
41 twenty nor more than fifty dollars for each offense.

42 It shall be the duty of school attendance officers, pros-  
43 ecuting attorneys, and any special attendance officers  
44 appointed by said schools for the deaf and the blind to  
45 enforce the provisions of this section.

46 It shall be the duty of the public school teachers of  
47 each county to furnish to the county superintendent of  
48 schools of their county the names of deaf or blind per-  
49 sons in their subdistricts between the ages of six and  
50 twenty-five years, together with information as to the  
51 age, sex and race of each such deaf or blind person. The  
52 county superintendent of schools shall certify the names  
53 of all such white persons, with the names and addresses  
54 of their parents or guardians, to the superintendent of  
55 the West Virginia schools for the deaf and the blind, and  
56 the names of all such persons of the Negro race, with  
57 the names and addresses of their parents or guardians,  
58 to the superintendent of the West Virginia school for the  
59 colored deaf and blind.

60 It shall be the duty of the state superintendent of  
61 schools to provide suitable blanks for the enumeration  
62 of such deaf and blind persons to each county superin-  
63 tendent for distribution among teachers and others re-  
64 sponsible for taking the school enumeration. The enu-  
65 meration of such deaf and blind persons shall be taken  
66 at the time the regular school enumeration is taken, and  
67 shall be reported to the superintendents of the schools  
68 for the deaf and the blind at the time that the regular  
69 school enumeration is reported to the state superintend-  
70 ent of schools.

## CHAPTER 79

(Com. Sub. for House Bill No. 344—Originating in the House Committee on Finance)

AN ACT to amend and reenact all of article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter forty-six, acts of the Legislature, one thousand nine hundred thirty-nine, and as last amended by chapter forty-four, acts of the Legislature, one thousand nine hundred forty-three, relating to state aid for schools.

[Passed March 6, 1947; in effect July 1, 1947. Approved by the Governor.]

### Article 9-a. State Aid for Schools.

#### Section

1. Distribution of state aid to free schools.
2. Definitions.
3. The foundation school program.
4. Preliminary computation.
5. Index; factors to apply.
6. Computation of local share of revenue.
7. Total of foundation program.
8. Allocation of state aid.
9. Certification of amount of state aid.
10. County request schedule.
11. Inspections and audits.
12. Records and reports.
13. Revenue deficiencies.
14. Excess appropriations.

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

That article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as originally enacted by chapter forty-six, acts of the Legislature, one thousand nine hundred thirty-nine, and as last amended by chapter forty-four, acts of the Legislature, one thousand nine hundred forty-three, be amended and reenacted to read as follows:

#### Section 1. *Distribution of State Aid to Free Schools.*—

- 2 The purpose of this article is to provide for the distribu-
- 3 tion of state aid for free schools among the several
- 4 counties of the state. In enacting this method of compu-
- 5 tation and distribution, the Legislature has the following
- 6 specific purposes:

7     1. To provide a method of distribution that will  
8     supply each county with the funds reasonably necessary  
9     to operate its schools on a basis that accords with the  
10    relative educational needs of the several counties;

11    2. To establish a method of computation and alloca-  
12    tion that as far as possible eliminates the need for the  
13    exercise of state administrative discretion as to the re-  
14    quirements of the several counties;

15    3. Give to each county every possible incentive to the  
16    constructive development of its school system, and to  
17    place with the county boards of education the responsi-  
18    bility for the preservation and improvement of the stand-  
19    ards of local education;

20    4. Coordinate the administration of state aid more  
21    closely with the general fiscal policies of the state.

22    With the foregoing purposes and objectives in view  
23    the allocation and administration of state aid is hereby  
24    conferred upon the state board of school finance.

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

2     “State Board of School Finance,” “State Board”, or  
3     “Board” means the state board of school finance except  
4     where the context refers to county boards of education.

5     “County Board” means a county board of education.

6     “Teacher” shall include principal.

7     “Average Teacher Salary” for any county means the  
8     sum of the basic salaries and the salaries for experience  
9     for all teachers employed therein, divided by the total  
10    number of said teachers. Basic and salaries for experi-  
11    ence shall be those designated by the laws of West  
12    Virginia.

13    “Net Enrollment” means the number of pupils enrolled  
14    in grades one to twelve, inclusive, of the public schools of  
15    the county for the first four months of the school term:  
16    *Provided*, That no pupil shall be counted more than once  
17    by reason of transfer within the county or from another  
18    county within the state.

19    “Weighted Net Enrollment” means the total net enroll-  
20    ment, plus one-third of the high school enrollment.

21    “High School Enrollment” means those pupils enrolled  
22    in a school consisting only of grades above the sixth,

23 organized for instruction by departments, and those  
24 pupils in a school in which the seventh and eighth grades  
25 are organized for instruction by departments, having  
26 four or more teachers in these grades.

27 "Pupil Factor" means the weighted net enrollment  
28 divided by the net enrollment, carried to four decimal  
29 places.

30 "Sparsity Factor" shall be a number derived as fol-  
31 lows:

32 The number five divided by the sum of (1) the  
33 weighted net enrollment divided by the total miles of  
34 designated roads in the county, and (2) the weighted net  
35 enrollment divided by the number of square miles of area  
36 in the county.

37 "Miles of Designated Roads" shall mean miles of pri-  
38 mary and secondary roads and highways in any county  
39 designated as such by the state road commission.

40 "Square Miles of Area" means the area of a county to  
41 be taken from the latest figures furnished by the West  
42 Virginia Geological Survey.

43 "Index" means and is a percentage figure representing  
44 average ability of a county to contribute to the founda-  
45 tion program. It is to be compounded as follows:

46 First: Determine the ratio of the economic factors,  
47 mentioned in section five of this article, in each county to  
48 the total for each such respective factor for the entire  
49 state of West Virginia. For purposes of computing  
50 "Index" the ratio of said economic factors shall be  
51 averaged and the average under this paragraph "first"  
52 shall be counted as one-third.

53 Second: A ratio consisting of the total taxes levied  
54 for current expense purposes under subsection three,  
55 section six-c, article eight, chapter eleven of this code, in  
56 such county for the preceding assessment year from non-  
57 public utilities property divided by the total tax levies  
58 for current expense purposes as aforesaid for all counties  
59 of the state for such year, said ratio under this para-  
60 graph "second" shall be counted as one-third.

61 Third: A ratio consisting of the total taxes levied for  
62 current expense purposes under subsection three, sec-  
63 tion six-c, article eight, chapter eleven of this code in

64 such counties for the preceding assessment year from  
65 public utilities property divided by the total tax levies for  
66 current expense purposes as aforesaid for all counties of  
67 the state for such year, said ratio under this paragraph  
68 "third" shall be counted as one-third.

69 The ratio under paragraphs first, second and third,  
70 shall be reduced to percentage and the average of the  
71 respective percentages shall constitute the "Index".

72 "Enrolled Pupil" means pupils included in the "Net  
73 Enrollment."

Sec. 3. *The Foundation School Program.*—The foun-  
2 dation school program is hereby established as the basic  
3 essential of free public education in this state for the  
4 purpose of computing the amount of state aid that each  
5 county shall receive. So far as funds available from  
6 state sources will permit, each county shall receive a sum  
7 which, together with the amount of local revenue reason-  
8 ably to be expected, will pay the cost of the foundation  
9 school program as computed in accordance with this  
10 article.

Sec. 4. *Preliminary Computation.*—The state board,  
2 the state superintendent of schools, and the various  
3 county boards of education may commence preliminary  
4 computation of their foundation programs and state aid  
5 requirements for the next fiscal year at any time after  
6 the first day of March in any calendar year, and commu-  
7 nicate with each other with respect to the same.

Sec. 5. *Index; Factors to Apply.*—The following  
2 recognized economic factors shall be used in preparing  
3 the "Index":

4 (a) The amount of retail sales for each county and  
5 for the entire state for the last year in which data with  
6 respect to same is available.

7 (b) The most recent registration showing the num-  
8 ber of passenger cars licensed by the state road commis-  
9 sion from each county and the entire state.

10 (c) The net buying power of each county or its  
11 people and the buying power of the entire state as the  
12 same appears in the annual survey published by the  
13 "Sales Management Magazine."

14 (d) The population of each county and of the entire  
15 state based upon the latest available United States census  
16 figures.

17 (e) The number of United States income tax re-  
18 turns filed by residents of the respective counties and  
19 for the entire state in the latest year available as released  
20 by the department of internal revenue.

21 (f) The total income of the residents of each county  
22 and of the state as a whole, including income from salaries,  
23 wages, entrepreneurial withdrawals, dividends, interest,  
24 net rents and royalties.

25 (g) The postal receipts from all post offices located  
26 in each county and for the state as a whole.

27 (h) The total amount of consumers sales tax receipts  
28 received from each county and collected in the state of  
29 West Virginia as a whole.

30 The data aforesaid shall be the most recent releases  
31 of information with respect to these factors, and so far  
32 as is possible, information with relation to data under  
33 (a), (b), (e), (g) and (h), shall be the data for the  
34 preceding fiscal calendar year as the case may be.

35 For the purpose of securing the above, the board shall  
36 be entitled to call upon any state or public agency which  
37 may have in its possession data with respect to any of  
38 the above items or economic factors, and use such publi-  
39 cations or statistical data and information with respect  
40 to the same which may be released by any research organ-  
41 ization of a public or private nature.

Sec. 6. *Computation of Local Share of Revenue.*—

2 For the fiscal years one thousand nine hundred forty-  
3 seven—one thousand nine hundred forty-eight and one  
4 thousand nine hundred forty-eight—one thousand nine  
5 hundred forty-nine, the state board shall determine the  
6 taxes levied for current expense purposes by all counties  
7 under subsection three, section six-c, article eight, chap-  
8 ter eleven of this code, for the preceding year, and total  
9 the same. Ninety-five per cent of the total amount of afore-  
10 said levies for the entire state, shall be multiplied by the  
11 "Index" for each respective county. The result of such  
12 multiplications shall as to the respective counties, consti-

13 tute their "local share of revenue" for said fiscal years.

14 Commencing with the first day of July, one thousand  
15 nine hundred forty-seven, the tax commissioner shall  
16 commence making such surveys, examinations, audits  
17 and investigations of the value of the several classes of  
18 property in each county which should be listed and taxed  
19 under the several tax classifications provided by law and  
20 determine the true and actual value thereof. In making  
21 such surveys he may use such methods of checking prop-  
22 erty values and determining the amount of property in  
23 each classification, as accepted survey and investigation  
24 procedures of like nature employed for the purpose of  
25 ascertaining the true and actual value of all such prop-  
26 erty in each such county. The commissioner may employ  
27 such assistance as the appropriation mentioned will per-  
28 mit, and shall be allowed not to exceed fifty thousand  
29 dollars in each fiscal year of the biennium beginning on  
30 the first day of July, one thousand nine hundred forty-  
31 seven, for the purpose, and his expenses shall be charged  
32 as an item of operational expense to money appropriated  
33 and available for state aid.

34 On or before the first day of December, one thousand  
35 nine hundred forty-eight, the commissioner shall con-  
36 clude the survey and render to the state board of school  
37 finance a report of his conclusions with respect to the  
38 true and actual value of the several classes of taxable  
39 property in each county of the state based upon said  
40 surveys and investigations. For the purposes of state  
41 aid the values set forth in said report shall be the true  
42 and actual value of the various classes of property in  
43 each such county for the fiscal year one thousand nine  
44 hundred forty-nine—one thousand nine hundred fifty.  
45 Thereafter the tax commissioner shall annually continue  
46 such work of survey, examination, audit and investiga-  
47 tion and annually revise his reports to the state board of  
48 the true and actual value of the several classes of tax-  
49 able property in any county from time to time as such  
50 subsequent investigation may warrant, the same to be  
51 made not later than the first day of December of each  
52 year, as to all or any counties of the state which have  
53 been resurveyed prior to said date.

54 The tax commissioner shall, at least once every four  
55 years, redetermine the true and actual value of property  
56 in each county of the state. For the fiscal year one  
57 thousand nine hundred forty-nine—one thousand nine  
58 hundred fifty, and thereafter, the commissioner shall be  
59 allowed annually not to exceed twenty-five thousand  
60 dollars in any fiscal year for the purposes hereof, and  
61 his expenses shall be charged to money appropriated and  
62 available for state aid in the same manner as funds  
63 appropriated herein for the original survey.

64 From the latest revised report of true and actual value  
65 which is in its hands the state board shall for each county  
66 compute at the maximum rate of levy provided in sub-  
67 section three, section six-c, article eight, chapter eleven  
68 of this code, the amount of revenue which said levies  
69 would produce, if levied upon fifty per cent of the true  
70 and actual value of each of the several classes of property  
71 contained in the latest report or revised report of such  
72 value, made to it by the tax commissioner. It shall  
73 deduct from such estimated revenue five per cent as an  
74 allowance for the usual losses in collection due to dis-  
75 counts, exonerations, delinquencies and the like. The  
76 remainder shall constitute the "local share of revenue".  
77 The local share of revenue computed from the true and  
78 actual value shall apply to all fiscal years after the thir-  
79 tieth of June, one thousand nine hundred forty-nine:  
80 *Provided, however,* That any findings resulting from the  
81 survey provided for in this section shall not be used for  
82 any other official purpose than as a base of allocation for  
83 state aid for schools: *And provided further,* That no asses-  
84 sor shall be required to raise any assessment as a result  
85 of the findings made by the commissioner pursuant to this  
86 section.

Sec. 7. *Total of Foundation Program.*—The state  
2 board shall commence and cause to be determined, as  
3 soon after the first day of July in each fiscal year as is  
4 possible, the foundation program for each county for  
5 such year as follows:

6 Step A—The average teacher's salary for the preced-



7 ing fiscal year for each county shall be divided by thirty-  
8 three and one-third and the quotient obtained.

9 Step B—The quotient resolved from step A shall be  
10 multiplied by the "Pupil Factor" mentioned in section  
11 two of this article and the product obtained. Said  
12 product shall for purposes hereof be known as the  
13 "Adjusted Pupil Cost."

14 Step C—The product resulting from step B shall be  
15 multiplied by a number composed of the whole number  
16 one plus the "Sparsity Factor" mentioned in section two  
17 of this article and the product obtained.

18 Step D—The product resulting from step C shall be  
19 divided by seventy-one hundredths and the quotient  
20 obtained. This quotient, for the purposes of this article,  
21 shall be the total per pupil cost of the foundation pro-  
22 gram for such county.

23 Step E—The quotient resulting from step D shall be  
24 multiplied by the "Net Enrollment" as the same is defined  
25 in section two of this article and the product obtained.  
26 This product shall be the foundation program for such  
27 county.

28 For the fiscal year commencing on the first day of July  
29 one thousand nine hundred forty-seven, the average  
30 teacher's salary shall be an average based upon the certi-  
31 fication, experience and number of teachers employed by  
32 each county board during the preceding year, at the  
33 minimum rates established by law.

Sec. 8. *Allocation of State Aid.*—Following computa-  
2 tion of the foundation program for each county the state  
3 board shall compute and allocate state aid for each  
4 county as follows:

5 The amount of state aid for each county shall be the  
6 foundation program of such county minus the local share  
7 of revenue: *Provided, however,* That for the fiscal  
8 years one thousand nine hundred forty-seven—one thou-  
9 sand nine hundred forty-eight and one thousand nine  
10 hundred forty-eight—one thousand nine hundred forty-  
11 nine, if the amount of state aid computed in section seven  
12 of this article is less than the product of twenty-two  
13 hundred multiplied by the number of teachers approved  
14 for such county by the state board on July tenth, one

15 thousand nine hundred forty-six, the amount of state aid  
16 shall be recomputed and shall be as hereinafter computed  
17 to-wit:

18 The product of twenty-two hundred multiplied by the  
19 number of teachers approved for such county by the  
20 state board, July tenth, one thousand nine hundred forty-  
21 six, shall be added to the local share of revenue and the  
22 sum so obtained shall then be the adjusted foundation  
23 program for such county: *Provided further*, That for  
24 the fiscal years one thousand nine hundred forty-seven—  
25 one thousand nine hundred forty-eight and one thousand  
26 nine hundred forty-eight—one thousand nine hundred  
27 forty-nine, the state aid for any county shall in no case  
28 be less than sixty-five per cent of such adjusted founda-  
29 tion program except where further reduced as a result  
30 of deficiencies in revenue under the provisions of section  
31 thirteen hereof and chapter thirty-nine, acts of the Legis-  
32 lature, one thousand nine hundred thirty-nine.

Sec. 9. *Certification of Amount of State Aid.*—The  
2 state board shall certify to the board of education of each  
3 county the amount of state aid allocated to such county  
4 as soon after the commencement of each fiscal year as is  
5 practicable, such certification to be not later than the  
6 twenty-fifth day of July in any event.

Sec. 10. *County Request Schedule.*—Each county  
2 board of education shall file a request schedule with the  
3 state board for payments of state aid to which it is  
4 entitled in each fiscal year. Following such request the  
5 state board shall pay state aid by requisition upon the  
6 state auditor in favor of the fiscal officer of the various  
7 county boards of education in installments as requested.  
8 The state board shall have authority to examine and  
9 approve or disapprove the schedule of payments or  
10 modify the same so long as its action is not designed to  
11 unreasonably curtail the educational program by any  
12 such county board.

Sec. 11. *Inspections and Audits.*—The state board,  
2 in connection with its inspection and supervision of  
3 school fiscal administration in the several counties, may  
4 make such additional inspections and audits as may be

5 necessary to determine the accuracy of statistical reports  
6 submitted to the state superintendent or to the state  
7 board of education in connection with the computation  
8 and distribution of state aid.

9 The state board shall cause proper corrections to be  
10 made forthwith in any reports found to be inaccurate  
11 and shall also make such adjustments in the distribution  
12 of state aid to the county concerned as may be occasioned  
13 by the correction of data upon which the allocation of aid  
14 was based.

Sec. 12. *Records and Reports.*—The state board may,  
2 for the purpose of exercising the powers delegated to it  
3 by this article, require county boards of education and  
4 county superintendents to keep such records and to make  
5 such reports as the board may determine. The state  
6 board shall prescribe the form, content and the time for  
7 making reports. The state board may require that re-  
8 ports be made to the board or to the office of the state  
9 superintendent. A county board of education and a  
10 county superintendent shall keep records and make re-  
11 ports as required by the state board.

Sec. 13. *Revenue Deficiencies.*—If at any time defi-  
2 ciencies in the revenue reduce amounts available for state  
3 aid below the amount of appropriations made by the  
4 Legislature for any fiscal year and it becomes necessary  
5 for the state board to reduce the amount of state aid it  
6 shall have the right to do so in such manner that under  
7 this article the equitable rights of the various counties  
8 shall be protected.

Sec. 14. *Excess Appropriations.*—In any case where  
2 appropriations for state aid are in excess of the founda-  
3 tion program required for all counties of the state, such  
4 excess, if available for expenditure under appropriations  
5 shall be allocated and paid to the respective county  
6 boards of education in the same proportion which the  
7 foundation program of each county bears to the sum of  
8 the foundation programs of all counties of the state.  
9 Allocation shall be made by the state board.

## CHAPTER 80

(House Bill No. 45—By Mr. Speaker, Mr. Amos)

AN ACT to amend article three, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section nine-a, relating to the authority of the state superintendent of schools in respect to the correction of fire hazards and other unsafe conditions in public school buildings.

[Passed February 26, 1947; in effect from passage. Approved by the Governor.]

### Article 3. State Superintendent of Schools.

#### Section

9-a. Authority of state superintendent in respect to safety of buildings.

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

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

Section 9-a. *Authority of State Superintendent in Respect to Safety of Buildings.*—Whenever any county board shall fail to comply with an order of the state fire marshal for correction of fire hazards in any public school building, the state superintendent shall close the building, or the unsafe part thereof, until the board complies with such order. The state superintendent shall also have the power and authority to inspect any public school building and to order the making of such repairs or alterations as may be necessary to put the building into a safe condition.

## CHAPTER 81

(House Bill No. 31—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section one, article four, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the election and term of office of the county superintendent of schools.

[Passed March 7, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 4. County Superintendent of Schools.

#### Section

1. Election and term.

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

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

Section 1. *Election and Term.* — The superintendent  
2 shall be elected by the board to serve for a term of not  
3 less than one, nor more than four years, but his appoint-  
4 ment shall terminate regardless of the term or terms for  
5 which he shall have been appointed no later than four  
6 years from the date of his original appointment. Each  
7 superintendent shall be eligible for reelection for a term  
8 of from one to four years, subject to the same limita-  
9 tions: *Provided, however,* That at the expiration of his  
10 term of service he shall be given the status of a teacher  
11 in the system unless dismissed for statutory reasons.  
12 Such election shall be held on the first Monday in June,  
13 and the person so elected shall take office on the first day  
14 of July following. A superintendent who fills a vacancy  
15 caused by an incomplete term, shall be appointed to serve  
16 until the following first day of July. The president of the  
17 board, immediately upon the election of the superintend-  
18 ent, shall certify the election to the state superintendent

19 of schools. The superintendent in office on the effective  
20 date of this act shall continue in office until the expira-  
21 tion of his term.

## CHAPTER 82

(Com. Sub. for House Bill No. 36—Originating in the House Committee on Education)

AN ACT to amend and reenact section thirteen-a, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the employment by county boards of education of directors and supervisors of instruction.

[Passed February 20, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 5. County Board of Education.

#### Section

13-a. Employment of directors and supervisors of instruction.

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

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

#### Section 13-a. *Employment of Directors and Supervisors*

2 of *Instruction*.— The board, subject to the provisions of  
3 this chapter and the rules and regulations of the state  
4 board, shall have authority to employ such directors or  
5 supervisors of instruction as may be deemed necessary,  
6 their compensation to be paid from any fund of the board  
7 available for the purpose.

8 The employment of band directors, playground direc-  
9 tors, playground supervisors, athletic coaches, and other  
10 directors and supervisors may be on a twelve month  
11 basis.

## CHAPTER 83

(Senate Bill No. 26—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact section twenty, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authority of county boards of education in respect to the maintenance of school libraries and the employment of librarians during vacation.

[Passed February 14, 1947; in effect from passage. Approved by the Governor.]

### Article 5. County Board of Education.

#### Section

20. School libraries; librarian.

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

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

Section 20. *School Libraries; Librarian.* — The board  
2 may provide libraries for its schools and may purchase  
3 books, bookcases, and other things necessary therefor,  
4 and shall pay the cost of such libraries out of the school  
5 funds of the county.  
6 The board shall have authority to employ during the  
7 vacation period a librarian for any school having a library  
8 of one hundred or more volumes, and to pay such libra-  
9 rian out of the school funds of the county an amount to  
10 be determined by the board. Any librarian so appointed  
11 shall keep the library open at least one day a week, at  
12 which time the patrons and pupils of the school may  
13 draw books from the library under such rules and reg-  
14 ulations for the care and return thereof as the board may  
15 prescribe.

## CHAPTER 84

(House Bill No. 34—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section twenty-seven, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the requirements for certificates of public school administrators.

[Passed March 7, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 7. Teachers.

#### Section

#### 27. Administrative certificates.

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

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

#### Section 27. *Administrative Certificates.*—Administra-

2 tive certificates are authorized to include:

3 (1) County superintendents certificates, valid for five  
4 years, issued upon compliance with the following require-  
5 ments:

6 (a) Completion of the work necessary for a master's  
7 degree at an accredited college or university, which work  
8 shall include at least sixteen semester hours in school  
9 administration and supervision.

10 (b) At least five years of experience in teaching, ad-  
11 ministration or supervision, or any combination thereof  
12 aggregating five years.

13 (c) Good character.

14 (2) Elementary principals certificate, valid for five  
15 years, issued upon completion of the work necessary for  
16 a master's degree at an institution approved to give grad-  
17 uate work in elementary education, provided the require-  
18 ments of the state board are met.

19 (3) High school principals certificate, valid for five



20 years, issued upon completion of the work necessary for  
21 a master's degree at an institution approved to give grad-  
22 uate work in secondary education, provided the require-  
23 ments of the state board are met.

## CHAPTER 85

(House Bill No. 12—By Mr. Davis)

AN ACT to amend and reenact section seven, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to sale or lease of school property.

[Passed February 11, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 5. County Board of Education.

#### Section

7. Sale of school property; oil or gas lease.

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

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

#### Section 7. *Sale of School Property; Oil or Gas Lease.*—

2 The board shall ascertain at the beginning of each school  
3 year the buildings and grounds to be retained for school  
4 purposes, and the buildings and grounds which because  
5 of their condition or location should be sold. The board  
6 may sell the undesirable buildings and the land on which  
7 they are located, at public auction, after proper notice,  
8 and on such terms as it orders, to the highest responsible  
9 bidder. But in rural communities the grantor of the lands,  
10 his heirs or assigns, shall have the right to purchase at the  
11 sale, the land, exclusive of the buildings thereon, and the  
12 mineral rights, at the same price for which it was orig-  
13 inally sold. The board by the same method prescribed for

14 the sale of school buildings and lands, may also lease for  
15 oil or gas or other minerals any lands or school sites owned  
16 in fee by it. The proceeds of such sales and rentals shall be  
17 placed to the credit of such fund or funds of the district  
18 as the board may direct: *Provided*, That the provisions  
19 of this section concerning sale at public auction shall not  
20 apply to boards of education selling or disposing of its  
21 property for a public use to the state of West Virginia,  
22 or its political subdivisions, including county courts, for  
23 an adequate consideration without considering alone the  
24 present commercial or market value of the property.

## CHAPTER 86

(Senate Bill No. 145—By Mr. Vickers, Mr. President)

AN ACT to amend article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by adding thereto a new section, to be designated section two-d, relating to the investment of county board of education funds raised by levy or by sale of bonds for capital expenditures.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Article 9. School Finances.

#### Section

2-d. Authorizing temporary investment of funds raised by levy.

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

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

Section 2-d. *Authorizing Temporary Investment of Funds Raised by Levy.*—Any funds of a county board of education raised by levy or by the sale of bonds for the

- 4 purpose of capital outlay and which cannot be used within
- 5 a reasonable time may be transferred to the state sinking
- 6 fund commission for investment, except as otherwise pro-
- 7 vided in this chapter.

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## CHAPTER 87

(Senate Bill No. 144—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact section two-c, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the transfer by sheriffs of unneeded and unexpended funds collected to retire school bonds of magisterial or independent school districts, and to the expenditure of such funds.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Article 9. School Finances.

#### Section

- 2-c. Transfer by sheriff of unneeded and unexpended funds collected to retire school bonds of magisterial or independent school districts; how funds to be used and expended.

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

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

- Section 2-c. *Transfer by Sheriff of Unneeded and Unexpended Funds Collected to Retire School Bonds of Magisterial or Independent School Districts; How Funds to be Used and Expended.*—The sheriffs of the various counties are hereby authorized and directed to transfer to the credit of the school current fund of the boards of education of their respective counties, all funds collected in any magisterial or independent school district of their county for the retirement of school bonds of such magis-

10 terial or independent school district remaining after all  
11 of such bonds shall have been retired, if the fact of such  
12 retirement has been certified by the state sinking fund  
13 commission.

14 When all of such bonds have been retired the state  
15 sinking fund commission shall certify the fact of the re-  
16 tirement of such bonds to the sheriff and to the board of  
17 education of the county. Such funds shall be used in the  
18 same manner as other funds now to the credit of, or  
19 which may hereafter be placed to the credit of, the school  
20 current fund of the respective boards of education, but  
21 such funds hereby authorized and directed to be trans-  
22 ferred shall be expended only for the maintenance and  
23 repair of buildings in the respective magisterial or inde-  
24 pendent school districts from which such funds were col-  
25 lected.

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## CHAPTER 88

(House Bill No. 21—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section thirteen, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend such article by adding thereto a new section to be designated section thirteen-a, relating to the powers and duties of the state board of education in respect to state educational institutions and to the transfer of property and financial control of such institutions from the state board of control to the state board of education.

[Passed February 18, 1947; in effect July 1, 1947. Approved by the Governor.]

### Article 2. State Board of Education.

#### Section

13. Powers and duties of state board as to state educational institutions.  
13-a. Control of property and business affairs of state educational institutions.

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

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

Section 13. *Powers and Duties of State Board as to State Educational Institutions.*—The state board shall have general control, supervision and management of the business and educational affairs of Marshall college, Fairmont state college, West Liberty state college, Glenville state college, West Virginia institute of technology, Shepherd college, Concord college, West Virginia state college, Bluefield state college, the West Virginia schools for the deaf and the blind, and the West Virginia school for the colored deaf and blind. The state board shall employ the president or principal, and the professors, teachers and other employees of each of the state educational institutions under its control and management, and shall fix the yearly or monthly salary to be paid to each person so employed.

Sec. 13-a. *Control of Property and Business Affairs of State Educational Institutions.*—The control of the financial, business and all other affairs of the state educational institutions named in the preceding section is hereby transferred from the state board of control to the state board of education. The state board of education shall, in respect to the control, management and property of such institutions, have the same rights and powers and shall perform the same duties as were heretofore exercised or performed by the state board of control. The title to all property of such institutions is hereby transferred to and vested in the state board of education.

## CHAPTER 89

(House Bill No. 20—By Mr. Speaker, Mr. Amos)

AN ACT to amend article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated section one-a, relating to the transfer of property and financial control of West Virginia university and Potomac state school from the state board of control to the board of governors.

[Passed February 18, 1947; in effect July 1, 1947. Approved by the Governor.]

### Article 11. West Virginia University.

#### Section

- 1-a. Control of property and business affairs of institutions managed by board of governors.

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

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

- Section 1-a. *Control of Property and Business Affairs of Institutions Managed by Board of Governors.*—The control of the financial, business and all other affairs of the West Virginia university and of Potomac state school is hereby transferred from the state board of control to the board of governors. The board of governors shall, in respect to the control, management and property of such institutions, have the same rights and powers and shall perform the same duties as were heretofore exercised or performed by the state board of control. The title to all property of such institutions is hereby transferred to and vested in the board of governors.

## CHAPTER 90

(Senate Bill No. 137—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact section sixteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the transfer of pupils by county boards of education.

[Passed March 3, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 5. County Board of Education.

#### Section

16. Transfer of pupils; tuition, transportation and maintenance.

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

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

Section 16. *Transfer of Pupils; Tuition, Transportation and Maintenance.*—The board may divide its territory into such sub-districts as are necessary to determine the schools the pupils of its districts shall attend. But upon the written request of any parent or guardian, or person legally responsible for any pupil, or for reasons affecting the best interests of the schools, the superintendent may transfer pupils from one school to another within the district. Any aggrieved person may appeal the decision of the superintendent to the board, and the decision of the board shall be final.

Transfers of pupils from one county to another may be made by the board of the county in which the pupil desiring to be transferred resides; but the transfer shall be subject to the approval of the board of the county to which the pupil wishes to be transferred, except such approval shall not be a condition precedent to the transfer of a pupil resident in a municipality comprised of parts of two or more counties in this state, or resident in an independent school district as the same existed prior to the

21 date the county unit act became effective, made up of parts  
22 of two or more counties and whether or not within its  
23 limits now defined is located a municipality or part there-  
24 of, but until otherwise provided by the board of the unit  
25 of his residence, such pupil shall be considered and treated  
26 as transferred, as the case or the situation may be, with  
27 the right unimpaired to attend the school or schools now  
28 established and maintained (if not discontinued) in such  
29 municipality and/or independent school district. Such  
30 transfer by operation of law shall cease, when: (a), the  
31 board of the unit comprising a part of the municipality or  
32 independent school district, has erected or does establish  
33 and maintain therein a school or schools of the grade or  
34 grades and standing, respectively, equivalent to the school  
35 or schools in adjoining unit which the pupil coming with-  
36 in the exceptions above mentioned is given the right to  
37 attend; or (b), in the discretion of the board it can trans-  
38 port economically the pupils coming within the exception  
39 aforesaid to some school or schools established and main-  
40 tained in the jurisdiction of the unit of the pupils' resi-  
41 dence and elects to so do. The existence of the fact under  
42 (a) aforesaid shall be declared by the board and entered  
43 of record in its minutes, as well as the entry of the exer-  
44 cise of its discretion and election under the provisions  
45 (b) aforesaid, and a copy of the minutes of the board  
46 relating to its declaration and/or discretion and election  
47 as aforesaid, as the case may be, duly certified by the  
48 signature of the president and the secretary of said board,  
49 shall be furnished forthwith to the board of the unit com-  
50 prising the other part of said municipality or independent  
51 school district. In all cases of transfer by the act of the  
52 board or by operation of law, either to elementary schools  
53 or to high schools, the board making the transfer shall  
54 pay to the board to which such transfer is made, reason-  
55 able tuition fees, which for elementary schools shall not  
56 exceed two and one-half dollars a month, and for junior  
57 and senior high schools shall not exceed ten dollars a  
58 month. The fee, to be paid out of the teachers' fund, shall  
59 not exceed the actual cost of the instruction. No parent,  
60 guardian or person acting as parent or guardian shall be



61 required to pay for the transfer or for the tuition of the  
62 pupil after the transfer. The board of the district to which  
63 the pupil has been transferred shall promptly, at the first  
64 of each month, certify to the board of the district from  
65 which the pupil was transferred the correct amount of all  
66 tuition fees due and payable for the next preceding  
67 month. All tuition fees shall be paid within thirty days  
68 of certification, to the district maintaining the school by  
69 the district to which the fees are certified. All tuition  
70 fees shall be paid out of the teachers' fund of the one  
71 district to the teachers' fund of the other.

72 In any district where a high school is maintained, but  
73 topography, impassable roads or other conditions prevent  
74 the practicable transportation of any pupils to such high  
75 school, the board may transfer them to a high school in  
76 an adjoining district. In any such case, the board making  
77 the transfer shall pay the cost of the transportation of  
78 such pupils to and from the school to which they are  
79 transferred, and shall also pay the tuition fees as pro-  
80 vided above.

81 In any district where no high school for negro pupils  
82 is maintained the board shall provide for the payment of  
83 tuition fees, not to exceed ten dollars a month for each  
84 pupil, necessary to permit the enrollment of all qualified  
85 negro pupils in the nearest available negro high school,  
86 negro vocational high school, or in the high school depart-  
87 ment of a negro institution of higher education, and shall  
88 also pay the cost of the daily transportation of the pupils  
89 to such high school. If, however, the daily transportation  
90 of such pupils is impracticable, necessitating their absence  
91 from home overnight, the board shall pay in addition to  
92 the tuition fees a maintenance allowance of at least thirty  
93 dollars a month to each such pupil, and daily transporta-  
94 tion involving a round trip of more than fifty miles shall  
95 at the election of the pupil be considered impracticable for  
96 the purposes of this requirement.

97 Transfer of pupils from this state to another shall be  
98 upon such terms as shall be mutually agreed upon by  
99 the board of the transferring district and the authorities  
100 of the school to which the transfer is made, and shall be

101 based upon the aggregate per capita student cost of the  
102 preceding year, of the school to which the transfer is  
103 made.

104 For the purposes of computing average daily attend-  
105 ance any pupil transferred as provided in this section  
106 shall be counted by the district making the transfer and  
107 not by the district to which he was transferred.

## CHAPTER 91

(House Bill No. 381—By Mr. Clovis)

AN ACT to amend and reenact sections nineteen and twenty-two, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to registration record files and filling of registration forms.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Article 2. Registration of Voters.

#### Section

- 19. Registration record files.
- 22. Filling of registration forms.

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

That sections nineteen and twenty-two, article two, 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 19. *Registration Record Files.*—The registration records to be used in county-state elections shall be kept in a separate file and arranged according to precinct, street and sequence of house, apartment or room numbers, where possible. A duplicate set of these registration records shall be made and kept in a separate file, and shall be arranged in alphabetical order. Such file shall herein be referred to as the "alphabet file."

9 The registration records to be used in municipal elec-  
10 tions shall be kept in a separate file and arranged, where  
11 possible, according to precinct, street, and sequence of  
12 house, apartment or room numbers.

13 In any case where the county magisterial district and  
14 municipal precinct lines coincide in such manner that all  
15 the registrants entitled to vote in any county-state elec-  
16 tion and the registrants entitled to vote in any municipal  
17 election in any precinct are the same it shall not be  
18 necessary for the registrar to maintain a separate record  
19 for municipal elections, unless the governing body of  
20 the municipality demands it by formal notice directed  
21 to the county court, and offers to defray the expense  
22 of maintaining such duplicate set of registration lists.

Sec. 22. *Filling of Registration Forms.*—Each appli-  
2 cant shall fill only one registration form, except in those  
3 cases where a separate record for municipal elections is  
4 required, in which case those registrants who are re-  
5 quired to be listed in separate municipal record lists  
6 shall fill two forms. The signatures of the applicant on  
7 all forms shall be written in ink.

## CHAPTER 92

(Com. Sub. for House Bill No. 145—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact sections two, five, sixteen, sev-  
enteen, twenty and thirty-three, article two, chapter three  
of the code of West Virginia, one thousand nine hundred  
thirty-one, as amended, and to amend such article by add-  
ing thereto a new section to be designated section twenty-  
five, all relating to the registration of voters.

[Passed March 7, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 2. Registration of Voters.

#### Section

2. Definitions.
5. Permanent and uniform registration.

16. Appointment of registrars; qualifications and duties.
17. Compensation of registrars.
20. Custody of registration records; public inspection.
25. Biennial check-up.
33. Transfers.

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

That sections two, five, sixteen, seventeen, twenty and thirty-three, article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, and that such article be amended by adding thereto a new section to be designated section twenty-five, all to read as follows:

- Section 2. *Definitions.*—For the purpose of this article, unless the context clearly requires a different meaning:
- “Qualified voter” shall mean any person who possesses the statutory and constitutional requirements for voting.
- “Election” shall mean the procedure whereby the voters of this state or any subdivision thereof elect persons to fill public offices or vote on public questions.
- “Any election” or “all elections” shall include every general, primary, or special election held in this state, or in any of its subdivisions, for the purpose of nominating or electing federal, state, county, city, town or village officers of any subdivision now existing or hereafter created, or for voting upon any public question submitted to the people of the state or any of the aforesaid subdivisions.
- The masculine pronoun shall be construed to include the feminine.
- “Subdivision” shall mean any county, city, town, village or any other unit in which the voters are authorized to elect public officers or to vote upon public questions submitted to them.
- “County court” shall, where such tribunal has not been established, be construed to mean the tribunal created in lieu thereof.
- “Clerk of the county court” shall be construed to include any authorized deputy.
- “Office” shall be construed to mean public office.

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

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

35 "Biennial check-up" shall mean the process by which  
36 the registrars, during the year one thousand nine hundred  
37 forty-eight and every two years subsequent thereto, pro-  
38 ceed to register all persons who are not registered, but  
39 who qualify for registration; or to check and, if necessary,  
40 alter, amend, correct, or cancel the registration records  
41 of those persons previously registered, including the ac-  
42 ceptance of applications for the transfer of the registra-  
43 tion of any person previously registered at another ad-  
44 dress within the county, or for the change of party  
45 affiliation.

46 "Registration form" shall mean the unfilled form to be  
47 used for the registration of voters.

48 "Registrar" shall be construed to include deputy reg-  
49 istrar.

50 In determining or reckoning any period of time men-  
51 tioned in this act the day upon which the act is done,  
52 paper filed, or notice given shall be excluded from, and  
53 the date of any election, hearing or other subsequent  
54 event, as the case may be, shall be included in the calcu-  
55 lation or reckoning; but if the last day upon which any  
56 act may be done, paper filed, or notice given, shall fall  
57 on a Sunday or legal holiday, the next following ordinary  
58 business day shall be considered as the last day for such  
59 purpose.

Sec. 5. *Permanent and Uniform Registration.*—A per-  
2 manent registration system shall hereby be established  
3 which shall be uniform throughout the state and all of  
4 its subdivisions. No voter so registered shall be required  
5 to register again for any election while he continues to  
6 reside at the same address, or, having moved from such  
7 address, is properly transferred according to the provi-

8 sions of section thirty-three of this article, unless his reg-  
9 istration is cancelled as provided in this article. If a voter  
10 fails to vote at least once during a period of three years,  
11 his registration shall be cancelled and he shall, by letter  
12 or postal card, be given proper notice thereof by the  
13 clerk of the county court, to the effect that in order to  
14 vote he must register again.

Sec. 16. *Appointment of Registrars; Qualifications and*  
2 *Duties.*—The county court of each county shall, not less  
3 than sixteen nor more than eighteen weeks prior to the  
4 date of each state-wide primary election, appoint a num-  
5 ber of competent persons, not to exceed two for each  
6 voting precinct in the county, to act as registrars for the  
7 purpose of making the biennial check-up required by this  
8 article. No person shall be eligible to appointment as a  
9 registrar, or in any way act as such, if he has been con-  
10 victed of a felony or if he holds any elective or appointive  
11 office, or is a public employee, under the laws of this state  
12 or of the United States; or cannot read or write the Eng-  
13 lish language; or is a candidate to be voted for at such  
14 election. If any such registrar shall fail or refuse to serve  
15 or is properly dismissed, the vacancy shall be filled either  
16 by the county court or by the clerk thereof in vacation,  
17 in the manner provided for the appointment of registrars.  
18 Each registrar before entering upon the discharge of his  
19 duties, shall take an oath that he will perform the duties  
20 of the office to the best of his ability, which oath shall be  
21 filed in the office of the clerk of the county court.

22 An equal number of such registrars shall be selected  
23 from the two political parties which, at the last preceding  
24 election, cast the highest number and next highest num-  
25 ber of votes in the county in which the election is to be  
26 held. The county court shall, at least four weeks prior  
27 to making such appointment, request the county execu-  
28 tive committee of each of the said two political parties  
29 to submit a list of names, equal to one-half of the total  
30 number to be appointed, of persons qualified to act as  
31 registrars; and the county court shall, if such lists  
32 are submitted, appoint the respective registrars there-

33 from, and shall notify each registrar of his appointment.  
34 Every such list so presented shall be filed and preserved  
35 for one year by the clerk of such court in his office. Any  
36 and every act performed by any registrar under the pro-  
37 visions of this article shall be void unless performed in  
38 conjunction with a registrar of the opposite political party  
39 at the same time and place.

40 Before acting, all such registrars shall attend a session,  
41 or sessions, of instruction by the clerk of the county court,  
42 or some person designated by him, concerning the per-  
43 formance of their duties. For his attendance at such ses-  
44 sion, or sessions, not to exceed two in number, each regis-  
45 trar shall for each day he attends be entitled to one day's  
46 compensation, as provided in the following section.

47 Immediately following such instruction the clerk of the  
48 county court shall deliver to the registrars a copy of the  
49 laws and regulations with reference to the registering of  
50 voters, and all necessary forms and other supplies, in-  
51 cluding a certified list of all registered voters within the  
52 precinct for which such registrars were appointed, upon  
53 such form as may be prescribed by the secretary of state.  
54 Such registrars shall thereupon proceed together to make  
55 a house-to-house canvass in their precinct for the pur-  
56 pose of making the biennial check-up required by section  
57 twenty-five of this article. In making such check-up the  
58 registrars shall not again register any person who is al-  
59 ready registered in such precinct, but shall determine  
60 whether or not such person is duly registered and quali-  
61 fied to vote therein.

62 For the purpose of making further corrections and of  
63 registering or transferring the registration of persons who  
64 were missed during the house-to-house canvass or who  
65 have since become qualified to register in the precinct, the  
66 registrars shall sit together at some public place therein  
67 for at least one day during the sixth week preceding each  
68 state-wide primary or general election. The county court  
69 shall designate the place and fix the date or dates for such  
70 sittings in each precinct and shall cause notice thereof  
71 to be placed in at least ten conspicuous places in the pre-  
72 cinct not less than five days before the date fixed for the

73 first sitting therein. The clerk of the county court may  
74 publish a notice in two newspapers of opposite politics  
75 and of general circulation in the county, giving the time  
76 and places where such registrars shall sit. The clerk of  
77 the county court is also authorized to publish such notices  
78 as may be proper in his opinion to advise the electorate  
79 of the respective dates after which transfers and regis-  
80 tration, and changes of registration, may not be made  
81 with respect to any general or primary election.

82 Upon the completion of the biennial check-up and im-  
83 mediately following the last sitting before each election,  
84 the registrars shall return the records and lists to the  
85 clerk of the county court, together with an affidavit that  
86 the returns, records and lists returned to the clerk are  
87 true and correct to the best of their knowledge and be-  
88 lief. The clerk of the county court shall make the neces-  
89 sary changes in his other registration records. The list  
90 checked by the registrars in each precinct shall be com-  
91 pared with the register of deaths kept by the clerk of the  
92 county court in his office. Each person named in the list  
93 whose death has not been recorded shall be given proper  
94 notice by the clerk of the county court, that his regis-  
95 tration has been cancelled and that in order to vote he  
96 must register again. The notice shall be mailed to such  
97 person's last address appearing on the registration record.

Sec. 17. *Compensation of Registrars.*—As compensation  
2 for his services during the house-to-house canvass each  
3 registrar shall be paid at a rate, to be fixed by the county  
4 court, of not less than five nor more than fifteen cents  
5 for each person newly registered; and for each transfer  
6 and for each previous registration checked, whether can-  
7 celled or not, he shall be paid not less than four nor more  
8 than eight cents. Each registrar shall be paid not less than  
9 three nor more than seven dollars for each day he attends  
10 a session of instruction by the clerk of the county court  
11 and for each day he serves at the sittings provided for  
12 in the preceding section.

13 Any part or all of the compensation of any registrar  
14 may be withheld by the county court until such time as



15 the county court shall have agreed that the duties of such  
16 registrar have been fulfilled.

Sec. 20. *Custody of Registration Records; Public In-*  
2 *spection.*—The registration records shall not be removed  
3 from the custody of the county court except for use in an  
4 election, or by the order of a court of record. The regis-  
5 tration records shall be open for public inspection under  
6 reasonable regulations prescribed by the county court.

Sec. 25. *Biennial Check-up.*—During the year one thou-  
2 sand nine hundred forty-eight and every two years sub-  
3 sequent thereto, the registrars, according to directions  
4 prescribed by the secretary of state and as provided in  
5 section sixteen of this article, shall proceed to register  
6 the names of all persons not registered but who are qual-  
7 ified to register, and shall also check and, if necessary,  
8 alter, amend, correct or cancel the registration records of  
9 the voters of the respective precincts, so as to provide a  
10 complete and accurate record of all persons qualified to  
11 vote.

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 fill-  
5 ing in, and, if he is able, signing under oath or affirma-  
6 tion the necessary form, which may be procured in per-  
7 son or by mail from the office of the clerk of the county  
8 court, or from the registrars during the biennial check-  
9 up. The form of such notice shall be prescribed by the  
10 secretary of state.

11 Upon receipt of such notice the clerk of the county  
12 court shall cause the signature thereon to be compared  
13 with the signature of the applicant upon his registration  
14 card and, if such signatures correspond, shall make entry  
15 of such change of residence upon all the registration rec-  
16 ords and the necessary transfers in the files. If the clerk  
17 of the county court is not satisfied as to the genuineness  
18 of the signature on the notice of change of residence, and

19 if the right of such applicant to register is challenged  
20 according to the procedure hereinbefore prescribed, such  
21 transfer shall not be made.

## CHAPTER 93

(House Bill No. 352—By Mr. Blue, by request)

AN ACT to amend and reenact article four, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter sixty-three, acts of the Legislature, regular session, one thousand nine hundred forty-three, providing for the cancellation for the non-payment of delay rental on oil and/or gas leases after demand therefor; also barring any action or proceeding in the courts of this state for the purpose of enforcing or perpetuating during the term thereof any oil and/or gas lease heretofore executed whereon delay rental has not been paid after demand therefor; and providing for the service and filing of notice of such demand; to be designated section nine-a.

[Passed March 5, 1947; in effect from passage. Approved by the Governor.]

### Article 4. Covenants.

#### Section

9-a. Cancellation of oil and/or gas leases for non-payment of delay rental after demand therefor, and barring any action or proceeding in the courts of this state for the purpose of enforcing or perpetuating during the term thereof any oil and/or gas lease heretofore executed for the non-payment of delay rental after demand therefor.

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

That article four, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, be amended by repealing the present section nine-a thereof, and substituting therefor a new section, to be designated section nine-a, to read as follows:

Section 9-a. *Cancellation of Oil and/or Gas Leases for Non-Payment of Delay Rental After Demand Therefor, and Barring Any Action or Proceeding in the Courts of this State for the Purpose of Enforcing or Perpetuating During the Term Thereof any Oil and/or Gas Lease Heretofore Executed for the Non-Payment of Delay Rental After Demand Therefor.*—Except in the case where operations for the drilling of a well are being conducted thereunder, any undeveloped lease for oil and/or gas in this state hereafter executed in which the consideration therein provided to be paid for the privilege of postponing actual drilling or development or for the holding of said lease without commencing operations for the drilling of a well, commonly called delay rental, has not been paid when due according to the terms of such lease, or the terms of any other agreement between lessor and lessee, shall be null and void as to such oil and/or gas unless payment thereof shall be made within sixty days from the date upon which demand for payment in full of such delay rental has been made by the lessor upon the lessee therein, as hereinafter provided, except in such cases where a bona fide dispute shall exist between lessor and lessee as to any amount due under such lease.

No person, firm, corporation, partnership or association shall maintain any action or proceeding in the courts of this state for the purpose of enforcing or perpetuating during the term thereof any lease heretofore executed covering oil and/or gas, as against the owner of such oil and/or gas, or his subsequent lessee, if such person, firm, corporation, partnership or association has failed to pay to the lessor such delay rental in full when due according to the terms thereof, for a period of sixty days after demand for such payment has been made by the lessor upon such lessee, as hereinafter provided.

The demand for payment referred to in the two preceding paragraphs shall be made by notice in writing and shall be sufficient if served upon such person, firm, partnership, association, or corporation whether domestic or foreign, whether engaged in business or dissolved, in the manner provided for service of notice under article two,

42 chapter fifty-six of the code, or section seventy-one,  
43 article one, chapter thirty-one of the code, or if the holder  
44 of such lease be a nonresident of the state or cannot be  
45 found within the state after diligent search, service  
46 upon him may be had by publication at least once a week  
47 for three successive weeks in any newspaper published  
48 in the county wherein such oil and/or gas property is  
49 situated, in whole or in part, or if no newspaper is pub-  
50 lished in such county, then in any adjoining county.

51 A copy of such notice showing the required service or  
52 publication thereof shall be filed with the clerk of the  
53 county court in which such lease is recorded, or in which  
54 such oil and/or gas property is located in whole or in  
55 part, and upon payment of a fee of fifty cents for each  
56 such lease, said clerk shall permanently file such notice  
57 alphabetically under the name of the first lessor appear-  
58 ing in such lease and shall stamp or write upon the  
59 margin of the record in his office of such lease hereafter  
60 executed the words "cancelled by notice"; and as to any  
61 such lease executed before the enactment of this statute  
62 said clerk shall file such notice as hereinbefore provided  
63 and shall stamp or write upon the margin of the record  
64 of such lease in his office the words "enforcement barred  
65 by notice".

66 The word "lessor" shall include the original lessor, as  
67 well as his or its successors in title to the oil and/or gas  
68 involved. The word "lessee" shall include the original  
69 lessee, his or its assignee properly of record at the time  
70 such demand is made, and his or its successors, heirs, or  
71 personal representatives. No assignee of such lease  
72 whose assignment is not recorded in the proper county  
73 shall be heard in any court of this state to attack the  
74 validity or sufficiency of the notice hereinbefore men-  
75 tioned.

76 The continuation in force of any such lease after de-  
77 mand for and failure to pay such delay rental as herein-  
78 before set forth is deemed by the Legislature to be opposed  
79 to public policy and against the general welfare. If any  
80 part of this act shall be declared unconstitutional such  
81 declaration shall not affect any other part thereof.

## CHAPTER 94

(House Bill No. 183—By Mr. Speaker, Mr. Amos)

AN ACT to amend article one, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section, to be designated section seven-a, relating to photographing, microphotographing or reproducing on film, records, papers or documents.

[Passed February 18, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 1. Legislative Acts and Resolutions; Public Records.

#### Section

7-a. Photographing, microphotographing or reproducing on film, records, papers or documents.

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

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

Section 7-a. *Photographing, microphotographing or reproducing on film, records, papers or documents.*—Any public officer of the state may, with the approval of the board of public works, cause any or all records, papers or documents kept by him to be photographed, microphotographed or reproduced on film. Such photographic film shall be of durable material and the device used to reproduce such records on such film shall be one which accurately reproduces the original thereof in all details. Such photographs, microphotographs or photographic film shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification, or certified copy of the original. Whenever photographs, microphotographs or

18 reproductions on film have been made and put in con-  
19 veniently accessible files, and provision has been made  
20 for preserving, examining and using the same, the re-  
21 spective heads of the departments, divisions, institutions  
22 and agencies of the state may, with the approval of the  
23 board of public works, cause the records and papers so  
24 photographed, microphotographed or reproduced on film,  
25 or any part thereof, to be destroyed; but before any such  
26 records, papers or documents are authorized to be de-  
27 stroyed, the board of public works shall obtain the ad-  
28 vice and counsel of the state historian and archivist, or  
29 his designated representative, as to the desirability of  
30 placing the said records, papers and documents in the  
31 archives of that department, whereupon the board of  
32 public works may cause such records, papers and docu-  
33 ments to be so transferred.

## CHAPTER 95

(House Bill No. 304—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section ten, article seven, and sections four and nine, article nine, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the disposition and expenditure of moneys appropriated for or collected by the conservation commission for the authorized purposes of the commission, including their expenditure for the prevention or suppression of forest fires.

[Passed March 3, 1947: in effect from passage. Approved by the Governor.]

### Article

- 7. Hunting and Fishing Licenses.
- 9. Forests.

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

That section ten, article seven, and sections four and nine, 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:

**Article 7. Hunting and Fishing Licenses.****Section****10. Disposition of license fees.**

Section 10. *Disposition of License Fees.*—All moneys  
2 received by or paid to any officer or other person of this  
3 state for licenses as aforesaid shall be paid to the com-  
4 mission, in the manner and at the times as hereinafter  
5 provided, and the commission shall, on receipt of the  
6 same, forthwith pay over to the state treasurer such  
7 money so received, accompanying it with a statement  
8 showing in detail the sources of such money and the pur-  
9 pose for which the same was originally paid, and the  
10 same shall be credited forthwith to the game, fish and  
11 forestry fund. Such officers and other persons so receiv-  
12 ing such money shall, on the first day of each month, pay  
13 over to the commission all moneys so paid to them during  
14 the preceding month, and each officer and person shall  
15 accompany such payment with a report showing, in the  
16 case of license money, the name of the county, the class of  
17 licenses sold, the name and addresses of the persons pay-  
18 ing the same, and the date of the receipt thereof. All  
19 such money so paid for licenses shall be credited to the  
20 commission, as hereinbefore provided, and shall be fur-  
21 ther credited to and kept in a separate fund designated  
22 "License fund—game, fish and forestry," and shall be used  
23 and paid out, upon the order of the commission, solely for  
24 the conservation, protection, propagation and distribution  
25 of the fish, frogs, wild game and wild birds and fowls in  
26 this state, in the enforcement of the fish and game laws  
27 of this state, for any of the purposes in this chapter pro-  
28 vided; for the operation of the commission, and as pro-  
29 vided for by section ten of article nine of this chapter.

30 All money so credited to and kept separately in "Li-  
31 cense fund—game, fish and forestry," and applicable as  
32 aforesaid, and also all other moneys to the credit of the  
33 commission in the state treasury, whether derived from  
34 the seventy-five thousand dollar annual appropriation  
35 from the general revenue of the state or from financial  
36 assistance received from the owners of forest land, or  
37 from recoveries against persons giving origin to forest

38 fires, or from the federal government, by appropriation  
39 under the Weeks and the Clarke-McNary laws or other-  
40 wise, shall be withdrawn from the state treasury and ex-  
41 pended at the sole discretion of the commission in accor-  
42 dance with the provisions hereof, only upon the written  
43 requisition of the commission, duly authorized by it at a  
44 meeting duly held, and signed by the chairman of such  
45 commission, but the unused portion, if any, of said funds  
46 or credits derived from said seventy-five thousand dollar  
47 annual appropriation from the general revenues of the  
48 state, remaining unexpended or undrawn at the end of the  
49 year for which made, shall be carried over as a balance  
50 to the next year, and from year to year thereafter, and  
51 the appropriation therefor shall not be deemed to have  
52 expired at the end of the year.

## Article 9. Forests.

### Section

4. Payment for services rendered at forest fires.
5. Commission authorized to secure federal cooperation; annual appropriation.

Section 4. *Payment for Services Rendered at Forest*  
2 *Fires.*—Compensation for all services rendered in con-  
3 fining, extinguishing or suppressing forest fires, except  
4 compensation for services rendered by the chief forester,  
5 district foresters and forest protectors, shall be charged  
6 against the state of West Virginia, and shall be paid out  
7 of the sum of seventy-five thousand dollars annually  
8 appropriated under the provisions of section nine, ar-  
9 ticle nine, chapter twenty of the code of West Virginia,  
10 one thousand nine hundred thirty-one, as amended by  
11 chapter twenty-nine, acts of the Legislature, regular ses-  
12 sion, one thousand nine hundred thirty-one. Each forest  
13 protector shall render to the commission at Charleston,  
14 within twenty days after the occurrence of a fire requir-  
15 ing payment for services above mentioned out of said  
16 fund, a sworn statement with the name or names of all  
17 persons who were summoned and assisted in the confin-  
18 ing, extinguishing or suppressing of any such forest fire,  
19 the time spent by each, as well as the names of persons  
20 who furnished subsistence or supplies, or transportation



21 therefor, and the amount of money due each for such  
22 services, subsistence, supplies or transportation. Requi-  
23 sitions shall be issued and payment of the sums due for the  
24 sums due services above mentioned shall be made in the  
25 same manner as is provided for the making of other ex-  
26 penditures by the commission under section ten, article  
27 seven, chapter twenty of the code of West Virginia, one  
28 thousand nine hundred thirty-one.

Sec. 9. *Commission Authorized to Secure Federal Co-  
2 operation; Annual Appropriation.*—The commission may  
3 do all things required to meet the conditions and re-  
4 quirements of the federal government in securing federal  
5 cooperation under the provisions of the Weeks law and  
6 the Clarke-McNary law, and any law amendatory thereof  
7 or supplemental thereto, for the purpose of preventing  
8 forest fires and the advancement of forestry practices.  
9 The sum of seventy-five thousand dollars is hereby ap-  
10 propriated annually and the board of public works shall  
11 include said sum of seventy-five thousand dollars for said  
12 purpose in its biennial budget to the Legislature as pro-  
13 vided in section fifty-one, article six of the constitution of  
14 this state and/or in such other budgets as it may present  
15 to the Legislature as may be necessary to provide the  
16 said sum of seventy-five thousand dollars for the purpose  
17 of this section, which sum of seventy-five thousand dol-  
18 lars annually shall be paid into the state treasury to the  
19 credit of game, fish and forestry commission and be ex-  
20 pended and drawn upon by it for the aforesaid purposes,  
21 in the manner herein elsewhere provided.

## CHAPTER 96

(House Bill No. 362—By Mr. Trumbo and Mr. Hall)

AN ACT to amend chapter twenty of the code of West Virginia,  
one thousand nine hundred thirty-one, as amended, by  
amending and reenacting section nine, article one-a; sec-

tion one, article two; sections one, four, seven, eight, nine, ten and twelve, article three; sections one, four, five, six and twelve, article four; sections one, three, four, five, six, eight and eleven, article five; sections one and five, article six; sections one, two, three and seven, article seven; and by adding section seven-f to article three; sections six-a, fourteen-a, fourteen-b and fourteen-c to article four; section seven-a to article five; and section two-i to article seven, all relating to the wild animals, wild birds, fish and frogs of the state.

[Passed March 8, 1947; in effect July 1, 1947. Approved by the Governor.]

**Article**

- 1-a. Director of Conservation.**
- 2. Conservation Officers.**
- 3. General Provisions Respecting Game, Birds, Fish.**
- 4. Game and Fur-Bearing Animals.**
- 5. Birds and Fowls.**
- 6. Fish and Other Aquatic Life.**
- 7. Hunting and Fishing Licenses.**

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

That chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section nine, article one-a; section one, article two; sections one, four, seven, eight, nine, ten and twelve, article three; sections one, four, five, six and twelve, article four; sections one, three, four, five, six, eight and eleven, article five; sections one and five, article six; sections one, two, three and seven, article seven; and by adding section seven-f to article three; sections six-a, fourteen-a, fourteen-b and fourteen-c to article four; section seven-a to article five; and section two-i to article seven; all to read as follows:

**Article 1-a. Director of Conservation.**

**Section**

- 9. Legal services by attorney general and prosecuting attorneys; employment of other attorneys.**

**Section 9. Legal Services by Attorney General and**

- 2 Prosecuting Attorneys; Employment of Other Attorneys.**
- 3 —The attorney general and his assistants and the prose-**

4 cutting attorneys of the several counties shall render to  
5 the director, without additional compensation, such legal  
6 services as he shall require of them in the discharge of  
7 his duties under the provisions of this chapter. The  
8 director may, in any emergency and with prior approval  
9 of the attorney general, employ an attorney to act in  
10 proceedings wherein criminal charges are brought against  
11 an employee or appointee of the commission because of  
12 action taken in the line of duty. An amount not to exceed  
13 three hundred dollars may be expended by the director  
14 for any one case.

## Article 2. Conservation Officers.

### Section

1. Appointment; compensation; qualifications; uniforms.

Section 1. *Appointment; Compensation; Qualifications; Uniforms.*—The director shall, in accordance with  
2 other provisions of general law relating to the appoint-  
3 ment and compensations of the personnel of the state  
4 government, appoint conservation officers and fix their  
5 compensation. Conservation officers shall be accorded  
6 rights of tenure and advancement so long as they dis-  
7 charge their duties in a satisfactory manner. The director  
8 may also appoint special conservation officers to serve  
9 for such periods of time as may be necessary.

11 Preference in making appointments shall be given  
12 wherever possible to honorably discharged soldiers, sail-  
13 ors and marines of the United States Army and Navy.

14 Persons appointed as conservation officers shall be  
15 men, between the ages of twenty-one and forty years,  
16 at least five feet nine inches (5'9") tall (barefoot), but  
17 not over six feet six inches (6'6"), weight in proportion  
18 to height, of good physical condition, good moral char-  
19 acter, and shall have passed the necessary written and  
20 oral tests conducted by the West Virginia state merit  
21 system council.

22 No person shall be barred from being appointed a  
23 conservation officer because of his religious or political  
24 convictions.

25 All applications shall be accompanied by the certificate

26 of the judge of the circuit court, the sheriff, and the  
27 prosecuting attorney of the county in which the applicant  
28 resides to the effect that the applicant is a person of  
29 good moral character, not of intemperate habits, and  
30 has never been convicted of a felony and not more than  
31 once of a misdemeanor.

32 The director shall prescribe the kind, style and material  
33 of uniforms to be worn by conservation officers. Uni-  
34 forms and other equipment furnished to the conserva-  
35 tion officers shall be and remain the property of the  
36 state.

37 Wherever the words "game protector" or "game pro-  
38 tectors" shall appear or be mentioned in any section of  
39 this chapter, or any other general law relating to con-  
40 servation, game, fish or forestry, the same shall be  
41 deemed to mean and shall mean "conservation officer"  
42 or "conservation officers," whichever the case may be.

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

#### **Section**

1. State ownership of wildlife.
4. Acts forbidden on Sunday.
7. Possession of wild animals, wild birds, fish or frogs.
- 7-f. Sealing beaver pelts or skins.
8. Open seasons and bag limits; powers of the director; sectional meetings.
9. Transportation of game, birds, fish or frogs out of state.
10. Sale of game, birds, fish or frogs.
12. Serving game, birds, fish or frogs at public eating place.

Section 1. *State Ownership of Wildlife.*—The owner-  
2 ship of, and the title to, all wild animals, wild birds,  
3 both resident and migratory, and all fish and frogs, and  
4 all other aquatic life, in the state of West Virginia, are  
5 hereby declared to be in the state, as trustee for the  
6 people, and no such wild animals, wild birds, fish or  
7 frogs, or other aquatic life, shall be taken or killed in  
8 any manner, or at any time, except the person so taking  
9 or killing the same shall consent that the title thereto  
10 shall be and remain in the state of West Virginia, for  
11 the purpose of regulating the taking, use and disposition  
12 of the same after such taking or killing; and the taking  
13 or killing of wild animals, birds, fish or frogs, and all

14 other aquatic life, at any time or in any manner by any  
15 person, shall be deemed such consent: *Provided, however,*  
16 That all fish, frogs and other aquatic life in privately owned  
17 ponds are, and shall remain, the private property of the  
18 owner or owners of such privately owned ponds, and that  
19 such fish, frogs and other aquatic life in such privately  
20 owned ponds may be caught, taken or killed by such owner  
21 or owners at any time. But nothing herein contained shall  
22 make unlawful the bringing in of game, fowl or fish ac-  
23 quired lawfully in another state.

Sec. 4. *Acts Forbidden on Sunday.*—It shall be un-  
2 lawful on Sunday to:

3 (1) Carry an uncased gun in any woods, in or on  
4 any highway, railroad right-of-way, public road, fields,  
5 or streams of this state, except at a regularly used rifle,  
6 pistol, skeet, target or trap shooting ground or range;

7 (2) Hunt, catch, kill, trap, injure or pursue with  
8 intent to catch, kill, trap or injure any wild animals, or  
9 wild birds: *Provided, however,* That traps previously,  
10 and legally set may be tended on Sunday, if the person  
11 or persons so doing, shall not have firearms of any  
12 description in their possession.

Sec. 7. *Possession of Wild Animals, Wild Birds, Fish*  
2 *or Frogs.*—No person shall have in his possession, except  
3 during the open season therefor, any wild animals, wild  
4 birds, fish or frogs, protected under the provisions of  
5 this chapter, unless such possession is in accordance  
6 with a permit issued by the director under section seven-a  
7 to seven-d inclusive, of this article, or of section three-b  
8 of article four: *Provided, however,* That game animals,  
9 game birds, fish or frogs, lawfully taken during the open  
10 season, may be had in possession during the open season  
11 therefor, and for sixty days thereafter: *Provided further,*  
12 That any person upon application to the director may be  
13 issued a permit, authorizing the possession of the flesh of a  
14 lawfully-killed deer or bear or any part thereof, for an  
15 additional period not to exceed four months.

16 Game animals, game birds, fish or frogs, lawfully taken  
17 outside of this state, may be possessed sixty days after

18 the date such game animals, game birds, fish or frogs were  
19 legally brought into the state, and for an additional period  
20 thereafter by securing a permit issued by the director.

21 Migratory game shall be possessed only in accordance  
22 with the "Migratory Bird Treaty Act" and regulations  
23 thereunder.

24 The director, or his duly authorized agents, may hunt,  
25 kill, capture or maintain in captivity, at any time, any wild  
26 animals, wild birds, fish or frogs, for the purpose of scien-  
27 tific research, propagation, protection or distribution.

Sec. 7-f. *Sealing Beaver Pelts or Skins.*—Each licensee  
2 holding a resident state-wide beaver trapping license  
3 shall present for sealing, within thirty days after the  
4 close of a legal open season, all beaver pelts or skins  
5 taken under said license to a designated representative  
6 of the conservation commission. The resident state-  
7 wide beaver trapping license, countersigned by the  
8 owner, lessee or other person entitled to the possession  
9 of such lands, on which beaver were trapped, shall ac-  
10 company all such pelts or skins. A seal provided by the  
11 conservation commission shall be affixed to each beaver  
12 pelt or skin and shall remain attached to the skin until  
13 such pelt or skin has been tanned and processed into  
14 commercial fur. The sealing fee shall be three dollars  
15 per pelt.

Sec. 8. *Open Seasons and Bag Limits; Powers of  
2 the Director; Sectional Meetings.*—The director shall,  
3 by regulation fix the open seasons with respect to wild  
4 animals, fur-bearing animals, wild birds, fish and frogs.  
5 He may prescribe different open seasons of varying  
6 length in the several counties, or parts thereof, of the  
7 state. The director shall fix the open seasons for hunting  
8 and fishing in the several counties, or parts thereof, of  
9 the state as soon as possible after the first of each calendar  
10 year. Open seasons so fixed, shall be published, upon  
11 determination, in four newspapers of general circula-  
12 tion throughout the state, at least once each week for  
13 two successive weeks.

14 The director may:

15 (1) When he finds such action necessary to protect  
16 the forests or the wildlife of the state, change the bag  
17 limits on wild animals, wild birds, fur-bearing animals,  
18 fish and frogs. Before a change becomes effective, the  
19 director shall give notice by publication of the order in  
20 two newspapers of general circulation throughout the  
21 state, once each week for two successive weeks, with the  
22 last publication not later than two weeks prior to the  
23 date the change becomes effective;

24 (2) Omit or suspend for a fixed and definite period,  
25 or change the date of open seasons for the catching of  
26 fish in a stream or part of a stream in this state. The  
27 order shall definitely fix the stream, or part thereof,  
28 by a proper description. Before the suspension becomes  
29 effective, the director shall give notice by publication  
30 of the order once each week for two successive weeks  
31 in a newspaper of the county in which the stream is  
32 located;

33 (3) Omit, limit, or suspend for a fixed and definite  
34 period, open seasons for the killing of any wild animals  
35 or wild birds in any county. The order shall state the  
36 species and kinds of birds or animals and the period of  
37 limitation or suspension. Before the order becomes ef-  
38 fective, the director shall give notice by publication of  
39 the order in four newspapers of general circulation  
40 throughout the state, once each week for two successive  
41 weeks, with the last publication at least two weeks prior  
42 to the effective date of the order.

43 For the purpose of giving the various sections of the  
44 state an opportunity to be heard concerning open seasons  
45 for their respective areas, the director shall, and before  
46 such seasons are fixed for the various counties of the  
47 state as soon as practical after the beginning of each  
48 calendar year, hold meetings at Beckley, Charleston,  
49 Elkins, Martinsburg, Morgantown and Parkersburg.

Sec. 9. *Transportation of Game, Birds, Fish or Frogs*

2 *Out of State.*—No person shall at any time transport or  
3 kill or have in his possession with the intention of trans-  
4 porting beyond the limits of the state, any elk, deer,

5 raccoon (except the pelt thereof), quail, woodcock, pheasant,  
6 ant, ruffed grouse, wild turkey, squirrel, wild duck or  
7 wild goose, or any part thereof, or any game, birds, fish  
8 or frogs killed, caught or captured within this state:  
9 *Provided, however,* That a non-resident licensee may  
10 take with him personally, when leaving the state, any  
11 game animals, game birds, fish or frogs, that he has  
12 lawfully taken or killed, not exceeding, during the season,  
13 the number that any person may lawfully take or  
14 kill in any two days.

· Sec. 10. *Sale of Game, Birds, Fish or Frogs.*—No  
2 person shall purchase or offer to purchase, sell, or offer  
3 to sell, expose for sale, or have in his possession for the  
4 purpose of sale:

5 (1) Any, or any part of, elk, deer, raccoon, squirrel,  
6 rabbit, wild turkey, ruffed grouse, pheasant, quail, wood-  
7 cock, wild duck, wild goose, wild swan, wild brant, snipe,  
8 sandpiper, or any of the song or insectivorous birds of  
9 the state, except as permitted by section twelve-a, article  
10 three of this chapter: *Provided, however,* That raccoon  
11 pelts taken during the legal season may be sold: *Provided*  
12 *further,* That the hide, head, antlers and feet of a legally  
13 killed deer may be sold.

14 (2) Any, or any part of, trout of any species, black  
15 bass of any species, perch of any species (including wall-  
16 eyed pike-perch), sunfish of any species, pickerel of any  
17 species, muskellunge of any species, catfish of any species,  
18 suckers of any species, or any frog, caught or captured  
19 within this state, except as permitted by section thirteen,  
20 article six of this chapter.

21 No person, including a common carrier, shall (except  
22 as permitted by section thirteen, article six of this chap-  
23 ter) transport, carry or convey, or receive for such pur-  
24 poses, any of the animals or birds, or of the fish or frogs,  
25 listed under (1) and (2) above, caught, or killed in this  
26 state, if such person knows, or has reason to believe, that  
27 such animals, birds, fish or frogs have been or are to be  
28 sold.

29 The selling or exposing for sale, having in possession



30 for sale, transporting or carrying in violation of this sec-  
31 tion shall each constitute a separate offense.

32 The director may extend the application of this section  
33 to animals, birds, fish or frogs not listed under (1) and  
34 (2) above, if he finds that such additional species require  
35 the protection accorded by this section.

36 The provisions of this section shall not apply to animals,  
37 birds, fish or frogs raised under the authority of the license  
38 issued in accordance with section twelve-a of this article.

Sec. 12. *Serving Game, Birds, Fish or Frogs at Public*  
2 *Eating Place.*—No person shall serve for pay, either  
3 directly or indirectly, at any hotel, restaurant, or other  
4 licensed eating place in this state, or in any public eating  
5 place in this state, any game animal, game bird, or game  
6 fowl, or any part thereof, whether caught within or  
7 without this state, or any game fish or frog caught within  
8 this state: *Provided*, That black bass shall not be served  
9 and it shall be unlawful to purchase the same from any  
10 source.

#### Article 4. Game and Fur-Bearing Animals.

##### Section

1. Game and fur-bearing animals.
4. Hunting rabbits.
5. Hunting squirrels.
6. Hunting fur-bearing animals.
- 6-a. Trapping beaver.
12. Forbidden methods of hunting.
- 14-a. Types of traps.
- 14-b. Marking of traps.
- 14-c. Possession of loaded firearms in vehicles.

Section 1. *Game and Fur-Bearing Animals.*—For the  
2 purpose of this chapter, the following are game animals:  
3 Elk (*Cervus canadensis*), deer, (*Odocoileus virginia-*  
4 *nus*), cottontail rabbit (*Sylvilagus* spp.), varying hare  
5 or snowshoe rabbit (*Lepus americanus*), gray, black al-  
6 bino and fox squirrel (*Sciurus* spp.) and raccoon (*Pro-*  
7 *cyon lotor*); and the following are fur-bearing animals:  
8 Opossum (*Didelphis virginiana*), beaver (*Castor cana-*  
9 *densis*), otter (*Lutra canadensis*), mink (*Mustela vi-*  
10 *son*), raccoon (*Procyon lotor*), muskrat (*Ondatra zibe-*  
11 *thica*), striped skunk (*Mephitis* spp.), spotted skunk

12 (Spilogale putorius) and red fox (Vulpes fulva).

13 Whenever the director finds that the application of this  
14 chapter is necessary to the protection and preservation  
15 of any other species of wild animals, he may, by formal  
16 order, include such other species within the definition of  
17 game or fur-bearing animals, as the case may be, for  
18 the purposes of this chapter. The director shall give  
19 notice of this order by publication once each week for  
20 two successive weeks in two newspapers of general  
21 circulation throughout the state.

Sec. 4. *Hunting Rabbits*.—No person shall, in any  
2 county of this state, hunt, capture, kill or have in his  
3 possession, any cottontail rabbit or varying hare (com-  
4 monly known as snowshoe rabbit) or any part thereof,  
5 including fresh pelts, except as provided in article three,  
6 section seven of this chapter: *Provided*, That it shall be  
7 lawful for a bona fide resident landowner of this state,  
8 his resident children or his bona fide resident tenant to  
9 hunt, capture or kill at any time any rabbit upon his  
10 own land or any land of which he may be a bona fide  
11 resident tenant.

Sec. 5. *Hunting Squirrels*.—No person shall, in any  
2 county of this state, hunt, capture or kill, gray, black,  
3 albino, or fox squirrels, or have in his possession a  
4 squirrel or any part thereof, including fresh pelts, except  
5 as provided in article three, section seven of this chapter.

Sec. 6. *Hunting Fur-Bearing Animals*.—No person  
2 shall in any county of this state, hunt, capture, trap,  
3 or kill any fur-bearing animals as defined by section one  
4 of this article, or have in his possession any fur-bearing  
5 animal or part thereof, except during the open season  
6 for that county. A person shall not have in his possession  
7 the fresh skin, or part thereof, of any fur-bearing  
8 animal, except beaver, within the period beginning ten  
9 days after the end of the open season and ending with  
10 the first day of the next succeeding open season for such  
11 animal in that county. No person shall disturb the traps  
12 of another person, kill, remove or take a fur-bearing

13 animal, raccoon or predator from the trap of another  
14 person without specific authorization of the owner of  
15 said trap, except upon land where the owner of such  
16 trap may have placed it without right or permission.

17 It shall be unlawful for any person to place a trap or  
18 traps upon the lands of another without the written per-  
19 mission required under section six, article three of this  
20 chapter.

Sec. 6-a. *Trapping Beaver.*—No person shall, at any  
2 time:

3 (1) Set or maintain more than the number of beaver  
4 traps established as the season limit in any one year by  
5 the director.

6 (2) Set any trap for beavers within fifteen feet of  
7 the water line on the structure of any beaver dam or  
8 house, or on a beaver dam or house.

9 (3) Have in his possession an unsealed beaver hide,  
10 or part thereof, within the period beginning thirty days  
11 after the end of the open season and ending with the  
12 first day of the next succeeding open season for beavers.

13 (4) Destroy, disturb, or in any manner, interfere with  
14 dams, houses or burrows of beavers while trapping for,  
15 or attempting to trap for beavers.

16 If any person shall unintentionally trap and kill more  
17 beavers than fixed by regulation as the season bag limit,  
18 he shall, within twenty-four hours, deliver said beaver  
19 or beavers to a representative of the conservation com-  
20 mission.

Sec. 12. *Forbidden Methods of Hunting.*—It shall be  
2 unlawful at any time for any person to:

3 (1) Shoot at, or to shoot for any wild bird or wild  
4 animal unless it is plainly visible to him or to dig out,  
5 cut out, or smoke out, or in any other manner take any  
6 live wild birds or wild animals, other than a predator,  
7 out of its den or place of refuge, except that woodchucks  
8 may be dug out of their dens in cultivated fields or  
9 pastures, under the conditions stipulated in regulations  
10 set up by the director; or to make use of, or take advant-  
11 age of, any artificial light, battery or other contrivance or

12 device, in hunting for, catching, taking, wounding, or  
13 killing any wild animals or wild birds, except that arti-  
14 ficial lights such as are ordinarily carried in the hand or  
15 on the person, may be used for the purpose of taking  
16 raccoons, opossums and skunks.

17 (2) It shall be unlawful for any person, or one or  
18 more of a group of persons together, to throw or cast  
19 the rays of a spotlight, headlight, or other artificial  
20 light, from any vehicle, on any highway, or in any field,  
21 woodland, or forest upon any game animal, or game  
22 bird, while having in his or their possession or under  
23 their control, or in any vehicle in which they may be  
24 traveling, a firearm or other implement whereby any  
25 game animal or game bird could be killed, even though  
26 such animal be not shot at, injured or killed. The pro-  
27 visions of this paragraph shall not apply if it shall be  
28 proven that the headlights of a motor vehicle while  
29 traveling on a highway in the usual way, cast a light  
30 upon such animal, on, or adjacent to such highway, and  
31 there was no attempt, or intent to locate such animal.

32 (3) Kill wild animals or wild birds from an airplane,  
33 automobile, or other land conveyance, or from a motor-  
34 driven craft upon any of the waters of the state.

35 (4) Kill squirrels from a craft upon any waters of  
36 the state.

37 (5) Kill or take any beaver or muskrat by any means  
38 other than by trap.

Sec. 14-a. *Types of Traps.*—The director shall have  
2 the power and authority to regulate the number, kind  
3 and types, of traps to be used in the catching or trapping  
4 of any game or fur-bearing animal.

Sec. 14-b. *Marking of Traps.*—All traps used for  
2 taking of any game or fur-bearing animal shall be marked  
3 with a metallic plate or tag, attached to the trap, trap  
4 chain, or set, bearing in plain English, the name and  
5 address of the owner of said trap.

Sec. 14-c. *Possession of Loaded Firearms in Vehicles.*—  
2 (1) Except as otherwise provided by law, it shall be

3 unlawful for any person, or persons, to have in their pos-  
4 session a loaded firearm or a firearm from the maga-  
5 zine of which all shells and cartridges have not been re-  
6 moved, in or on any vehicle or conveyance, or its attach-  
7 ments, while standing upon or along, or being driven upon  
8 or along, any public highway, or a highway open to use  
9 or used by the public, within this state: *Provided, how-*  
10 *ever,* That except as hereafter provided, between five  
11 o'clock postmeridian of one day and seven o'clock ante-  
12 meridian, eastern standard time, of the day following,  
13 any unloaded firearm, being lawfully carried in accord-  
14 ance with the foregoing provisions, shall be so carried  
15 only when in a case or taken apart and securely wrapped:  
16 (2) *Provided, however,* That during the period from  
17 July first to September thirtieth, inclusive, of each year,  
18 the foregoing requirements relative to carrying certain  
19 unloaded firearms shall be applicable only from eight-  
20 thirty o'clock postmeridian to five o'clock antemeridian,  
21 eastern standard time.

22 (3) The provisions of this section shall not be con-  
23 strued to apply to a conservation officer or to a public  
24 police officer engaged in the performance of his official  
25 duty, or to a paid special officer whose duty it is to enforce  
26 the game, fish and forestry laws of the state of West Vir-  
27 ginia and engaged in the performance of his official duties.

## Article 5. Birds and Fowls.

### Section

1. Game birds and fowls defined.
3. Hunting wood ducks.
4. Wild turkeys; report.
5. Hunting ruffed grouse.
6. Hunting quail or bob-white.
- 7-a. Hunting ring-necked pheasant.
8. Hunting song or insectivorous birds.
11. Unlawful to kill, possess, purchase, sell or transport certain wild birds or their plumage; birds not protected by chapter.

Section 1. *Game Birds and Fowls Defined.*—For the  
2 purpose of this chapter the following are game birds or  
3 game fowls; The anatidae, commonly known as ducks,  
4 geese, brants, and swans; the rallidea, commonly known  
5 as mud hens, rails, coots, and gallinules; the charadii,

6 commonly known as shore birds, plovers, snipes, wood-  
7 cocks, curlews, and sandpipers; and the galli, commonly  
8 known as wild turkeys, ruffed grouse or pheasant; ring-  
9 necked pheasant and quail or bob-whites.

Sec. 3. *Hunting Wood Ducks.*—No person shall hunt,  
2 pursue, catch, capture or kill any wood duck (*Aix sponsa*)  
3 at any time within this state.

Sec. 4. *Wild Turkeys; Report.*—No person shall, in  
2 any county of this state, hunt, capture, pursue, wound or  
3 kill any wild turkey (*Maleagris gallopavo*) or have in his  
4 possession any wild turkey, or part thereof, except as  
5 provided in article three, section seven of this chapter.  
6 No person shall, during the open season, hunt, pursue,  
7 catch or kill any wild turkey between sunset of one day  
8 and sunrise of the next day or kill more than one wild  
9 turkey in any open season.

10 A person who kills a wild turkey in this state shall  
11 report to the director in writing, within ten days after  
12 the kill, setting forth the date, time and place where  
13 killed, and whether the turkey was male or female.

Sec. 5. *Hunting Ruffed Grouse.*—No person shall  
2 hunt, pursue, catch, capture or kill or have in his posses-  
3 sion in any county of this state any ruffed grouse (*Bonasa*  
4 *umbellus*) except as provided in article three, section sev-  
5 en of this chapter.

Sec. 6. *Hunting Quail or Bob-White.*—No person  
2 shall hunt, pursue, catch, capture, kill or have in his  
3 possession in any county in this state, any quail, or bob-  
4 white, (*Colinus virginianua*) except as provided in  
5 article three, section seven of this chapter.

Sec. 7-a. *Hunting Ring-necked Pheasant.*—No person  
2 shall hunt, pursue, catch, capture, kill or have in his  
3 possession in any county of this state any ring-necked  
4 pheasant (*Phasianus colchicus torquatus*) except as pro-  
5 vided in article three, section seven of this chapter.

6 No person shall kill a female ring-necked pheasant in  
7 this state.

8 A person who kills a male ring-necked pheasant in this

9 state shall report to the director, in writing, within ten  
10 days after the kill, setting forth the date, time and place  
11 where killed.

Sec. 8. *Hunting Song or Insectivorous Birds.*—No per-  
2 son shall at any time hunt, pursue, catch, capture or kill,  
3 any song or insectivorous birds, unless such person shall  
4 be acting under a permit issued by the director in accord-  
5 ance with section seven-a, article three of this chapter.

Sec. 11. *Unlawful to Kill, Possess, Purchase, Sell or*  
2 *Transport Certain Wild Birds or their Plumage; Birds*  
3 *Not Protected by Chapter.*—No person shall, within this  
4 state, kill, catch, or have in his possession living or dead,  
5 any wild bird, other than a game bird or wild bird for  
6 which a bounty has been offered by the director; or  
7 expose for sale, or transport within or without the state,  
8 any such bird, except as aforesaid. No part of the plum-  
9 age, skin or body of any bird protected by this section  
10 shall be sold or had in possession for sale, except mounted  
11 or stuffed plumage, skin, bodies or heads of such birds  
12 legally taken and stuffed or mounted, irrespective of  
13 whether such bird was captured within or without this  
14 state, except the English or European sparrow (*Passer*  
15 *domesticus*), starling (*Sturnus vulgaris*), sharp-shinned  
16 hawk (*Accipiter velox*), Cooper's hawk (*Accipiter coop-*  
17 *eri*), goshawk (*Astur atricapillus*), great horned owl (*Bubo*  
18 *virginianus*), crow (*Corvus brachyrhynchos*), fish crow  
19 (*Corvus ossifragus*), and cowbird (*Molothrus ater*), which  
20 are not included among the birds protected by this chapter,  
21 and the killing thereof at any time is lawful.

## Article 6. Fish and Other Aquatic Life.

### Section

1. Game fish defined; open seasons for fishing.
5. Unlawful fishing.

Section 1. *Game Fish Defined; Open Seasons for*  
2 *Fishing.*—For the purpose of this chapter the following  
3 are game fish: Brook trout, brown trout, rainbow trout,  
4 large-mouth bass, small-mouth bass, Kentucky or spotted  
5 bass, pickerel, muskellunge, walleyed pike or pike-perch,

6 rock bass, white and black crappie and blue-gill sunfish  
7 and other bream.

8 The director, for the purpose of protecting and con-  
9 serving the fish and other aquatic animal life of the state,  
10 as provided by section eight, article three of this chapter,  
11 may establish open and closed seasons and creel limits on  
12 any or all fish, and regulate the taking and use of all  
13 other aquatic life. But water dogs and big salamander  
14 shall not be protected at any time.

15 The director may prescribe and enforce special regu-  
16 lations to apply to a stream or any part thereof, that  
17 he places under observation for scientific purposes.

18 Regulations may include the filling out and filing of  
19 special reports by persons fishing in the stream.

Sec. 5. *Unlawful Fishing.*—No person shall kill, catch,  
2 or attempt to kill or catch any fish at any time by:

3 (1) The use of seines, nets or traps, or devices of  
4 like nature without the written consent of the director.  
5 A person may use a seine not more than six feet in length,  
6 nor more than four feet in depth for securing minnows  
7 for angling, other than game fish or protected non-game  
8 fish; except any person may use a minnow trap, for the  
9 purpose of securing bait, provided the opening is not  
10 larger than one inch in diameter. A dip net so used shall  
11 not exceed thirty-six square feet in over all area, and its  
12 mesh shall not be smaller than one-quarter inch;

13 (2) Draining water out of any pool, pond, or stream  
14 with intent to take or injure fish;

15 (3) The use of dynamite, or any like explosive or  
16 explosive mixture;

17 (4) The use of a poisonous drug or substance;

18 (5) The use of electricity or lime;

19 (6) The use of firearms;

20 (7) Gigging, spearing, gaffing, snaring or grappling,  
21 except the director may permit gigging of non-game fish  
22 in a stream under the supervision of a representative  
23 of the director, other than during the months of April,  
24 May and June;

25 (8) Any other means other than by rod, line and hooks,



26 with natural or artificial lures;

27 A person shall not sell or purchase a seine more than  
28 six feet in length without the prior written permission  
29 of the director.

30 The provisions of this section shall not prevent the  
31 director from using such methods of catching fish as he  
32 shall find necessary and proper for the purpose of propa-  
33 gation, protection, or scientific investigation.

## Article 7. Hunting and Fishing Licenses.

### Section

1. Necessity for licenses.
2. Licenses conditioned on payment of fees; age exemption.
- 2-i. Class H; resident state-wide beaver trapping license.
3. Application for; to whom made.
7. When license to be exhibited; display of bag and creel limits.

Section 1. *Necessity for Licenses.*—No person above  
2 the age of fifteen years, who is a citizen of the United  
3 States, shall at any time hunt, pursue, trap for, kill,  
4 catch or chase for sport any wild animals or wild birds,  
5 or fish for, kill, or catch any frogs, turtles or fish of  
6 any kind whatsoever, without first having secured a  
7 license and then only during the respective open seasons.  
8 A bona fide resident land owner of this state, or his  
9 resident children, or his bona fide resident tenant, may  
10 hunt, kill, pursue, catch, or chase for sport any wild  
11 animals or wild birds, or fish for, capture or kill any of  
12 the fish, frogs or turtles of this state on his own land  
13 during the open season therefore in accordance with  
14 regulations and provisions of law applying to such hunt-  
15 ing or fishing, without obtaining a license so to do; so  
16 long as said land shall not have been designated and  
17 made, in manner provided by law, a state game refuge  
18 or reserve. No person, who is a resident of this state,  
19 under the age of fifteen years, shall hunt upon the lands  
20 of another unless accompanied by a licensed adult. A  
21 resident or non-resident member of any club or or-  
22 ganization or association of persons owning or leasing  
23 a game or fish reserve in this state shall not hunt or fish  
24 therein without securing a license.

Sec. 2. *Licenses Conditioned on Payment of Fees; Age Exemption.*—Licenses to hunt and fish shall be of the kinds and classes and shall be conditioned upon the payment of the fees set forth in sections two-a through two-i of this article. A resident of the state sixty years of age or over shall not be required to obtain a license to fish with hook and line in the waters of the state.

Sec. 2-i. *Class H; Resident State-wide Beaver Trapping License.*—A class H license shall be a state-wide beaver trapping license and shall entitle the licensee to trap beaver only, in all counties of the state. It shall be issued only to a citizen of the United States who is a bona fide resident of West Virginia. This license shall become valid only when countersigned, in a space provided on face of license, by landowner, lessee, or person who has legal possession of land upon which the trapper is operating. Setting beaver traps upon the lands of another person without obtaining permission and signature in space provided on license shall be considered an illegal act. The licensee shall not be required to hold any other class of license to trap beavers; nor shall said license be required of any bona fide resident landowner, resident child, or bona fide resident tenant. The fee shall be two dollars.

Sec. 3. *Application For; To Whom Made.*—A person eligible for a license under sections two-a to two-i, inclusive, of this article shall make applications as follows:

- (1) A resident of this state shall make application to the clerk of the county court in any county of the state;
- (2) A non-resident of this state may make application to the clerk of the county court of any county in this state;
- (3) A citizen of Ohio applying for a class E license shall make application to the clerk of the county court of a county bordering upon the state of Ohio;
- (3-a) Persons eligible for class H license shall make application to the clerk of the county court in any county of this state.
- (4) An alien, making application for a class F license, shall first apply to the director for the issuance of a permit

17 to obtain a class F license. The director shall issue the  
18 permit if he is satisfied that the applicant is legally entitled  
19 to a class F license and has bona fide intentions to exercise  
20 the license in accordance with the provisions of this chap-  
21 ter. After issuance of the permit an alien may apply to the  
22 clerk of the county court of any county in the state for the  
23 issuance of a class F license in the same manner as a non-  
24 resident of this state. A permit shall remain in force until  
25 revoked.

Sec. 7. *When License to be Exhibited; Display of Bag  
2 and Creel Limits.*—No person to whom license is granted  
3 shall hunt, pursue, trap for, kill, catch or chase for sport  
4 any wild animals, or wild birds, or fish for, kill or catch  
5 any frogs, turtles or fish of any kind whatsoever, in this  
6 state, unless at the time thereof, such person shall, on  
7 demand, exhibit such license to any officer of this state,  
8 or to the owner, tenant or lessee of any land on which  
9 such person is hunting, fishing, or chasing for sport.

10 Any person having in his or her possession, in the fields  
11 or woods, in, on or about the streams or waters of this  
12 state, any gun or hunting paraphernalia or any fishing  
13 rod or other fishing paraphernalia, except he or she be  
14 owner of such fields, woods, streams or waters, or the  
15 child, tenant or lessee of such owner, shall upon demand  
16 of any officer mentioned in this chapter, or of the owner,  
17 tenant, lessee or agent of the owner of such fields or  
18 woods, produce and exhibit his or her proper license  
19 to such officer or person for inspection, and shall give  
20 to such officer or person his or her correct name and  
21 address.

22 It shall be the duty of any fisherman or hunter, upon  
23 request or demand of any officer mentioned in this  
24 chapter, to exhibit fully to such officer, all game and fish  
25 such hunter or fisherman may have in his coat, game bag,  
26 fishing creel, fish basket or which such hunter or fisher-  
27 man may otherwise have in his immediate possession.

## CHAPTER 97

(Senate Bill No. 164—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact section eight, article nine, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, relating to audits of the accounts of public officers and to the payment of the costs thereof.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 9. Supervision of Public Offices.

#### Section

8. Cost of services of chief inspector; revolving fund.

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

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

Section 8. *Cost of Services of Chief Inspector; Revolving Fund.*—The cost of any service or act performed by the chief inspector under the provisions of this article as to any county or district office, officer or institution, shall be paid by the county court of the county; the cost thereof as to any board of education shall be paid by such board; the cost thereof as to any municipal corporation shall be paid by the authorities thereof: *Provided*, That in municipalities in which the total revenue from all taxes does not exceed the sum of two thousand dollars annually, such cost including the per diem and all actual costs and expense of such services shall not exceed the sum of fifty dollars; and the cost thereof as to any state institution or department may be assessed against and paid by the proper authority thereof. The cost of this service shall be the actual cost and expense of the service performed, including transportation, hotel, meals, materials, per diem compensation of deputies, assistants, clerical help and such other costs as may be necessary to enable him to perform the services required. The chief inspector shall render to the agency liable for such cost a statement

22 thereof as soon after the same was incurred as practicable, and it shall be the duty of such agency to allow  
23 the same, and cause it to be paid promptly in the manner  
24 that other claims and accounts are allowed and paid, and  
25 such total amount shall constitute a debt against the local  
26 agency due the state. Whenever there is in the state  
27 treasury a sum of money due any such county court,  
28 board of education or municipality from any source, upon  
29 the application of the chief inspector, the same shall be  
30 at once applied on the debt aforesaid against the county  
31 court, board of education or municipality, and the fact  
32 of such application of such fund shall be reported by the  
33 auditor to the said county court, board of education or  
34 municipality, which report shall be a receipt for the  
35 amount therein named. All money received by the chief  
36 inspector from this source shall be paid into the state  
37 treasury, shall be deposited to the credit of an account  
38 to be known as chief inspector's fund, and shall be expended only for the purpose of covering the cost of such  
39 services, unless otherwise directed by the Legislature.  
40 The cost of any such examination, service or act by the  
41 chief inspector made necessary, or such part thereof as  
42 was made necessary, by the wilful fault of any officer or  
43 employee, may be recovered by the chief inspector from  
44 such person, on motion, on ten days notice in any court  
45 having jurisdiction.

46  
47  
48 For the purpose of permitting payments to be made at  
49 definite periods to deputy inspectors and assistants for  
50 per diem compensation and expenses, there is hereby  
51 created a revolving fund for the chief inspector's office.  
52 The fund shall be accumulated and administered as follows:  
53

54 (1) There shall be appropriated from state fund general revenue the sum of twenty-five thousand dollars to  
55 be transferred to this fund to create a revolving fund  
56 which, together with other payments into this fund as  
57 provided in this article, shall constitute a fund to defray  
58 the cost of this service.

59  
60 (2) Payments received for the cost of services of the  
61 chief inspector's office shall be deposited into this revolving

62 ing fund, which shall be known as the chief inspector's  
63 fund.

64 (3) Any appropriations made to this fund shall not be  
65 deemed to have expired at the end of any biennium.

## CHAPTER 98

(House Bill No. 2—By Mr. Trumbo and Mr. McCoy)

AN ACT to amend and reenact section four, article seven, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter twenty-nine, acts of the Legislature, regular session, one thousand nine hundred forty-three, relating to salaries of judges of circuit courts and their additional compensation from counties.

[Passed February 24, 1947; in effect July 1, 1947. Approved by the Governor.]

### Article 7. Compensation and Allowances.

#### Section

4. Salaries of judges of circuit courts; additional compensation from counties.

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

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

- Section 4. *Salaries of Judges of Circuit Courts; Additional Compensation from Counties.*—The salaries of the judges of the circuit courts shall be paid out of the state treasury and shall, unless otherwise provided by law, be in the following annual amounts:
- 2 (1) In circuits having more than one hundred thousand population, eight thousand five hundred dollars;
  - 3 (2) In circuits having more than eighty thousand and

9 less than one hundred thousand population, eight thou-  
10 sand dollars;

11 (3) In circuits having more than sixty thousand and  
12 less than eighty thousand population, seven thousand five  
13 hundred dollars;

14 (4) In circuits having more than forty thousand and  
15 less than sixty thousand population, seven thousand dol-  
16 lars;

17 (5) In circuits having less than forty thousand popu-  
18 lation, six thousand dollars.

19 A county court or the board of county commissioners  
20 of Ohio county may pay the judge of the circuit court  
21 additional compensation, but the salary and additional  
22 compensation or combined contributions of the several  
23 county courts and board of commissioners shall not ex-  
24 ceed fifteen thousand dollars.

25 The population shall be according to the United States  
26 census, or the estimate of the United States bureau of  
27 census, as certified to the state auditor by the United States  
28 director of the census, last preceding the beginning of  
29 the calendar year in which the salary is payable.

— 3 —

## CHAPTER 99

(Senate Bill No. 280—By Mr. Boreman and Mr. Johnston)

AN ACT to amend and reenact section two, article seven, chap-  
ter six of the code of West Virginia, one thousand nine  
hundred thirty-one, as amended, relating to the salary of  
certain state officers.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the  
Governor.]

### Article 7. Compensation and Allowances.

#### Section

2. Salaries of certain state officers.

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

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

Section 2. *Salaries of Certain State Officers.*—The salary of the governor shall be ten thousand dollars per annum.

The salary of the attorney general shall be seventy-five hundred dollars per annum, effective from and after the first Monday after the second Wednesday in January in the year one thousand nine hundred forty-nine, the salary of the auditor, the secretary of state, the treasurer, the commissioner of agriculture, and the superintendent of free schools, shall be each, six thousand dollars per annum.

The salary of each of the judges of the supreme court of appeals shall be twelve thousand five hundred dollars per annum.

## CHAPTER 100

(House Bill No. 47—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section five, article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, to amend article four thereof by amending and reenacting sections two and three and by adding four new sections to be designated sections three-a, three-b, three-c and eleven, and to amend and reenact sections one, two and three, article five thereof, all relating to mentally ill persons and mental defectives.

[Passed February 10, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article

2. State Hospitals.

4. Patients in Hospitals; Restoration to Sanity and Discharge.

5. Maintenance of Certain Insane Persons.



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

That section five, article two, chapter twenty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, that article four thereof be amended by amending and reenacting sections two and three, and by adding four new sections to be designated sections three-a, three-b, three-c and eleven, and that sections one, two and three, article five thereof be amended and reenacted, to read as follows:

## **Article 2. State Hospitals.**

### **Section**

5. Forms for committing patients; other records; division of patients into classes.

Section 5. *Forms for Committing Patients; Other Records; Division of Patients into Classes.*—The board of control shall have authority, in consultation with the superintendents of the mental hospitals, to prepare, prescribe, and have printed forms to be used in committing patients to any of such hospitals.

For each patient there shall be kept a case record with such complete information as to aid in qualifying all state mental hospitals for the training of internes and nurses with a specialty in mental illnesses.

Whenever a patient is transferred from one state mental hospital to another, his complete record shall be forwarded to the hospital to which the patient is being transferred.

In order to make provision in cases of scarcity of room the board of control shall have the authority to divide into classes patients to be admitted thereto, so that admission shall be according to the relative need of patients for medical care and treatment in a hospital; and for the same reason, to cause to be returned to their relatives, or to the counties whence they came, patients who are harmless and incurable, including dotards, feeble-minded, imbeciles and idiots.

#### Article 4. Patients in Hospitals; Restoration to Sanity and Discharge.

##### Section

2. Examination upon admission; return to county.
3. Voluntary admission.
- 3-a. Admission on certificate of one physician.
- 3-b. Admission on certificate of health officer.
- 3-c. Report of admissions; registration by the board of control.
11. Examination and treatment of prisoners in penitentiary.

Section 2. *Examination Upon Admission; Return to County.*—When any person is admitted to a state hospital, he shall be carefully examined by the superintendent and one other physician thereof, who are hereby constituted the examining board of such institution. Such examination shall be made as soon after such person is received in the hospital as may be prudent; and if, from such examination (or from a subsequent examination, if the first one be not satisfactory to the examining board), such person is found to be insane and a proper person to be received therein, he shall be registered as an inmate of such hospital, and receive maintenance, treatment and care therein; but if he is not a proper person to be received in such hospital, or if, in the opinion of the examining board, such person be not insane, the superintendent shall cause him to be returned by an attendant to the sheriff of the county from which he was received. On receiving any such person it shall be the duty of the sheriff immediately to notify the clerk of the county court thereof; and it shall be the duty of the mental hygiene commission of such county promptly to consider and dispose of such case.

Sec. 3. *Voluntary Admission.*—Any person over twenty-one years of age who desires the benefit of institutional treatment as a voluntary patient may be admitted to one of the state mental hospitals on his own written application, subject to rules and regulations prescribed by the board of control. A voluntary patient may at any time request his discharge by giving to the superintendent notice in writing of his desire to leave. The superintendent shall within fifteen days after receipt of this notice grant the request unless in the meantime the patient has

11 been committed as provided in article three of this chap-  
12 ter.

Sec. 3-a. *Admission on Certificate of One Physician.*—

2 Any person alleged to be mentally ill or mentally defec-  
3 tive may, if no objection is made by such person or others  
4 on his behalf, be admitted to an institution upon presen-  
5 tation to the superintendent of a verified application ac-  
6 companied by a physicians' certificate dated not more  
7 than ten days before the date of admission.

8 The application shall contain a brief statement of the  
9 facts upon which the allegation of mental illness or men-  
10 tal defectiveness is based, and such other facts or infor-  
11 mation as may be required by the board of control. The  
12 application may be made by a near relative of a person  
13 alleged to be mentally ill or mentally defective, or by a  
14 health officer.

15 The certificate may be made by any physician licensed  
16 to practice medicine in this state who is not a relative by  
17 blood or marriage of the person alleged to be mentally  
18 ill or mentally defective or of the person seeking his ad-  
19 mission, and who has no direct or indirect interest in or  
20 connection with the institution to which application  
21 has been made. The physician shall state in the certifi-  
22 cate that he has within twenty-four hours of the date of  
23 the certificate examined the person alleged to be mentally  
24 ill or mentally defective and that in his opinion such  
25 person is mentally ill or mentally defective and in need  
26 of institutional care. The certificate shall also contain  
27 a brief summary of the facts and circumstances upon  
28 which the physician bases his opinion.

29 A patient admitted as provided in this section, or a  
30 relative acting on his behalf, may at any time give to the  
31 superintendent a written notice requesting his discharge.  
32 The superintendent shall within fifteen days after re-  
33 ceipt of this notice grant the request unless in the mean-  
34 time the patient has been committed as provided in article  
35 three of this chapter.

Sec. 3-b. *Admission on Certificate of Health Officer.*—

2 Any person alleged to be mentally ill or mentally defec-

3 tive may, if no objection is made by such person or others  
4 on his behalf, be admitted to an institution for a period  
5 not to exceed thirty days upon presentation to the super-  
6 intendent of the certificate of a health officer employed  
7 by the state or by one of its political subdivisions, re-  
8 questing the admission of such person. In addition to  
9 such other information as may be required by the board  
10 of control, the certificate shall contain a statement that,  
11 on the basis of a personal examination made within  
12 twenty-four hours of the date of the certificate, it is the  
13 opinion of the health officer that the person for whom  
14 admission is sought is mentally ill or mentally defective  
15 and in need of institutional care.

16 Every person admitted as provided in this section shall  
17 be discharged within thirty days after his admission un-  
18 less in the meantime he has been admitted as provided  
19 in one of the two preceding sections or committed as pro-  
20 vided in article three of this chapter.

Sec. 3-c. *Report of Admissions; Registration by the*  
2 *Board of Control.*—The superintendent of each state men-  
3 tal institution shall, within ten days after the admission of  
4 any patient, report the admission to the board of control  
5 together with any other information the board of control  
6 may require. A copy of said report shall be sent to the  
7 state health commissioner. He shall make a similar report  
8 of the discharge or death of any patient.

9 From such reports and other sources the board shall  
10 prepare and keep current a register of persons in this  
11 state who are suffering from mental illness.

12 The name of a person so registered shall not be made  
13 public nor shall the register be accessible to anyone ex-  
14 cept by order of the board of control or by order of the  
15 judge of a court of record.

Sec. 11. *Examination and Treatment of Prisoners in*  
2 *Penitentiary.*—The director of probation and parole shall  
3 have the authority to cause the transfer of any prisoner  
4 in any state penitentiary to any state mental institution  
5 for examination and observation. Upon request of the  
6 director the transfer shall be made by the warden of any

7 penitentiary. The superintendent of the institution shall  
8 receive the prisoner and shall keep him in custody within  
9 the institution. After examination and a proper period  
10 of observation, the superintendent shall submit to the  
11 director a report concerning the mental condition of the  
12 prisoner, together with recommendations as to the advisa-  
13 bility of care and treatment in a mental institution. If no  
14 treatment is recommended, the prisoner shall be returned  
15 to such penitentiary. If treatment is recommended, the  
16 director shall apply for commitment of the prisoner as  
17 provided in article three of this chapter.

## Article 5. Maintenance of Certain Insane Persons.

### Section

1. Maintenance of patients; reimbursement.
2. When and how counties to pay.
3. Care of patients in boarding homes.

#### Section 1. *Maintenance of Patients; Reimbursement.*—

2 The cost of the maintenance of patients admitted to the  
3 state mental institutions shall be paid out of funds appro-  
4 priated for the respective institutions, but the institution,  
5 through the board of control, shall have a right of reim-  
6 bursement for all or any part of such maintenance, in no  
7 case to exceed two dollars per day, from each patient or  
8 from the committee or guardian of the estate of the  
9 patient, or if that be insufficient, then from the patient's  
10 husband, wife, children, father and mother, or any of  
11 them. If a relative so liable does not reside in this state  
12 and has no estate or debts due him within the state by  
13 means of which the liability can be enforced against him,  
14 the other relatives shall be liable as provided by this  
15 section. In exercising this right of reimbursement the  
16 board of control may, whenever it is deemed just and  
17 expedient to do so, exonerate any person chargeable with  
18 such maintenance from the payment thereof in whole or  
19 in part, if it finds that he is unable to pay or that payment  
20 would work an undue hardship on him or on those de-  
21 pendent upon him.

22 There shall be no discrimination on the part of the  
23 institution as to food, care, protection, treatment or re-

24 habilitation, between patients who pay for their maintenance and those who are unable to do so.

26 The provisions of this section apply only to the state  
27 mental hospitals proper, and not to the clinics attached  
28 thereto.

29 It shall be the responsibility of the board of control to  
30 determine the ability of the patient or of his relatives to  
31 pay for his maintenance.

Sec. 2. *When and How Counties to Pay.*—If the state  
2 mental institution is unable to collect a minimum of fifty  
3 dollars per annum toward the maintenance of a patient,  
4 the county of which the patient is a resident shall annually pay into the state treasury for credit to the appropriate institution the difference between the amount, if  
6 any, collected by the institution and the sum of fifty  
7 dollars.  
8

9 At every levy term of each county court it shall estimate for and levy a sufficient amount to meet all such  
10 expenses. The superintendent of such hospital, on or  
11 before the tenth day of January of each year, shall certify  
12 to the auditor a list of all the patients in the hospital during the whole or any part of the preceding year for which  
13 the counties are to pay, showing on such list under the  
14 name of the county, the number from each county and  
15 length of time he was in said hospital during the year,  
16 and showing the amount due from each county for each  
17 patient, and the total amount due from each county for  
18 the year. As soon as such list is received by the auditor  
19 he shall charge to each county the amount appearing to  
20 be due from the certificates of the superintendent. Within  
21 ten days after the receipt of such certificate the auditor  
22 shall make out a copy thereof for each county and certify  
23 the same to the county court thereof, which list shall  
24 show the name of each patient in such hospital from the  
25 county during the year, the length of time he was in such  
26 hospital during the year, the amount charged for each  
27 patient, and the total amount charged on account of all  
28 such patients from the county; and such total amount  
29 shall constitute a debt against the county due the state.  
30  
31

32 Whenever there is in the state treasury a sum of money  
33 due any county from any source, the same shall be at  
34 once applied on the debt aforesaid against the county,  
35 and the fact of such application of such fund shall be  
36 reported by the auditor to the county court of the county,  
37 which report shall be a receipt for the amount therein  
38 named.

Sec. 3. *Care of Patients in Boarding Homes.*—The board  
2 of control may, upon the recommendation of the super-  
3 intendent of the institution, provide care in a suitable  
4 boarding home for any patient in a state mental institu-  
5 tion, if the condition of the patient is such that his and the  
6 public welfare will not be prejudiced thereby. A patient  
7 in a boarding home shall be deemed to be a patient of the  
8 institution from which he was removed and shall, on the  
9 approval of the superintendent, be placed under the  
10 supervision of a psychiatric social worker employed by  
11 the institution. All patients in such homes shall be visited  
12 at least once every three months, and if upon the visita-  
13 tion they are found to be abused, neglected or improperly  
14 cared for, they shall be returned to the institution or  
15 placed in a better boarding home. The cost of the board-  
16 ing home care shall be paid by the institution from  
17 which he was removed.

## CHAPTER 101

(House Bill No. 117—By Mr. Davis)

AN ACT to amend and reenact section three, article three, chap-  
ter twenty-seven of the code of West Virginia, one thou-  
sand nine hundred thirty-one, relating to the institution  
of proceedings for the commitment of persons who are  
mentally ill or mentally defective, including the taking of  
such persons into protective custody.

[Passed March 5, 1947; in effect ninety days from passage. Approved by the  
Governor.]

**Article 3. Determination of Insanity; Commitment.****Section****3. How proceedings originated; complaint; warrant.*****Be it enacted by the Legislature of West Virginia:***

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

**Section 3. *How Proceedings Originated; Complaint;***

**2 Warrant.**—If any resident of a county suspect any person  
**3** therein to be a lunatic, he may make complaint under  
**4** oath to the clerk of the county court, giving such infor-  
**5** mation and stating such facts therein as may be required,  
**6** and deliver the same to the clerk of the county court,  
**7** whose duty it shall be to issue a warrant ordering the  
**8** person so suspected and named in such complaint to be  
**9** brought before the commission at a time and place named  
**10** therein, that his sanity may be inquired into. Any mem-  
**11** ber of the commission without such complaint may have  
**12** such warrant issued for any person found in his county,  
**13** whom he shall suspect to be a lunatic. All such warrants  
**14** shall be signed by the clerk of the county court and have  
**15** impressed thereon the seal thereof; and may be addressed  
**16** to the sheriff of the county or to any constable of any  
**17** district thereof, or to a special constable appointed for  
**18** the purpose and named therein; but if any relative or  
**19** friend of the person so suspected will serve such warrant  
**20** and cause such suspected person to be brought before  
**21** the commission, he may be allowed to do so. The officer  
**22** or person to whom the warrant is addressed shall take  
**23** the suspected person into custody and bring him before  
**24** the commission at the time and place named therein.

**25** Whenever a person apparently mentally ill is so vio-  
**26** lent as to endanger his own safety or the safety of others,  
**27** any law enforcement officer may with or without a war-  
**28** rant take such person into protective custody.



## CHAPTER 102

(Senate Bill No. 226—By Mr. Allen)

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, to be designated section forty-seven, relating to assignments of contracts or policies of insurance without consent of the beneficiary.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Article 2. General Provisions.

#### Section

47. Assignments of insurance contracts and policies without consent of beneficiary.

*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, to be designated section forty-seven, to read as follows:

- Section 47. *Assignments of Insurance Contracts and Policies Without Consent of Beneficiary.*—Whenever the insured in any contract or policy of insurance owned by him has therein reserved to himself the right to change the beneficiary thereunder, the insured shall have the right to and may assign said contract or policy of insurance as collateral security for a loan or loans, or for any other purpose, without any beneficiary thereunder joining therein or assenting thereto and such assignment shall operate by and have the effect of subordinating such beneficiary's rights and interests in the proceeds of said insurance contract or policy to the newly created and defined rights and interests of the assignee under the assignment.

## CHAPTER 103

(Com. Sub. for Senate Bill No. 224—Originating in the Senate Committee on Insurance)

AN ACT to amend article one, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as last amended, creating and establishing a state agency to be called the "Insurance Commissioner of West Virginia," who shall be known and designated as the "Insurance Commissioner," and who shall be appointed and designated by the governor, by and with the advice and consent of the senate; prescribing the rights, powers, privileges and compensation of said insurance commissioner; transferring the rights, powers, duties and privileges heretofore vested in the auditor as ex officio insurance commissioner to said insurance commissioner, appointed hereunder; and fixing the term of office of said insurance commissioner.

[Passed March 4, 1947; in effect July 1, 1947. Approved by the Governor.]

### Article 1. Insurance Commissioner

#### Section

1. General purposes; creation of office of insurance commissioner; appointment and term of office of commissioner.
2. Compensation of commissioner; expenses.
3. Transfer of rights, powers, duties and privileges, vested in the auditor as insurance commissioner to the insurance commissioner.
4. General duties of commissioner.
5. Examination of resident insurance companies.
6. Examination and supervision of business methods of insurance companies.
7. Enforcement of orders of commissioner.
8. Fees payable to commissioner.
9. Report by commissioner.
10. Repeal of conflicting acts.
11. Severability.

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

That article one, chapter thirty-three 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. *General Purposes; Creation of Office of Insurance Commissioner; Appointment and Term of Office of Commissioner.*—There is hereby created and established on July first, one thousand nine hundred forty-seven a state agency to be known as the “Insurance Commissioner of West Virginia” which shall consist of an insurance commissioner and such employees as may be authorized by law. The commissioner shall be a citizen and resident of this state. He shall, on or before July first, one thousand nine hundred forty-seven, be appointed and designated as the “Insurance Commissioner” by the governor, by and with the advice and consent of the senate, to serve for a period of six years. All appointments to said office made thereafter shall be for a period of six years, excepting that in a case of a vacancy the appointment shall be made to fill the unexpired term. Before taking the oath of office said insurance commissioner shall sever any and all connection either direct or indirect with any or all companies subject to supervision by the insurance commissioner and with any person, firm, corporation or agency representing any such company or companies. He shall devote his entire time to the discharge of the duties of the office of insurance commissioner, and shall engage in no other form of work, business endeavor or business occupation.

Sec. 2. *Compensation of Commissioner; Expenses.*—  
2 The insurance commissioner shall receive an annual salary of six thousand dollars and actual expenses incurred  
3 in the performance of official business which compensation shall be in full for all services. The office of the commissioner shall be established and maintained in the capitol or other suitable place in Charleston. The commissioner may establish such rules and regulations as may  
4 be necessary or convenient for the discharge of his duties,  
5 and may employ such persons and incur such expenses  
6 as may be necessary in the discharge of his duties as  
7 imposed by law, and shall fix the compensation of such  
8 employees, but such compensation shall not exceed the  
9 appropriation therefor. All compensation for salaries of

15 the commissioner, for salaries and wages of employees of  
16 the commissioner and for expenses of the commissioner  
17 as herein authorized shall be paid monthly out of the  
18 state treasury by requisition upon the auditor, properly  
19 certified by the insurance commissioner.

Sec. 3. *Transfer of Rights, Powers, Duties and Privileges, Vested in the Auditor as Insurance Commissioner to the Insurance Commissioner.*—All rights, powers, duties and privileges vested in, exercised, or enjoyed by the auditor of this state as insurance commissioner, shall, on and after the first day of July, one thousand nine hundred forty-seven, be vested in, exercised, and enjoyed by the insurance commissioner appointed hereunder, and his successors in office. All papers, blanks, reports, documents and records heretofore in the possession, custody, or control of the auditor of this state as insurance commissioner shall be, and are hereby, transferred to, and shall remain in, the possession, custody and control, of the insurance commissioner appointed hereunder.

Sec. 3-a. *Definition of Term "Insurance Company."*—  
2 "Insurance company" as used in this article means all  
3 insurers or insurance carriers, including, but not limited  
4 to, stock insurance companies, mutual insurance companies, reciprocal and inter-insurance exchanges, and all  
5 other types of insurers and insurance carriers.

Sec. 4. *General Duties of Commissioner.*—The commissioner shall see that all laws respecting insurance companies are faithfully executed; shall furnish to each insurance company doing business in this state printed forms of the statements required by law; shall on or before the tenth day of each month pay into the state treasury all the fees which he may have received during the month previous; and may administer oaths in the discharge of his duties. He shall report to the governor changes which, in the opinion of the commissioner, should be made in the laws relating to insurance.

Sec. 5. *Examination of Resident Insurance Companies.*  
2 —The commissioner or his accredited examiners shall, at

3 least once in four years, visit each company or associ-  
4 ation under the jurisdiction and supervision of the com-  
5 missioner and thoroughly examine its financial condition  
6 and ascertain whether it has complied with all provi-  
7 sions of the laws of this state. All the expenses of such  
8 examination shall be borne by the company or associ-  
9 ation examined.

Sec. 6. *Examination and Supervision of Business Meth-*  
2 *ods of Insurance Companies.*—The commissioner may  
3 from time to time examine the methods of business of  
4 any company, corporation, association, partnership or  
5 combination of persons doing any kind or form of insur-  
6 ance business in this state, and may order it or them to  
7 answer such questions as he may deem necessary for  
8 the purpose of such inquiry; and if, in the opinion of the  
9 commissioner, after due notice and hearing, any such  
10 company, corporation, association, partnership or com-  
11 bination of persons is doing business in an illegal, im-  
12 proper or unjust manner, or failing to adjust and pay  
13 losses and obligations when they become due, excepting  
14 claims to which there is a substantial defense, he may  
15 order it to discontinue such illegal or improper method  
16 of doing business and may order it to adjust and pay its  
17 losses and obligations as they become due.

18 And in order to foster and protect the businesses con-  
19 ducted under the supervision of said insurance commis-  
20 sioner, and to put this legislative policy into effect, the  
21 insurance commissioner is authorized and directed to  
22 maintain a continuous investigation of the regulation and  
23 control of such businesses generally. When, because of  
24 regulations in other states, an emergency arises which  
25 endangers the stability of such businesses within this  
26 state, the commissioner, after investigation and deter-  
27 mination, shall have the authority to make from time to  
28 time such temporary regulations as may be necessary to  
29 protect such businesses carried on in this state against  
30 discrimination because of regulations existing in other  
31 states.

32 The commissioner shall promptly send certified copies

33 of all orders issued under the authority of this section to  
34 each company, corporation, association, partnership or  
35 combination of persons under his control, supervision or  
36 regulation.

Sec. 7. *Enforcement of Orders of Commissioner.*—If  
2 any such company, corporation, association, partnership,  
3 or combination of persons shall fail or refuse within ten  
4 days to obey any such order of the insurance commis-  
5 sioner, he may apply to a court or judge having jurisdic-  
6 tion for an injunction or for the appointment of a receiver,  
7 or for both, and such court or judge may enforce such order  
8 of the commissioner by injunction, or by appointing a re-  
9 ceiver to take charge of the property and affairs of such  
10 company, corporation, association, partnership or com-  
11 bination of persons, or both; and may make all such fur-  
12 ther orders as may be necessary or proper to carry into  
13 effect such an injunction or receivership.

Sec. 8. *Fees Payable to Commissioner.*—Except where  
2 it is otherwise specially provided, the commissioner shall  
3 demand and receive the following fees from all insurance  
4 companies: For annual fee for each license, ten dollars;  
5 for receiving and filing annual reports, ten dollars; for  
6 valuation of policies of life insurance companies organ-  
7 ized under the laws of this state, one and one-half cents  
8 for each one thousand dollars of insurance; for valuation  
9 of policies of life insurance companies organized under  
10 the laws of any other state admitted to transact business  
11 in this state, such rate for each one thousand dollars of  
12 insurance valued as is imposed by such other state upon  
13 any similar insurance company organized under the laws  
14 of this state admitted to transact business in such other  
15 state; for filing any additional paper required by law,  
16 twenty-five cents; for every certificate of valuation, copy  
17 of report or certificate of condition of company to be  
18 filed in any other state, five dollars; for each agent's cer-  
19 tificate of authority and copy of report, five dollars.

Sec. 9. *Report by Commissioner.*—The commissioner  
2 shall annually, within sixty days after the first day of

3 January, submit to the governor a report of his official  
4 acts, and of the condition of insurance companies doing  
5 business in this state, with a condensed statement of their  
6 reports made to him, an abstract of all accounts rendered  
7 to any court by the receivers of insolvent insurance com-  
8 panies, and the reports, or abstracts of the reports, made  
9 to the insurance commissioner by such receivers, to-  
10 gether with a statement of the fees received from all such  
11 companies and paid by him into the state treasury.

Sec. 10. *Repeal of Conflicting Acts.*—All acts or parts  
2 of acts in conflict with this article are hereby repealed.

Sec. 11. *Severability.*—The provisions of this act shall  
2 be construed to be severable and if any are held uncon-  
3 stitutional or otherwise invalid, such invalidity or un-  
4 constitutionality shall not affect the operation of the re-  
5 maining provisions.

## CHAPTER 104

(Senate Bill No. 133—By Mr. Love)

AN ACT to amend article fourteen, chapter thirty-three of the  
code of West Virginia, one thousand nine hundred thirty-  
one, as last amended, by adding thereto two new sections  
to be designated sections twelve and thirteen, providing for  
fees to be paid by attorney in fact for reciprocal insurance  
exchanges to the insurance commissioner and auditor of  
the state of West Virginia.

[Passed March 3, 1947; in effect from passage. Approved by the Governor.]

### Article 14. Reciprocal or Inter-Insurance Contracts.

#### Section

12. Filing fees.
13. Fee to auditor as agent to accept service.

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

That article fourteen, chapter thirty-three of the code of  
West Virginia, one thousand nine hundred thirty-one, as last

amended, be amended by adding thereto two new sections to be numbered sections twelve and thirteen, to read as follows:

Section 12. *Filing Fees.*—The insurance commissioner  
2 may demand and receive from each such attorney in fact  
3 the following filing fees: For receiving and filing annual  
4 reports, ten dollars; for filing any additional paper re-  
5 quired by law, twenty-five cents; for every certificate of  
6 valuation, copy of report or certificate of condition to be  
7 filed in any other state, five dollars.

Sec. 13. *Fee to Auditor as Agent to Accept Service.*—  
2 Each such attorney in fact shall pay to the auditor of the  
3 state of West Virginia an annual fee of ten dollars for the  
4 services of the auditor as authorized agent for the accept-  
5 ance of service of process, under section three (1), and  
6 section four of this article; which fee shall be due and  
7 payable at the same time, be collected by the same officers,  
8 and accounted for in the same way, as the annual license  
9 tax.

## CHAPTER 105

(Senate Bill No. 162—By Mr. Hardesty)

AN ACT to amend chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article designated article four-a, relative to the regulation of rates of fire insurance and allied lines, (except insurance against the perils of fire and lightning under the form of policy set forth in subsection (f) of section seven, article four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended), marine and inland marine insurance, and to rating organizations.

[Passed March 3, 1947; in effect October 1, 1947. Became a law without the approval of the Governor.]



**Article 4-a. Fire, Marine and Inland Marine Insurance Rates and Rating Organizations.****Section**

1. Purpose of article.
2. Scope of article.
3. Making of rates.
4. Rate filings.
5. Disapproval of filings.
6. Rating organizations.
7. Deviations.
8. Appeal by minority.
9. Information to be furnished insureds; hearings and appeals of insureds.
10. Advisory organizations.
11. Joint underwriting or joint reinsurance.
12. Examinations.
13. Rate administration.
14. False or misleading information.
15. Penalties.
16. Rebates prohibited.
17. Hearing procedure and judicial review.
18. Laws repealed.
19. Constitutionality.

***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, as amended, be amended by adding thereto a new article to be designated article four-a, to read as follows:

**Section 1. Purpose of Article.**—The purpose of this article is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this article. Nothing in this article is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit, or encourage, except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This article shall be liberally interpreted to carry into effect the provisions of this section.

**Sec. 2. Scope of Article.**—This article applies to fire and allied lines, marine and inland marine insurance, on risks located in this state, and, excepting only farmers' mu-

4 tuals, to all insurers, including stock and mutual insurers,  
5 reciprocal and inter-insurance exchanges, which under  
6 any provisions of the laws of this state write any of the  
7 kinds of insurance to which this article applies. Inland  
8 marine insurance shall be deemed to include insurance  
9 now or hereafter defined by statute, or by interpretation  
10 thereof, or if not so defined or interpreted, by ruling of  
11 the commissioner of insurance, hereinafter referred to  
12 as commissioner, or as established by general custom of  
13 the business, as inland marine insurance.

14 This article shall not apply:

15 (a) To insurance against the perils of fire and light-  
16 ning under the form of policy set forth in subsection (f)  
17 of section seven, article four, chapter thirty-three, of the  
18 code, as amended;

19 (b) To reinsurance, other than joint reinsurance to the  
20 extent stated in section eleven;

21 (c) To insurance of vessels or craft, their cargoes, ma-  
22 rine builders' risks, marine protection and indemnity, or  
23 other risks commonly insured under marine, as distin-  
24 guished from inland marine, insurance policies;

25 (d) To insurance of hulls of aircraft, including their  
26 accessories and equipment, or against liability arising out  
27 of the ownership, maintenance or use of aircraft;

28 (e) To motor vehicle insurance, nor to insurance  
29 against liability arising out of the ownership, mainten-  
30 ance or use of motor vehicles.

31 If any kind of insurance, subdivision or combination  
32 thereof, or type of coverage, subject to this article is also  
33 subject to regulation by another rate regulatory act of  
34 this state, an insurer to which both acts are otherwise  
35 applicable shall file with the commissioner, a designation  
36 as to which rate regulatory act shall be applicable to it  
37 with respect to such kind of insurance, subdivision or  
38 combination thereof, or type of coverage.

Sec. 3. *Making of Rates.*—(a) Rates shall be made in  
2 accordance with the following provisions:

3 1. Manual, minimum, class rates, rating schedules or  
4 rating plans, shall be made and adopted, except in the

5 case of specific inland marine rates on risks specially  
6 rated;

7 2. Rates shall not be excessive, inadequate or unfairly  
8 discriminatory;

9 3. Due consideration shall be given to past and prospec-  
10 tive loss experience within and outside this state, to the  
11 conflagration and catastrophe hazards, to a reasonable  
12 margin for underwriting profit and contingencies, to divi-  
13 dends, savings or unabsorbed premium deposits allowed  
14 or returned by insurers to their policyholders, members  
15 or subscribers, to past and prospective expenses both  
16 countrywide and those specially applicable to this state,  
17 and to all other relevant factors within and outside this  
18 state; and in the case of fire insurance rates shall be  
19 given to the experience of the fire insurance business  
20 during a period of not less than the most recent five-year  
21 period for which such experience is available.

22 (b) Except to the extent necessary to meet the pro-  
23 visions of subdivision two of subsection (a) of this sec-  
24 tion, uniformity among insurers in any matters within  
25 the scope of this section is neither required nor prohibited.

26 (c) Rates made in accordance with this section may be  
27 used subject to the provisions of this article.

Sec. 4. *Rate Filings.* — (a) Every insurer shall file  
2 with the commissioner, except as to inland marine risks  
3 which by general custom of the business are not written  
4 according to manual rates or rating plans, every manual,  
5 minimum, class rate, rating schedule or rating plan and  
6 every other rating rule, and every modification of any  
7 of the foregoing which it proposes to use. Every such  
8 filing shall state the proposed effective date thereof, and  
9 shall indicate the character and extent of the coverage  
10 contemplated. When a filing is not accompanied by the  
11 information upon which the insurer supports such filing,  
12 and the commissioner does not have sufficient informa-  
13 tion to determine whether such filing meets the require-  
14 ments of this article, he shall require such insurer to fur-  
15 nish the information upon which it supports such filing  
16 and in such event the waiting period shall commence

17 as of the date such information is furnished. The infor-  
18 mation furnished in support of a filing may include (1)  
19 the experience or judgment of the insurer or rating or-  
20 ganization making the filing, (2) its interpretation of any  
21 statistical data it relies upon, (3) the experience of other  
22 insurers or rating organizations, or (4) any other rele-  
23 vant factors. A filing and any supporting information  
24 shall be open to public inspection after the filing becomes  
25 effective. Specific inland marine rates on risks specially  
26 rated, made by a rating organization, shall be filed with  
27 the commissioner.

28 (b) An insurer may satisfy its obligation to make such  
29 filings by becoming a member of, or a subscriber to, a  
30 licensed rating organization which makes such filings, and  
31 by authorizing the commissioner to accept such filings  
32 on its behalf: *Provided*, That nothing contained in this  
33 article shall be construed as requiring any insurer to be-  
34 come a member of or a subscriber to any rating organ-  
35 ization.

36 (c) The commissioner shall review filings as soon as  
37 reasonably possible after they have been made in order  
38 to determine whether they meet the requirements of this  
39 article.

40 (d) Subject to the exception specified in subsection  
41 (e) of this section, each filing shall be on file for a waiting  
42 period of fifteen days before it becomes effective, which  
43 period may be extended by the commissioner for an  
44 additional period not to exceed fifteen days if he gives  
45 written notice within such waiting period to the insurer  
46 or rating organization which makes the filing that he needs  
47 such additional time for the consideration of such filing.  
48 Upon written application by such insurer or rating organ-  
49 ization, the commissioner may authorize a filing which  
50 he has reviewed to become effective before the expira-  
51 tion of the waiting period or any extension thereof. A  
52 filing shall be deemed to meet the requirements of this  
53 article unless disapproved by the commissioner within  
54 the waiting period or any extension thereof.

55 (e) Specific inland marine rates on risks specially  
56 rated by a rating organization shall become effective

57 when filed and shall be deemed to meet the requirements  
58 of this article until such time as the commissioner re-  
59 views the filing and so long thereafter as the filing re-  
60 mains in effect.

61 (f) Under such rules and regulations as he shall adopt  
62 the commissioner may, by written order, suspend or  
63 modify the requirements of filing as to any kind of in-  
64 surance, subdivision or combination thereof, or as to  
65 classes of risks, the rates for which cannot practicably be  
66 filed before they are used. Such orders, rules and regula-  
67 tions shall be made known to insurers and rating organi-  
68 zations affected thereby. The commissioner may make  
69 such examination as he may deem advisable to ascertain  
70 whether any rates affected by such order meet the stand-  
71 ards set forth in subdivision two of subsection (a) of sec-  
72 tion three.

73 (g) Upon the written application of the insured, stat-  
74 ing his reasons therefor, filed with and approved by the  
75 commissioner, a rate in excess of that provided by a filing  
76 otherwise applicable may be used on any specific risk.

77 (h) Beginning ninety days after the effective date of  
78 this article no insurer shall make or issue a contract or  
79 policy except in accordance with the filings which are in  
80 effect for said insurer as provided in this article or in  
81 accordance with subsections (f) or (g) of this section.  
82 This subsection shall not apply to contracts or policies for  
83 inland marine risks as to which filings are not required.

Sec. 5. *Disapproval of Filings.*—(a) If within the wait-  
2 ing period or any extension thereof as provided in sub-  
3 section (d) of section four, the commissioner finds that  
4 a filing does not meet the requirements of this article,  
5 he shall send to the insurer or rating organization which  
6 made such filing, written notice of disapproval of such  
7 filing specifying therein in what respects he finds such  
8 filing fails to meet the requirements of this article and  
9 stating that such filing shall not become effective.

10 (b) If within thirty days after a specific inland marine  
11 rate on a risk specially rated by a rating organization,  
12 subject to subsection (e) of section four has become effec-

13 tive, the commissioner finds that such filing does not  
14 meet the requirements of this article, he shall send to the  
15 rating organization which made such filing written notice  
16 of disapproval of such filing specifying therein in what  
17 respects he finds that such filing fails to meet the require-  
18 ments of this article and stating when, within a reason-  
19 able period thereafter, such filing shall be deemed no  
20 longer effective. Said disapproval shall not affect any  
21 contract made or issued prior to the expiration of the  
22 period set forth in said notice.

23 (c) If at any time subsequent to the applicable review  
24 period provided for in subsection (a) or (b) of this sec-  
25 tion, the commissioner finds that a filing does not meet  
26 the requirements of this article, he shall, after a hearing  
27 held upon not less than ten days' written notice, specify-  
28 ing the matters to be considered at such hearing, to every  
29 insurer and rating organization which made such filing,  
30 issue an order specifying in what respects he finds that  
31 such filing fails to meet the requirements of this article,  
32 and stating when, within a reasonable period thereafter,  
33 such filing shall be deemed no longer effective. Copies of  
34 said order shall be sent to every such insurer and rating  
35 organization. Said order shall not affect any contract or  
36 policy made, or issued prior to the expiration of the pe-  
37 riod set forth in said order.

38 (d) Any person or organization aggrieved with respect  
39 to any filing which is in effect may make written appli-  
40 cation to the commissioner for a hearing thereon: *Pro-*  
41 *vided, however,* That the insurer or rating organization  
42 that made the filing shall not be authorized to proceed  
43 under this subsection. Such application shall specify the  
44 grounds to be relied upon by the applicant. If the com-  
45 missioner shall find that the application is made in good  
46 faith, that the applicant would be so aggrieved if his  
47 grounds are established, and that such grounds otherwise  
48 justify holding such a hearing, he shall, within thirty days  
49 after receipt of such application, hold a hearing upon not  
50 less than ten days' written notice to the applicant and to  
51 every insurer and rating organization which made such  
52 filing.

53 If, after such hearing, the commissioner finds that the  
54 filing does not meet the requirements of this article, he  
55 shall issue an order specifying in what respects he finds  
56 that such filing fails to meet the requirements of this arti-  
57 cle, and stating when, within a reasonable period there-  
58 after such filing shall be deemed no longer effective. Cop-  
59 ies of said order shall be sent to the applicant and to every  
60 such insurer and rating organization. Said order shall  
61 not affect any contract or policy made or issued prior  
62 to the expiration of the period set forth in said order.  
63 (e) No manual, minimum, class rate, rating schedule,  
64 rating plan, rating rule, or any modification of any of  
65 the foregoing which has been filed pursuant to the re-  
66 quirements of section four of this act shall be disapproved  
67 if the rates thereby produced meet the requirements of  
68 this article.

Sec. 6. *Rating Organizations.*—(a) A corporation, an  
2 unincorporated association, a partnership or an individ-  
3 ual, whether located within or outside this state, may  
4 make application to the commissioner for license as a  
5 rating organization for such kinds of insurance, or sub-  
6 division or class of risk or a part or combination thereof  
7 as are specified in its application and shall file therewith  
8 (1) a copy of its constitution, its articles of agreement  
9 or association or its certificate of incorporation, and of  
10 its by-laws, rules and regulations governing the conduct  
11 of its business, (2) a list of its members and subscribers,  
12 (3) the name and address of a resident of this state upon  
13 whom notices or orders of the commissioner or process  
14 affecting such rating organization may be served and  
15 (4) a statement of its qualifications as a rating organiza-  
16 tion. If the commissioner finds that the applicant is  
17 competent, trustworthy and otherwise qualified to act  
18 as a rating organization and that its constitution, articles  
19 of agreement or association or certificate of incorpora-  
20 tion, and its by-laws, rules and regulations governing the  
21 conduct of its business conform to the requirements of  
22 law, he shall issue a license specifying the kinds of in-  
23 surance, or subdivision or class of risk or part or com-

24 bination thereof for which the applicant is authorized  
25 to act as a rating organization. Every such application  
26 shall be granted or denied in whole or in part by the  
27 commissioner within sixty days of the date of its filing  
28 with him. Licenses issued pursuant to this section shall  
29 remain in effect for three years unless sooner suspended  
30 or revoked by the commissioner. The fee for said license  
31 shall be twenty-five dollars. Licenses issued pursuant to  
32 this section may be suspended or revoked by the com-  
33 missioner, after hearing upon notice, in the event the  
34 rating organization ceases to meet the requirements of  
35 this subsection. Every rating organization shall notify  
36 the commissioner promptly of every change in (1) its  
37 constitution, its articles of agreement or association, or  
38 its certificate of incorporation, and its by-laws, rules and  
39 regulations governing the conduct of its business, (2) its  
40 list of members and subscribers and (3) the name and  
41 address of the resident of this state designated by it upon  
42 whom notices or orders of the commissioner or process  
43 affecting such rating organization may be served.

44 (b) Subject to rules and regulations which have been  
45 approved by the commissioner as reasonable, each rating  
46 organization shall permit any insurer, not a member, to  
47 be a subscriber to its rating services for any kind of insur-  
48 ance, subdivision, or class of risk or a part or combination  
49 thereof for which it is authorized to act as a rating organi-  
50 zation. Notice of proposed changes in such rules and regu-  
51 lations shall be given to subscribers. Each rating organiza-  
52 tion shall furnish its rating services without discrimina-  
53 tion to its members and subscribers. The reasonableness of  
54 any rule or regulation in its application to subscribers, or  
55 the refusal of any rating organization to admit an insurer  
56 as a subscriber, shall, at the request of any subscribers or  
57 any such insurer, be reviewed by the commissioner at a  
58 hearing held upon at least ten days' written notice to such  
59 rating organization and to such subscriber or insurer. If  
60 the commissioner finds that such rule or regulation is un-  
61 reasonable in its application to subscribers, he shall order  
62 that such rule or regulation shall not be applicable to sub-  
63 scribers. If the rating organization fails to grant or reject



64 an insurer's application for subscribership within thirty  
65 days after it was made, the insurer may request a review  
66 by the commissioner as if the application had been reject-  
67 ed. If the commissioner finds that the insurer has been re-  
68 fused admittance to the rating organization as a subscriber  
69 without justification, he shall order the rating organiza-  
70 tion to admit the insurer as a subscriber. If he finds that  
71 the action of the rating organization was justified, he  
72 shall make an order affirming its action.

73 (c) No rating organization shall adopt any rule the  
74 effect of which would be to prohibit or regulate the pay-  
75 ment of dividends, savings or unabsorbed premium de-  
76 posits allowed or returned by insurers to their policy-  
77 holders or subscribers.

78 (d) Cooperation among rating organizations or among  
79 rating organizations and insurers in rate making or in  
80 other matters within the scope of this article is hereby  
81 authorized, provided the filings resulting from such co-  
82 operation are subject to all the provisions of this article  
83 which are applicable to filings generally. The commis-  
84 sioner may review such cooperative activities and prac-  
85 tices and if, after a hearing, he finds that any such activ-  
86 ity or practice is unfair or unreasonable or otherwise  
87 inconsistent with the provisions of this article, he may  
88 issue a written order specifying in what respects such  
89 activity or practice is unfair or unreasonable or other-  
90 wise inconsistent with the provisions of this article, and  
91 requiring the discontinuance of such activity or practice.

92 (e) Any rating organization may provide for the ex-  
93 amination of policies, daily reports, binders, renewal  
94 certificates, endorsements or other evidence of insur-  
95 ance, or the cancellation thereof, and may make reason-  
96 able rules governing their submission. Such rules shall  
97 contain a provision that in the event any insurer does  
98 not within sixty days furnish satisfactory evidence to  
99 the rating organization of the correction of any error or  
100 omission previously called to its attention by the rating  
101 organization, it shall be the duty of the rating organiza-  
102 tion to notify the commissioner thereof. All information  
103 so submitted for examination shall be confidential.

104 (f) Any rating organization may subscribe for or  
105 purchase actuarial, technical or other services, and such  
106 services shall be available to all members and subscribers  
107 without discrimination.

Sec. 7. *Deviations.*—Every member of or subscriber  
2 to a rating organization shall adhere to the filings made  
3 on its behalf by such organization except that any such  
4 insurer may make written application to the commis-  
5 sioner for permission to file a deviation from the class  
6 rates, schedules, rating plans or rules respecting any  
7 kind of insurance, or class of risk within a kind of in-  
8 surance, or combination thereof. Such application shall  
9 specify the basis for the modification and a copy thereof  
10 shall also be sent simultaneously to such rating organ-  
11 ization. The commissioner shall set a time and place for  
12 a hearing at which the insurer and such rating organiza-  
13 tion may be heard and shall give them not less than  
14 ten days' written notice thereof. In the event the com-  
15 missioner is advised by the rating organization that it  
16 does not desire a hearing he may, upon the consent of  
17 the applicant, waive such hearing. In considering the  
18 application for permission to file such deviation the com-  
19 missioner shall give consideration to the available sta-  
20 tistics and the principles for rate making as provided  
21 in section three of this article. The commissioner shall  
22 issue an order permitting the deviation for such insurer  
23 to be filed if he finds it to be justified and it shall there-  
24 upon become effective. He shall issue an order denying  
25 such application if he finds that the resulting premiums  
26 would be excessive, inadequate or unfairly discrimina-  
27 tory. Each deviation permitted to be filed shall be effec-  
28 tive for a period of one year from the date of such per-  
29 mission unless terminated sooner with the approval of  
30 the commissioner.

Sec. 8. *Appeal by Minority.*—Any member of, or sub-  
2 scriber to, a rating organization may appeal to the com-  
3 missioner from the action or decision of such rating or-  
4 ganization in approving or rejecting any proposed change  
5 in or addition to the filings of such rating organization

6 and the commissioner shall, after a hearing held upon  
7 not less than ten days' written notice to the appellant  
8 and to such rating organization, issue an order approv-  
9 ing the action or decision of such rating organization  
10 or directing it to give further consideration to such pro-  
11 posal; or, if such appeal is from the action or decision  
12 of the rating organization in rejecting a proposed addi-  
13 tion to its filings, he may, in the event he finds that such  
14 action or decision was unreasonable, issue an order di-  
15 recting the rating organization to make an addition to  
16 its filings, on behalf of its members and subscribers, in  
17 a manner consistent with his findings, within a reason-  
18 able time after the issuance of such order.

Sec. 9. *Information to be Furnished Insureds; Hear-  
2 ings and Appeals of Insureds.*—Every rating organization  
3 and every insurer which makes its own rates shall, with-  
4 in a reasonable time after receiving written request  
5 therefor and upon payment of such reasonable charge  
6 as it may make, furnish to any insured affected by a rate  
7 made by it, or to the authorized representative of such  
8 insured, all pertinent information as to such rate. Every  
9 rating organization and every insurer which makes its  
10 own rates shall provide within this state reasonable  
11 means whereby any person aggrieved by the application  
12 of its rating system may be heard, in person or by his  
13 authorized representative, on his written request to re-  
14 view the manner in which such rating system has been  
15 applied in connection with the insurance afforded him.  
16 If the rating organization or insurer fails to grant or  
17 reject such request within thirty days after it is made,  
18 the applicant may proceed in the same manner as if his  
19 application had been rejected. Any party affected by the  
20 action of such rating organization or such insurer on  
21 such request may, within thirty days after written notice  
22 of such action, appeal to the commissioner, who, after  
23 a hearing held upon not less than ten days' written notice  
24 to the appellant and to such rating organization or in-  
25 surer, may affirm or reverse such action.

Sec. 10. *Advisory Organizations.*—(a) Every group,

2 association or other organization of insurers, whether  
3 located within or outside this state, which assists in-  
4 surers which make their own filings or rating organiza-  
5 tions in rate making, by the collection and furnishing  
6 of loss or expense statistics, or by the submission of rec-  
7 ommendations, but which does not make filings under  
8 this article, shall be known as an advisory organization.

9 (b) Every advisory organization shall file with the  
10 commissioner (1) a copy of its constitution, its articles  
11 of agreement or association or its certificate of incorpora-  
12 tion and of its by-laws, rules and regulations governing  
13 its activities, (2) a list of its members, (3) the name  
14 and address of a resident of this state upon whom no-  
15 tices or orders of the commissioner or process issued at  
16 his direction may be served, and (4) an agreement that  
17 the commissioner may examine such advisory organ-  
18 ization in accordance with the provisions of section twelve  
19 of this article.

20 (c) If, after a hearing, the commissioner finds that  
21 the furnishing of such information or assistance involves  
22 any act or practice which is unfair or unreasonable or  
23 otherwise inconsistent with the provisions of this article,  
24 he may issue a written order specifying in what respects  
25 such act or practice is unfair or unreasonable or other-  
26 wise inconsistent with the provisions of this article, and  
27 requiring the discontinuance of such act or practice.

28 (d) No insurer which makes its own filings nor any  
29 rating organization shall support its filings by statistics  
30 or adopt rate making recommendations, furnished to it  
31 by an advisory organization which has not complied with  
32 this section or with an order of the commissioner in-  
33 volving such statistics or recommendations issued under  
34 subsection (c) of this section. If the commissioner finds  
35 such insurer or rating organization to be in violation of  
36 this subsection he may issue an order requiring the dis-  
37 continuance of such violation.

*Sec. 11. Joint Underwriting or Joint Reinsurance.—*

2 (a) Every group, association or other organization of  
3 insurers which engages in joint underwriting or joint

4 reinsurance, shall be subject to regulation with respect  
5 thereto as herein provided, subject, however, with re-  
6 spect to joint underwriting, to all other provisions of  
7 this article and, with respect to joint reinsurance, to  
8 sections twelve and fifteen to nineteen of this article.

9 (b) If, after a hearing, the commissioner finds that any  
10 activity or practice of any such group, association or other  
11 organization is unfair or unreasonable or otherwise in-  
12 consistent with the provisions of this article, he may  
13 issue a written order specifying in what respects such  
14 activity or practice is unfair or unreasonable or other-  
15 wise inconsistent with the provisions of this article, and  
16 requiring the discontinuance of such activity or practice.

Sec. 12. *Examinations.* — The commissioner shall, at  
2 least once in five years, make or cause to be made an  
3 examination of each rating organization licensed in this  
4 state as provided in section six and he may, as often as  
5 he may deem it expedient, make or cause to be made  
6 an examination of each advisory organization referred  
7 to in section ten and of each group, association or other  
8 organization referred to in section eleven. The reason-  
9 able costs of any such examination shall be paid by the  
10 rating organization, advisory organization, or group, as-  
11 sociation or other organization examined upon presenta-  
12 tion to it of a detailed account of costs. The officers, man-  
13 agers, agents and employees of such rating organization,  
14 advisory organization, or group, association or other or-  
15 ganization may be examined at any time under oath and  
16 shall exhibit all books, records, accounts, documents, or  
17 agreements governing its method of operation. In lieu  
18 of any such examination the commissioner may accept  
19 the report of an examination made by the insurance  
20 supervisory official of another state, pursuant to the laws  
21 of such state. The commissioner shall furnish two copies  
22 of the examination report to the organization, group or  
23 association examined and shall notify such organization,  
24 group or association that it may, within twenty days  
25 thereafter, request a hearing on said report or on any  
26 facts or recommendations therein. Before filing such re-

27 port for public inspection, the commissioner shall grant  
28 a hearing to the organization, group or association ex-  
29 amined. The report of such examination, when filed for  
30 public inspection, shall be admissible in evidence in any  
31 action or proceeding brought by the commissioner against  
32 the organization, group or association examined, or its  
33 officers or agents, and shall be prima facie evidence of  
34 the facts stated therein. The commissioner may withhold  
35 the report of any such examination from public inspec-  
36 tion for such time as he may deem proper.

Sec. 13. *Rate Administration.* — (a) Recording and  
2 Reporting of Loss and Expense Experience. The com-  
3 missioner shall promulgate reasonable rules and statis-  
4 tical plans, reasonably adapted to each of the rating sys-  
5 tems on file with him, which may be modified from time  
6 to time and which shall be used thereafter by each  
7 insurer in the recording and reporting of its loss and  
8 countrywide expense experience, in order that the ex-  
9 perience of all insurers may be made available at least  
10 annually in such form and detail as may be necessary  
11 to aid him in determining whether rating systems com-  
12 ply with the standards set forth in section three. Such  
13 rules and plans may also provide for the recording and  
14 reporting of expense experience items which are special-  
15 ly applicable to this state and are not susceptible of  
16 determination by a prorating of countrywide expense  
17 experience. In promulgating such rules and plans, the  
18 commissioner shall give due consideration to the rating  
19 systems on file with him and, in order that such rules  
20 and plans may be as uniform as is practicable among  
21 the several states, to the rules and to the form of the  
22 plans used for such rating systems in other states. No  
23 insurer shall be required to record or report its loss  
24 experience on a classification basis that is inconsistent  
25 with the rating system filed by it. The commissioner  
26 may designate one or more rating organizations or other  
27 agencies to assist him in gathering such experience and  
28 making compilations thereof, and such compilations shall  
29 be made available, subject to reasonable rules promul-

30 gated by the commissioner, to insurers and rating organ-  
31 izations.

32 (b) Reasonable rules and plans may be promulgated  
33 by the commissioner for the interchange of data neces-  
34 sary for the application of rating plans.

35 (c) In order to further uniform administration of  
36 rate regulatory laws, the commissioner and every in-  
37 surer and rating organization may exchange information  
38 and experience data with insurance supervisory officials,  
39 insurers and rating organizations in other states and may  
40 consult with them with respect to rate making and the  
41 application of rating systems.

42 (d) The commissioner may make reasonable rules  
43 and regulations necessary to effect the purposes of this  
44 article.

Sec. 14. *False or Misleading Information.*—No person  
2 or organization shall wilfully withhold information from,  
3 or knowingly give false or misleading information to,  
4 the commissioner, any statistical agency designated by  
5 the commissioner, any rating organization, or any in-  
6 surer, which will affect the rates or premiums charge-  
7 able under this article. A violation of this section shall  
8 subject the one guilty of such violation to the penalties  
9 in section fifteen of this article.

Sec. 15. *Penalties.*—The commissioner may, if he finds  
2 that any person or organization has violated any pro-  
3 vision of this article, impose a penalty of not more than  
4 fifty dollars for each such violation, but if he finds such  
5 violation to be willful he may impose a penalty of not  
6 more than five hundred dollars for each such violation.  
7 Such penalties may be in addition to any other penalty  
8 provided by law.

9 The commissioner may suspend the license of any  
10 rating organization or insurer which fails to comply with  
11 an order of the commissioner within the time limited  
12 by such order, or any extension thereof which the com-  
13 missioner may grant. The commissioner shall not sus-  
14 pend the license of any rating organization or insurer for  
15 failure to comply with an order until the time prescribed

16 for an appeal therefrom has expired or if an appeal has  
17 been taken, until such order has been affirmed. The  
18 commissioner may determine when a suspension of li-  
19 cense shall become effective and it shall remain in effect  
20 for the period fixed by him, unless he modifies or re-  
21 scinds such suspension, or until the order upon which  
22 such suspension is based is modified, rescinded or re-  
23 versed.

24 No penalty shall be imposed and no license shall be  
25 suspended or revoked except upon a written order of the  
26 commissioner, stating his findings, made after a hearing  
27 held upon not less than ten days' written notice to such  
28 person or organization specifying the alleged violation.

Sec. 16. *Rebates Prohibited.*—No broker, agent or so-  
2 licitor shall knowingly charge, demand or receive a pre-  
3 mium for any policy of insurance except in accordance  
4 with the provisions of this article. No insurer or em-  
5 ployee thereof, and no broker, agent or solicitor shall  
6 pay, allow, or give, or offer to pay, allow, or give, directly  
7 or indirectly as an inducement to insurance, or after in-  
8 surance has been affected, any rebate, discount, abate-  
9 ment, credit or reduction of the premium named in a  
10 policy of insurance, or any special favor or advantage  
11 in the dividends or other benefits to accrue thereon, or  
12 any valuable consideration or inducement whatever, not  
13 specified in the policy of insurance, except to the extent  
14 provided for in an applicable filing. No insured named  
15 in a policy of insurance, nor any employee of such in-  
16 sured shall knowingly receive or accept, directly or in-  
17 directly, any such rebate, discount, abatement, credit or  
18 reduction of premium, or any such special favor or ad-  
19 vantage or valuable consideration or inducement.

20 Nothing in this section shall be construed as prohibit-  
21 ing the payment of commissions or other compensation  
22 to duly licensed agents, brokers and solicitors, nor as pro-  
23 hibiting any insurer from allowing or returning to its  
24 participating policyholders, members or subscribers, divi-  
25 dends, savings or unabsorbed premium deposits.



Sec. 17. *Hearing Procedure and Judicial Review.*—

2 (a) Any insurer or rating organization aggrieved by  
3 any order or decision of the commissioner made with-  
4 out a hearing, may, within thirty days after notice of  
5 the order to the insurer or organization, make written  
6 request to the commissioner for a hearing thereon. The  
7 commissioner shall hear such party or parties within  
8 twenty days after receipt of such request and shall give  
9 not less than ten days' written notice of the time and  
10 place of the hearing. Within fifteen days after such hear-  
11 ing the commissioner shall affirm, reverse or modify his  
12 previous action, specifying his reasons therefor. Pend-  
13 ing such hearing and decision thereon the commissioner  
14 may suspend or postpone the effective date of his pre-  
15 vious action.

16 (b) Nothing contained in this article shall require the  
17 observance at any hearing of formal rules of pleading  
18 or evidence.

19 (c) In the event that any party in interest is dissatis-  
20 fied with any decision or order of the commissioner he  
21 or it may, within thirty days after the entry thereof,  
22 file a petition in the circuit court of Kanawha county,  
23 or with the judge thereof in vacation, for the review  
24 of such order. Before presenting his or its petition to  
25 the court or judge, the petitioner shall mail a copy there-  
26 of to the insurance commissioner. Upon the receipt of  
27 such copy, the insurance commissioner shall forthwith  
28 transmit to the clerk of such court the record of the pro-  
29 ceedings before him. The court or judge shall fix a time  
30 for the review of said proceedings at his earliest conven-  
31 ience. Notice in writing of the time and place of such  
32 hearing shall be given to the insurance commissioner at  
33 least ten days before the date set therefor. The court  
34 or judge shall, without a jury, hear and determine the  
35 case upon the record of the proceedings before the in-  
36 surance commissioner. The court or judge may enter  
37 an order revising or reversing the decision of the insur-  
38 ance commissioner, if it appears that the decision is  
39 clearly wrong, or may affirm such decision. The judg-  
40 ment of the circuit court or judge may be reviewed upon

41 appeal in the supreme court of appeals. Pending such  
42 review the order of the commissioner shall be in full  
43 force and effect until final determination, unless the  
44 court, or the judge thereof sitting in vacation, before  
45 whom such review is pending, shall enter an order stay-  
46 ing the effect of the order or decision of the commis-  
47 sioner until final determination by the court. The court  
48 may, in disposing of the issue before it, modify, affirm  
49 or reverse the decision or order of the commissioner  
50 in whole or in part.

Sec. 18. *Laws Repealed.*—All other laws or parts of  
2 laws inconsistent with the provisions of this article are  
3 hereby repealed.

Sec. 19. *Constitutionality.*—If any section, subsection,  
2 subdivision, paragraph, sentence or clause of this article  
3 is held invalid or unconstitutional, such decision shall  
4 not affect the remaining portions of this article.

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## CHAPTER 106

(House Bill No. 206—By Mr. Speaker, Mr. Amos, by request)

AN ACT to amend and reenact sections one, two, eleven and  
twelve, article seventeen, chapter fifty of the code of West  
Virginia, one thousand nine hundred thirty-one, as last  
amended, relating to fees of justices and constables in  
civil and criminal cases.

[Passed March 7, 1947; in effect ninety days from passage. Approved by the  
Governor.]

### Article 17. Fees, Fines and Costs.

#### Section

1. Fees of justice in civil cases.
2. Fees of constables in civil cases.
11. Fees of justices in criminal cases.
12. Fees of constables in criminal cases.

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

That sections one, two, eleven and twelve, article seventeen, chapter fifty 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. <i>Fees of Justice in Civil Cases.</i> —A justice of	
2 the peace shall charge and shall collect in advance from	
3 the party or parties requesting such services the follow-	
4 ing fees:	
5 1. For entering suit and issuing summons not to	
6 exceed two, docketing the case, indexing	
7 and filing papers, receiving confession of	
8 judgment or rendering judgment by default	
9 and entering same together with satisfac-	
10 tion on docket, including the taxing of jus-	
11 tice's and constable's costs.....	\$3.00
12 2. For each summons in excess of two.....	.25
13 3. For each subpoena issued.....	.25
14 4. For swearing each witness, arbitrators or party..	.15
15 5. For appointing special constables at request of	
16 either party .....	.25
17 6. For trying case (defense interposed), and enter-	
18 ing judgment and satisfaction.....	1.50
19 7. For issuing order of attachment or suggestion	
20 order and necessary copies thereof, execut-	
21 ing affidavit and bond in addition to Item	
22 No. 1 .....	1.00
23 8. For each additional attachment to recover on	
24 original judgment, executing affidavit and	
25 bond, in addition to Item No. 1 .....	1.00
26 9. For issuing second summons together with copies	
27 thereof for nonresidents as provided by sec-	
28 tion ten, article nine of this chapter.....	.75
29 10. For issuing order of arrest or order of commit-	
30 ment, civil order of arrest only .....	.50
31 11. For trial and judgment of any case of contempt..	1.50
32 12. For taking and certifying any affidavit in writ-	
33 ing, except to commence suit.....	.50
34 13. For every continuance .....	.50

35	14. For settling and allowing interrogatories.....	.50
36	15. For entering agreement for arbitration.....	.50
37	16. For summons of arbitrators .....	.30
38	17. For every bond filed in a case, appeal bond, stay	
39	of execution bond, forthcoming bond, in-	
40	demnity bond, bail bond, civil order of	
41	arrest, detinue bond, except bond in attach-	
42	ment case and docketing same .....	1.00
43	18. For ordering a jury, including the drawing for	
44	same .....	.50
45	19. For abstract of judgment for docketing in the of-	
46	fice of the clerk of the county court.....	.50
47	20. For issuing execution and entering return there-	
48	of on docket .....	.50
49	21. For entering stay of execution .....	.25
50	22. For trying right of property levied on or attached	1.50
51	23. For transcript from docket .....	1.00
52	24. For transmitting or delivering papers to the clerk	
53	of the circuit court in case of appeal.....	.50
54	25. For taking and certifying acknowledgement of	
55	deed or other instrument of writing.....	.50
56	26. For taking depositions of witnesses if done in	
57	an hour or less .....	1.00
58	27. If not completed in an hour, for additional time	
59	at the rate, per hour, of.....	1.00
60	28. For appointing a guardian for the suit of an in-	
61	fant plaintiff or defendant .....	.50
62	29. For taking an inquest on a dead body, to be au-	
63	dited and paid from the treasury of the	
64	county .....	5.00
65	30. For each distress warrant issued, docketing the	
66	case and indexing and filing papers.....	1.00
67	31. For each suggestee execution issued, docketing	
68	and indexing same .....	1.50
69	32. For each renewal of suggestee execution issued	
70	docketing and indexing same .....	1.50
71	33. For issuing each temporary release, modifying	
72	order or permanent release .....	.50
73	34. Order of appraisement, appointing appraisers,	
74	swearing of the same and docketing same,	

75	to be paid by plaintiff .....	1.00
76	35. <i>Provided, however,</i> That in an action brought be-	
77	fore a justice to recover a sum of money	
78	where an attachment, garnishment, sugges-	
79	tion order or suggestee execution is issued	
80	against the wages of a defendant and the	
81	claim is not contested, the maximum total	
82	fee covering all costs to be charged by the	
83	justice in each case shall not exceed \$5.00,	
84	and if the claim is contested, the maximum-	
85	* total fee covering all costs to be charged by	
86	the justice shall not exceed .....	6.50

Sec. 2. *Fees of Constables in Civil Cases.*—Every constable shall charge and collect in advance from the party or parties requesting such services the following fees in civil cases:

5	1. For service and return of summons to commence	
6	a suit \$1.50, and for every additional sum-	
7	mons in same suit .....	.75
8	2. For servicing and returning order of attachment,	
9	for each garnishee summoned .....	1.00
10	3. For taking property under order of attachment,	
11	including inventory and appraisal, be-	
12	sides the reasonable expenses of removing,	
13	securing and keeping the property attached..	2.50
14	4. For subpoenas, for each person served therewith	.50
15	5. For summoning and returning a jury .....	1.50
16	6. For levying an execution on personal property	
17	and return .....	2.00
18	7. For posting notices of sale (3) for suggestee exe-	
19	cution, suggestion order, attachment, dis-	
20	stress warrant, each .....	.40
21	8. For money collected and paid to justice, con-	
22	stable or plaintiff, after levy, under execu-	
23	tion, suggestee execution, suggestion order,	
24	distress warrant or attachment, sale or no	
25	sale .....	5%
26	9. For executing a writ of possession under section	
27	ten, article one of this chapter .....	4.00

28	10. For summoning the jury and witnesses for in-	
29	quest on a dead body, to be audited and paid	
30	from the treasury of the county .....	3.00
31	11. <i>Provided, however,</i> That in an action brought be-	
32	fore a justice to recover a sum of money	
33	where an attachment, garnishment or sug-	
34	gestion order is issued against the wages of	
35	a defendant, the minimum fee to be charged	
36	by the constable in such case shall be two	
37	dollars and fifty cents .....	2.50
38	12. Second summons in attachment, each .....	1.00
39	13. Extra time necessary in taking and removing	
40	property under attachment order, and evic-	
41	tion execution, distress warrant or writ of	
42	detinue .....	1.00
43	14. For delivering a temporary or permanent re-	
44	lease .....	.50

**Sec. 11. Fees of Justices in Criminal Cases.—**

- 2 1. Every justice shall be entitled to a fee of three
- 3 dollars in each criminal case and proceed-
- 4 ing before him which fee shall constitute his
- 5 compensation for all official services per-
- 6 formed by him in connection with any single
- 7 case, including affidavit for warrant, search
- 8 and seizure warrant, warrant of arrest, trial
- 9 examination, issuing subpoenas and copies
- 10 thereof, warrants summoning and swear-
- 11 ing a jury when required, swearing and
- 12 certifying attendance of witnesses, entering
- 13 judgment and taxing costs and all other acts
- 14 in connection herewith. Except, that he shall
- 15 be allowed an additional fee of fifty cents
- 16 for making and certifying a transcript of
- 17 his docket in any particular case and trans-
- 18 mitting the same to the clerk of the circuit
- 19 court, the state road commission, or any
- 20 other office to which he may be by law re-
- 21 quired to certify such transcript. And no
- 22 other fees shall be taxed or charged by any

- 23 justice in such cases and proceedings: *Pro-*  
 24 *vided, however,* That under the provisions of  
 25 this section the justice shall be entitled to  
 26 such fees theretofore earned, as were earned  
 27 and the prosecuting attorneys, and county  
 28 courts may approve and pay such accrued  
 29 costs in the same manner as was provided by  
 30 the code of West Virginia, one thousand nine  
 31 hundred thirty-one, prior to the enactment  
 32 of chapters thirty-one and thirty-two, acts of  
 33 Legislature, regular session, one thousand  
 34 nine hundred thirty-five.
- 35 2. For issuing sheep warrant, appointing and swear-  
 36 ing appraisers and docketing same ..... 1.00
- 37 3. Bond or recognizance ..... 2.00

Sec. 12. *Fees of Constables in Criminal Cases.*—Every  
 2 constable shall be entitled to the following fees in crim-  
 3 inal cases:

- 4 1. For an arrest in case of felony ..... 1.50
- 5 2. For an arrest in cases other than felony ..... 1.00
- 6 3. For serving a subpoena ..... .50
- 7 4. For executing a search warrant ..... 2.50
- 8 5. For summoning a jury in criminal action ..... 1.50
- 9 6. Witness fee constable ..... .50
- 10 7. In addition to above fees, constables shall be al-  
 11 lowed five cents for each mile of necessary  
 12 travel in the performance of their duties,  
 13 and ten cents per mile for transporting  
 14 prisoners.
- 15 8. In cases of search warrants and proceedings un-  
 16 der article one, chapter sixty-two of this  
 17 code, the fees of the constable shall be  
 18 chargeable to the county, shall be audit-  
 19 ed and paid as other claims of like nature by  
 20 the county court.
- 21 9. In criminal cases, other than felony, such fees  
 22 shall be charged and paid as provided in sec-  
 23 tion fifteen, article five, chapter seven of this  
 24 code, and section eight, article eighteen of  
 25 this chapter.

## CHAPTER 107

(House Bill No. 202—By Mr. Woodrum)

AN ACT to amend and reenact section one, article eighteen, chapter fifty of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter thirty, acts of the Legislature, regular session, one thousand nine hundred thirty-five, by adding thereto a new subsection to be known as subsection (i), giving to justices of the peace concurrent jurisdiction with courts of record relating to disturbance of religious worship.

[Passed February 24, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 18. Criminal Jurisdiction and Procedure; Appeals.

#### Section

1. Limits of, and cases in which justice may exercise, criminal jurisdiction; penalties.

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

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

#### Section 1. *Limits of, and Cases in Which Justice May*

- 2 *Exercise, Criminal Jurisdiction; Penalties.*—A justice shall
- 3 have jurisdiction of the following offenses committed in
- 4 his county, or on any river or creek adjoining thereto:
- 5 (a) In cases of assault and battery, unless the offense
- 6 was committed on a sheriff or other officer or justice, or
- 7 riotously, or with intent to commit a felony; and no com-
- 8 promise with the party injured shall affect or prevent
- 9 the trial of such offense by the justice; and if a defendant
- 10 be convicted of such offense he shall be fined not less
- 11 than five nor more than fifty dollars;
- 12 (b) In cases of trespass to personal property; and, if a
- 13 defendant be convicted of such offense, he shall be fined
- 14 not less than five nor more than fifty dollars;



15 (c) In cases for the violation of section fourteen, article  
16 six, chapter sixty-one of this code; and, upon the convic-  
17 tion of a defendant for a violation of any of the provisions  
18 of said section, he shall be punished as therein provided;

19 (d) In cases of adultery and fornication; and, if a  
20 defendant be convicted of such offense, he shall be fined  
21 twenty dollars;

22 (e) In cases of petit larceny; and, if a defendant be  
23 convicted of such offense, he shall be fined not less than  
24 ten nor more than thirty dollars, and may, at the discre-  
25 tion of the justice or jury trying the case, be imprisoned  
26 in the county jail not exceeding thirty days;

27 (f) In cases for the violation of article seven, chapter  
28 sixty-one of this code; and upon the conviction of a  
29 defendant for a violation of any of the provisions of  
30 said section, (article) he shall be punished as therein  
31 provided;

32 (g) In any case where the punishment is limited to a  
33 fine not exceeding ten dollars, or to imprisonment for not  
34 more than ten days.

35 (h) In all misdemeanor cases for the violation of the  
36 provisions of chapter sixty of said code as amended;

37 (i) In cases for the violation of section thirteen, article  
38 six, chapter sixty-one of this code; and, upon the convic-  
39 tion of a defendant for a violation of any of the provisions  
40 of said section, he shall be punished as therein provided:  
41 *Provided, however,* That whenever a person has been con-  
42 victed in the municipal or police court of any incorporated  
43 town or city, such conviction shall be a bar to any crim-  
44 inal proceeding before a justice for the same offense.

## CHAPTER 108

(Senate Bill No. 349—By Mr. Vickers, Mr. President)

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article six,

relating to the continuation, powers and duties of the merit system council.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

## **Article 6. Merit System Council.**

### **Section**

1. Continuation; members; compensation.
2. Merit system supervisor; assistants.
3. Powers and duties of the council.
4. Operating expenses of the council.

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

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

### **Section 1. Continuation; Members; Compensation.—**

2 The merit system council heretofore established by ex-  
3 ecutive order shall be continued, and present members  
4 shall continue to serve until the expiration of the terms  
5 for which they were appointed. The council shall con-  
6 sist of three members to be appointed by the governor,  
7 by and with the advice and consent of the Senate, for  
8 three year terms, one of which shall end on the thirtieth  
9 day of June of each year. The council shall annually  
10 elect one of its members to serve as chairman.

11 Regular meetings of the council shall be held monthly,  
12 and special meetings may be held upon the call of the  
13 chairman. The members shall receive an allowance of  
14 ten dollars for each day actually spent in attending meet-  
15 ings, and shall be reimbursed for the actual traveling  
16 expenses necessarily incurred in the performance of their  
17 duties. Such expenses shall be met out of any funds avail-  
18 able for the purpose and shall be paid upon certification  
19 of the supervisor, in such manner as the expenses of other  
20 state officials are paid.

### **Sec. 2. Merit System Supervisor; Assistants. —**

2 Upon  
3 the recommendation of the council, the governor shall  
4 appoint a merit system supervisor, who shall be the chief  
administrative officer of the council and under its super-

5 vision shall direct all its activities.

6 The supervisor shall have authority to employ and fix  
7 the compensation of such technical and clerical assistants  
8 as may be necessary to carry out the purposes of this  
9 article.

10 The salary and expenses of the supervisor and of the  
11 technical and clerical assistants shall be met out of any  
12 funds available for the purpose and shall be paid upon  
13 certification of the supervisor, in such manner as the ex-  
14 penses of other state employees are paid.

Sec. 3. *Powers and Duties of the Council.*—The coun-  
2 cil shall supervise the operation of the joint merit system  
3 established for the various state agencies or any part  
4 thereof which are permitted or required by state or fed-  
5 eral law to employ personnel on a merit basis. The coun-  
6 cil shall have the authority and it shall be its duty to:

7 (1) Establish general policies for the administration  
8 of the merit system, including the giving of examinations  
9 and the hearing of personnel appeals;

10 (2) Advise with the supervisor in the formation of  
11 rules for the conduct of merit examinations;

12 (3) Inspect and review the activities of the supervisor  
13 for the purpose of assuring conformity with the rules  
14 and policies of the council;

15 (4) Review and pass upon the classification and com-  
16 pensation plans of participating state agencies;

17 (5) Make recommendations to participating state  
18 agencies relative to their internal personnel practices;

19 (6) Promote public understanding of the purposes,  
20 policies and practices of the merit system.

Sec. 4. *Operating Expenses of the Council.*—All the  
2 operating expenses of the merit system and the merit  
3 system council shall be paid out of funds transferred to  
4 the credit of the council by the participating state agen-  
5 cies. Out of funds available for administrative purposes,  
6 each participating state agency shall transfer to the credit  
7 of the merit system council its proportionate share of the  
8 costs of operating the merit system and the merit system  
9 council, such share to be determined on the basis of the

10 relation between the number of employees of the par-  
11 ticipating agency who are covered by the merit system  
12 and the total number of state employees covered by the  
13 system. The maximum amount of the annual expendi-  
14 tures of the merit system council shall be determined  
15 by the participating agencies, subject to the approval of  
16 the director of the budget.

## CHAPTER 109

(House Bill No. 306—By Mr. Flannery)

AN ACT to amend and reenact section seven, article one, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one as amended, relating to the term of office of mine inspectors.

[Passed March 6, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 1. Department of Mines.

#### Section

7. Mining districts and divisions; mine inspectors; term of office.

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

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

Section 7. *Mining Districts and Divisions; Mine Inspectors; Term of Office.*—The chief of the department of mines shall divide the state into not less than twenty-five mining districts and not less than three mining divisions so as to equalize as far as practicable the work of each inspector. The chief of the department of mines shall appoint one inspector for each mining district within the state, and one mine inspector at large for each division. The mine inspectors in office on the date this code takes effect shall, unless sooner removed as provided by law,

11 continue to serve until their terms expire and their suc-  
12 cessors have been appointed and have qualified. On or  
13 after the first day of January, one thousand nine hundred  
14 forty-two, and on or after the first day of January of each  
15 fourth year thereafter, the chief of the department of  
16 mines appointed for the term commencing on said first  
17 day of January shall appoint one inspector for each min-  
18 ing district within the state, and one mine inspector at  
19 large for each division to serve for a term of four years  
20 commencing on said first day of January.

21 The chief of the department of mines may assign any  
22 person meeting the qualifications of a mine inspector to  
23 temporary duty as a mine inspector with the same au-  
24 thority as a mine inspector: *Provided, however,* That in  
25 any district where the term of four years as mine in-  
26 spector is not being served, and persons meeting the qual-  
27 ifications of a mine inspector are available to fill such  
28 vacancy, one of those persons shall be appointed to serve  
29 the term of four years or such portion of the term of four  
30 years as remains to be served as mine inspector, even  
31 though there are persons assigned to temporary duty as  
32 mine inspector in that district.

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## CHAPTER 110

(Senate Bill No. 255—By Mr. McKown)

AN ACT to amend and reenact sections two and five, article two-a, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter eighty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-five, relating to strip mining registration permits, the collection of registration fees and bond forfeitures and disposition thereof for strip mining and land rehabilitation purposes.

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[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

**Article 2-a. Strip Mining.****Section**

2. Permit required; fees and use of proceeds.
5. Bond forfeitures; strip mining fund and use of proceeds.

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

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

**Section 2. *Permit Required; Fees and Use of Proceeds.***

2 —It shall hereafter be unlawful for any person, firm or  
3 corporation to engage in the strip mining of coal without  
4 having first obtained from the chief of the department of  
5 mines a permit therefor as provided in this section. The  
6 following information must be stated in the application  
7 for such a permit: (1) The location and area of the land  
8 to be covered by the permit and shown on a map or plat  
9 of portion to be stripped; (2) the owner or owners of the  
10 surface of the land; (3) the owner or owners of the coal  
11 to be mined; (4) the source of the operator's legal right  
12 to enter and mine the coal on the land covered by the  
13 permit; (5) the permanent and temporary post office ad-  
14 dress of the operator; (6) whether any permits are now  
15 held, and, if so, how many such permits and the numbers  
16 thereof.

17 Upon payment to the department of mines of a regis-  
18 tration fee of fifty dollars, and the posting with the de-  
19 partment of the bond required by the following section,  
20 the chief of the department shall upon proper applica-  
21 tion issue the requested permit.

22 The registration fees heretofore or hereafter collected  
23 as provided in this article shall be deposited with the  
24 state treasurer to the credit of the special fund created  
25 by section five of this article.

**Sec. 5. *Bond Forfeitures; Strip Mining Fund and Use of Proceeds.***—Upon default in the performance of the  
2 conditions of the performance bond, the chief of the state  
3

4 department of mines shall give notice to the attorney  
5 general and it shall be his duty to collect the forfeiture  
6 without delay.

7 All such forfeitures and all registration fees heretofore  
8 or hereafter collected as provided in this article shall be  
9 deposited with the state treasurer in a special fund to be  
10 designated "Strip Mining Fund" to the credit of the state  
11 department of mines, and shall be expended in the en-  
12 forcement and administration of the provisions of this  
13 article and to reclaim and rehabilitate the lands affected  
14 in accordance with the provisions of this article.

15 It shall be the duty of the state department of mines  
16 and the agricultural experiment station of West Virginia  
17 university to reclaim and rehabilitate the lands affected  
18 in accordance with the provisions of section four of this  
19 article. In so far as is reasonably practicable, the moneys  
20 in the fund after paying expenses of enforcement and  
21 administration of this article shall be expended upon the  
22 lands upon which the permit was issued for which the  
23 bond was given. The state department of mines may  
24 avail itself of any services that may be provided by the  
25 federal government for reclaiming lands.

26 The auditor shall issue his warrant for all money in the  
27 special fund created by this section upon the request of  
28 the chief of the state department of mines.

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## CHAPTER 111

(House Bill No. 305—By Mr. Flannery)

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 amended, relating to the appointment, qualifications and salaries of mine inspectors.

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[Passed March 7, 1947; in effect July 1, 1947. 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 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 bond shall be filed in the office of the secretary of state.

A mine inspector shall be removed from office by the chief of the department of mines for incompetency, neglect of duty, drunkenness, malfeasance or for other good cause.

The salaries of mine inspectors shall not be less than three thousand six hundred dollars nor more than four thousand five hundred dollars per annum, and actual traveling expenses: *Provided*, That before payment of such expenses shall be made to the inspector he shall file an account of such expenses, verified by his affidavit,



31 showing they accrued in the discharge of his official  
32 duties; such salary to be fixed by the chief of the depart-  
33 ment of mines, and shall be based on the ability and  
34 experience of the inspector: *Provided, however,* That the  
35 salaries of mine inspectors herein mentioned shall be for  
36 the period ending June thirtieth, one thousand nine hun-  
37 dred forty-nine.

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## CHAPTER 112

(Senate Bill No. 135—By Mr. Hardesty)

AN ACT to amend and reenact sections two, three, four, five, seven and eight, chapter ninety-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-nine, and to further amend said chapter by adding thereto a new section, designated section two-a, all relating to combined municipal waterworks and sewerage systems, so as to provide for the acquisition, construction, extension and improvement of combined waterworks and sewerage systems and to issue revenue bonds in connection therewith, and providing that said chapter ninety eight and all amendments thereto be designated article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 13. Combined Waterworks and Sewerage Systems.

#### Section

2. General powers.
- 2-a. Eminent domain.
3. Issuance of bonds.
4. Ordinance.
5. Publication of ordinance; posting; petition for referendum; election.
7. Powers of municipality to make regulations and rates; change in rates.
8. Liens; enforcement; receivership.

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

That chapter ninety-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-nine, and all amendments thereto, is hereby designated article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, and that sections two, three, four, five, seven and eight of said article and chapter be amended and reenacted, and that a new section, numbered two-a, be added thereto, all to read as follows:

Section 2. *General Powers.*—Any municipality may acquire or construct and thereafter maintain and operate a combined waterworks and sewerage system either within or partly without the corporate limits thereof under the provisions of this act and any municipality owning and operating either a waterworks or a sewerage system, but not both, may acquire or construct the waterworks or sewerage system which it does not then own and operate and in either of such cases such municipality may provide by ordinance that when such waterworks or sewerage system, or both, shall have been acquired or constructed same shall thereafter be owned, maintained and operated as a combined undertaking under the provisions of this act and any municipality owning and operating a waterworks and sewerage system may by ordinance combine same into a single undertaking. Any municipality combining its waterworks and sewerage system under the provisions of this act or pursuant to the provisions of any other law may thereafter construct extensions and improvements thereto under the provisions of this act.

Sec. 2-a. *Eminent Domain.*—For the purpose of constructing, extending or improving any combined waterworks and sewerage system under the provisions of this act, or any property necessary or appropriate in connection therewith, any municipality shall have the right of eminent domain, as provided by chapter fifty-four of the code of West Virginia, one thousand nine hundred thirty-one, as now or hereafter amended.

Sec. 3. *Issuance of Bonds.*—Whenever a waterworks and sewerage system is included in a combined waterworks and sewerage system under this act and there are unpaid and outstanding revenue bonds or any other obligations or securities previously issued which are payable solely from the revenues of such waterworks or such sewerage system or any part thereof, such outstanding bonds, obligations or securities may be refunded by the issue and exchange therefor of revenue bonds to be issued under the provisions of this act with the consent of all of the respective holders of such outstanding bonds, obligations or securities. For the purpose of defraying the cost of acquiring or constructing any such waterworks or sewerage systems, or both, and for the purpose of paying the cost of constructing any extensions or improvements to any such combined waterworks and sewerage system any such municipality may issue revenue bonds under the provisions of this act. All such bonds may be authorized, issued and sold pursuant to ordinance in installments at different times, or an entire issue or series may be sold at one time. Such bonds shall bear interest at a rate not to exceed six per cent per annum payable semi-annually and shall mature within the period of usefulness of the project involved, to be determined by the governing body and in any event not more than forty years. Such bonds may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption, with or without a premium, may be declared to become due before the maturity date thereof, may provide for the replacement of mutilated, destroyed, stolen, or lost bonds, may be authenticated in such manner and upon compliance with such conditions, and may contain such other terms and covenants, as may be provided by ordinance of the governing body of the municipality. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is non-negotiable, all such

41 bonds shall at all times be, and shall be treated as, nego-  
42 tiable instruments for all purposes. Such bonds shall be  
43 sold in such manner as the governing body shall deter-  
44 mine and if issued to bear interest at the rate of six per  
45 cent per annum shall be sold for not less than par and  
46 accrued interest. If any such bonds shall be issued to bear  
47 interest at a rate of less than six per cent per annum, the  
48 minimum price at which they may be sold shall be such  
49 that the interest cost to such municipality of the proceeds  
50 of such bonds shall not exceed six per cent per annum  
51 computed to maturity according to the standard table of  
52 bond values. In case any officer whose signature appears  
53 on such bonds or coupons attached thereto shall cease to be  
54 such officer before the delivery of the bonds to the pur-  
55 chaser, such signature shall nevertheless be valid and  
56 sufficient for all purposes, with the same effect as if he  
57 had remained in office until the delivery of the bonds.  
58 Such bonds shall have all the qualities of negotiable in-  
59 struments under the law of this state. Whenever any out-  
60 standing obligations or securities previously issued which  
61 are payable solely from the revenues of any waterworks  
62 or sewerage system included in a combined waterworks  
63 and sewerage system under this act are refunded, such  
64 outstanding obligations or securities shall be surrendered  
65 and exchanged for revenue bonds of such combined  
66 waterworks and sewerage system of a total principal  
67 amount which shall not be more and may be less than the  
68 principal amount of the obligations or securities ex-  
69 changed and interest thereon to the date of exchange.  
70 Provision may be made that each bond to be exchanged  
71 for refunding bonds shall be kept intact and shall not be  
72 cancelled or destroyed until the refunding bonds, and in-  
73 terest thereon, have been finally paid and discharged, but  
74 shall be stamped with a legend to the effect that such bond  
75 has been refunded pursuant to this act.

Sec. 4. *Ordinance.*—The governing body of any mu-  
2 nicipality availing itself of the provisions of this act  
3 shall adopt an ordinance describing in a general way the  
4 contemplated project. If it is intended to include in the

5 combined waterworks and sewerage system any exist-  
6 ing waterworks or any existing sewerage system, such  
7 ordinance shall determine that it be so included in such  
8 combined system and shall describe in a general way  
9 such existing waterworks or sewerage system to be in-  
10 cluded in the combined waterworks and sewerage sys-  
11 tem. Such ordinance shall state the means provided  
12 for refunding any obligation unpaid and outstanding pay-  
13 able solely from the revenue of any such waterworks  
14 or sewerage system. Such ordinance shall determine the  
15 period of usefulness of the contemplated project. If it  
16 is intended to acquire or construct a combined water-  
17 works and sewerage system or any part thereof, or to  
18 extend and improve any such existing combined water-  
19 works and sewerage system, the ordinance shall de-  
20 scribe in a general way the works or property or system  
21 to be acquired or constructed, or the extensions or im-  
22 provements to be made. Such ordinance shall fix the  
23 amount of revenue bonds proposed to be issued, the in-  
24 terest rate or rates, and any other details in connection  
25 with such bonds deemed advisable.

Sec. 5. *Publication of Ordinance; Posting; Petition for*  
2 *Referendum; Election.*—After the ordinance for any proj-  
3 ect under this act has been adopted and approved, it  
4 shall be published once in a newspaper published and  
5 having a general circulation in the municipality under-  
6 taking such project, or, if there be no such newspaper,  
7 then by posting such ordinance in at least three public  
8 places in such municipality. If no petition is filed with  
9 the clerk of the governing body as hereinafter provided,  
10 within ten days after the publication or posting of such  
11 ordinance, then after the expiration of such ten-day pe-  
12 riod such ordinance shall be in full force and effect, but  
13 if within such period of ten days a petition is filed with  
14 the clerk of such municipality signed by fifteen per cent  
15 of the number of voters voting at the last preceding gen-  
16 eral municipal election, asking that the question of ac-  
17 quiring, constructing, extending or improving or com-  
18 bining such waterworks and sewerage systems as pro-

19 vided in such ordinance and the issuance of revenue  
20 bonds in connection therewith, be submitted to the legal  
21 voters of the municipality, the governing body of such  
22 municipality shall call a special election in the manner  
23 provided by law to vote upon such question. If it appears  
24 upon the canvass of the election by the governing body  
25 that a majority of the voters voting upon such question  
26 at such election voted in favor thereof then such ordin-  
27 ance shall be in full force and effect, but if a majority  
28 of the votes cast are unfavorable, then such municipality  
29 shall proceed no further under such ordinance.

Sec. 7. *Powers of Municipality to Make Regulations  
2 and Rates; Change in Rates.*—The governing body of any  
3 municipality availing itself of this act shall have power  
4 to make, enact and enforce all needful rules and regula-  
5 tions for the operation, management and maintenance  
6 of the combined waterworks and sewerage system of such  
7 municipality and for the use thereof, and shall also have  
8 power to make, enact and enforce all needful rules and  
9 regulations and ordinances for the care and protection  
10 of any such system, which may be conducive to the  
11 preservation of the public health, comfort and conven-  
12 ience and to rendering the water supply of such munici-  
13 pality pure and the sewerage harmless in so far as it  
14 is reasonably possible so to do, and any such municipality  
15 shall have power and it is hereby authorized to charge  
16 the inhabitants thereof during the period that said bonds  
17 are outstanding a reasonable compensation for the use  
18 and service of such combined waterworks and sewerage  
19 system and to establish charges or rates for such purpose.  
20 Separate rates may be fixed for the water and sewer  
21 services respectively or single rates for the combined  
22 water and sewer services. Such charges or rates, whether  
23 separate or combined, shall be sufficient at all times to  
24 pay the cost of operation and maintenance of the com-  
25 bined waterworks and sewerage system, provide an  
26 adequate reserve fund, an adequate depreciation fund  
27 and pay the principal of and interest upon all revenue  
28 bonds issued under this act. Charges or rates shall be

29 established, revised and maintained by ordinance and  
30 become payable as the governing body may determine  
31 by ordinance, and such rates shall be changed from time  
32 to time as needful, consistently with the provisions of  
33 this act.

34 Such charges or rates whenever delinquent, as pro-  
35 vided by ordinance of the municipality, shall be liens for  
36 the amount thereof upon the real property served, and  
37 the municipality shall have the power from time to time  
38 to enforce such lien in a civil action to recover the money  
39 due for such services rendered plus a reasonable attor-  
40 ney's fee.

Sec. 8. *Liens; Enforcement; Receivership.*—There shall  
2 be and there is hereby created a statutory mortgage lien  
3 upon such combined waterworks and sewerage system  
4 which shall exist in favor of the holder of bonds hereby  
5 authorized to be issued, and each of them, and to and in  
6 favor of the holder of the coupons attached to said bonds,  
7 and such combined waterworks and sewerage system  
8 shall remain subject to such statutory mortgage lien  
9 until payment in full of the principal and interest of said  
10 bonds. Any holder of bonds issued under the provisions  
11 hereof, or of any coupons representing interest accrued  
12 thereon, may, either at law or in equity, enforce the statu-  
13 tory mortgage lien hereby conferred, and may, by proper  
14 suit, compel the performance of the duties of the offi-  
15 cials of the issuing municipality set forth herein. If there  
16 be default in the payment of the principal of or interest  
17 upon any of said bonds, any court having jurisdiction in  
18 any proper action may appoint a receiver to administer  
19 said combined waterworks and sewerage system on be-  
20 half of the municipality with power to charge and col-  
21 lect rates sufficient to provide for the payment of said  
22 bonds and interest thereon, and for the payment of the  
23 operating expenses and to apply the income and reve-  
24 nues in conformity herewith and the ordinance provid-  
25 ing for the issuance of such bonds.

## CHAPTER 113

(Senate Bill No. 283—By Mr. Harmer)

AN ACT to amend article two, chapter eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section to be designated fifteen-a, relating to the amendment of charters of class III cities.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Article 2. Home Rule Procedure; Charter Elections.

#### Section

15-a. Charter amendment; alternate plan for class III cities.

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

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

Section 15-a. *Charter Amendment; Alternate Plan for Class III Cities.*—Whenever the council of any class III city, as defined under section four, article one, chapter eight-a of this code, shall deem it expedient to amend the charter of any such city, either in whole or in part, it shall, by ordinance or resolution, set out in its proper record book the proposed amendments in full. The council shall set a time and place for a public hearing thereon, which date shall not be less than thirty days after the date of the first publication hereinafter required. The proposed amendments, together with a notice of the time and place fixed for the hearing thereon, shall be published once each week for three successive weeks in a newspaper published and having a general circulation in the city, but if there be two or more newspapers published therein, then such publication shall be in two newspapers of opposite politics, and if there be no newspaper published therein, then publication shall be made in two newspapers of opposite politics, published in the county



20 wherein such city is located. The notice shall state that  
21 the proposed amendments will be considered at the time  
22 and place fixed by the council and that any elector of  
23 the city may appear and file objections, in writing, and  
24 also that if no objections are filed the said amendment  
25 shall become operative on and after a date to be fixed  
26 in the notice, which date shall be not less than ten days  
27 after the date of the hearing. If no objections are filed,  
28 or if objections are filed and withdrawn at the time  
29 of the hearing, or within ten days thereafter, the council  
30 shall, by ordinance, adopt the amendments as amend-  
31 ments to the charter, and cause a transcript of the pro-  
32 ceedings to be certified to the clerk of the house of dele-  
33 gates, as keeper of the rolls, and a copy thereof to be  
34 recorded in the office of the clerk of the county court.

35 If, at the time and place set for the hearing, objections  
36 to the amendments are filed and not withdrawn within  
37 ten days thereafter, the council may abandon the pro-  
38 posed amendments to which objections have been filed,  
39 or it may submit the proposed amendments, either as a  
40 unit or separately, at the next regular city election, or at  
41 a special election, if the date of the regular election shall  
42 be more than six months from such date, for ratification  
43 or rejection. A notice of an election shall set out the  
44 proposed amendments at length or state that copies may  
45 be obtained by any qualified voter from a designated  
46 officer at a stated place, upon request. Notice of such  
47 election shall be published as hereinbefore provided for  
48 hearing on the proposed amendments.

49 The amendments, or such of them as may be adopted,  
50 shall take effect on the date that the canvass and dec-  
51 laration of result showing approval by the voters has  
52 been made and entered in the minutes of the governing  
53 body. A transcript of the proceedings shall be filed and  
54 recorded as hereinbefore provided.

55 The method of charter amendment provided by this  
56 section is not in lieu of but in addition to the other meth-  
57 ods prescribed in the preceding section.

## CHAPTER 114

(Senate Bill No. 89—By Mr. Hannig)

AN ACT to amend chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, numbered article fifteen, authorizing municipal corporations, as defined by chapter eight-a of said code, to establish and maintain an employees' retirement and benefit fund.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 15. Employees' Retirement and Benefit Fund.

#### Section

1. Municipalities authorized to establish "employees' retirement and benefit fund."
2. Definition.
3. Board of trustees.
4. Employees eligible for participation in fund.
5. Prior, earned and total service credits; service breaks.
6. Retirement age and benefits.
7. Disability retirement payments.
8. Death benefits.
9. Contributions by the municipality.
10. Investment of funds.
11. Records; actuarial data.
12. Reports by board of trustees.
13. Custodian of funds; duties, bond.

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

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

- Section 1. *Municipalities Authorized to Establish "Employees' Retirement and Benefit Fund".*—Every  
municipal corporation in the state of West Virginia, having a population in excess of fifteen thousand is hereby authorized to and may establish and maintain an "Employees' Retirement and Benefit Fund" in accordance with the provisions of this article.

Sec. 2. *Definition.*—For the purpose of this article:

2 (a) "Prior service credit" shall mean the number of  
3 years that the member has been in the service of the  
4 city prior to the effective date of the retirement and  
5 benefit fund.

6 (b) "Earned service credits" shall mean the number  
7 of years that the member has contributed to the retire-  
8 ment and benefit fund.

9 (c) "Total service credit" shall mean a total of all  
10 prior service credit and all earned service credit.

11 (d) "Fund" shall mean the employees' retirement and  
12 benefit fund.

13 (e) "Board" shall mean the board of trustees of the  
14 employees' retirement and benefit fund.

15 (f) "Member" shall mean an eligible employee of the  
16 city, who is a member of the employees' retirement and  
17 benefit fund.

18 (g) "Total disability in line of duty" shall mean total  
19 and permanent disablement (from performing any work  
20 for pay, whether for the municipality or other employer),  
21 that shall be caused by injury sustained in the course  
22 of the operations usual to his employment, and shall  
23 include all operations necessary, incident or appurtenant  
24 thereto, or connected therewith, whether such operations  
25 are conducted at the usual place of employment or else-  
26 where in connection with or in relation to his usual and  
27 customary employment.

28 (h) The pronoun "he" means both masculine and fem-  
29 inine.

30 (i) "Mayor," which means the chief executive officer  
31 of the city.

Sec. 3. *Board of Trustees.*—The council or other  
2 governing body of each municipality desiring to establish  
3 and maintain a retirement and benefit fund as herein  
4 authorized shall by ordinance provide:

5 (a) For a board of trustees of the employees' retire-  
6 ment and benefit fund.

7 The said board of trustees shall consist of the mayor  
8 and four members of the fund, to be appointed by the  
9 mayor, with the advice and consent of a majority of mem-

10 bers of the fund.

11 The initial appointments shall be for a term of one,  
12 two, three and four years, respectively, after which all  
13 appointments shall be for a term of four years.

14 The presiding officer of the board shall be the mayor,  
15 and the secretary thereof shall be appointed by said  
16 board. It shall be the duty of such secretary to keep a  
17 full and permanent record of all the proceedings of the  
18 board, and said board may fix his compensation for this  
19 work which shall be paid out of said fund.

20 The mayor or any three members of the board shall  
21 have the power to call a meeting at any time that it is  
22 necessary in order to carry out the business of the board.  
23 Three members of the board shall constitute a quorum  
24 to transact business, but it shall require not less than three  
25 affirmative votes to carry any matter before the board.

26 The board shall have charge of and administer the fund  
27 and shall order payment therefrom, and no money shall  
28 be paid out of the fund except on the order of the board.

29 The council or other governing body shall have power  
30 to make any and all rules and regulations pertaining to  
31 the fund not inconsistent with this article, the constitu-  
32 tion and the laws of the state of West Virginia.

33 Such board shall be a corporation by the name and  
34 style of "The Board of Trustees of the Employees' Re-  
35 tirement and Benefit Fund of (name the municipality),"   
36 by which name they may sue and be sued, plead and be  
37 impleaded, contract and be contracted with, take and hold  
38 real estate and personal estate, for the use of said fund,  
39 and have and use a common seal. Said board may also in  
40 its corporate name do and perform any and all other  
41 acts and business pertaining to the trust created hereby  
42 or by any conveyance, device or dedication made for the  
43 uses and purposes of said board.

2 Sec. 4. *Employees Eligible for Participation In*  
3 *Fund.*—Employees eligible for participation in the fund  
4 shall include all employees who are employed by the mu-  
5 nicipality on a permanent basis. The following employees,  
6 however, shall not be eligible for participation in the  
fund:

7 (1) Appointive members of administrative boards and  
8 commissions, except employees of such boards and com-  
9 missions;

10 (2) Persons employed under contract for a definite  
11 period or for the performance of a particular, special  
12 service;

13 (3) Employees serving on a part-time basis of less than  
14 one-half time;

15 (4) Policemen and firemen who are now covered by a  
16 pension or relief fund;

17 (5) Employees who are paid in part by the county,  
18 state or other governmental agency, and only in part  
19 by the municipality;

20 (6) Employees who are past sixty years of age and  
21 have less than ten years of service;

22 (7) Persons employed after the establishment date of  
23 the fund who are over fifty years of age.

24 The board of trustees of the fund may make determina-  
25 tion as to any person's eligibility to become a member of  
26 the fund.

27 All employees eligible for participation at the effective  
28 date of the fund shall become members of the fund, unless  
29 they file a written election not to become a member with-  
30 in thirty days after the effective date of the fund:  
31 *Provided*, That no member shall be entitled to any benefits  
32 under the fund until he has been in the employ of the  
33 municipality for at least five years, after the effective  
34 date of the fund, except those who are disabled in the  
35 performance of their duties may participate in the fund  
36 in the manner hereinafter provided.

Sec. 5. *Prior, Earned and Total Service Credits;*  
2 *Service Breaks.*—(1) For prior service, each participat-  
3 ing employee, on the effective date, shall be credited, as of  
4 such date, with a prior service credit of an amount equal  
5 to the accumulated value, as of such date, of the con-  
6 tributions which would have been made during the entire  
7 period of prior service of such employee. Assuming the  
8 earnings of such employee to have been uniform during  
9 such period of prior service and equal to the monthly  
10 earnings obtained by dividing the total earnings during

11 the period of the three calendar years in such period  
12 immediately preceding the effective date, by the number  
13 of months in such period during which any earnings were  
14 received by such employee, the rate of contribution to  
15 have been the prior service contribution rate applicable  
16 to such employee, the contributions for each calendar  
17 year to have been made at the end of such year, and the  
18 contributions to have accumulated with interest at the  
19 rate of three per cent per annum compounded annually.

20 (2) Each member shall pay into the fund, five per cent  
21 of his salary up to two hundred dollars a month. Unless  
22 the members' percentage of contributions is changed as  
23 hereinafter provided, no member shall be required to  
24 contribute more than ten dollars per month.

25 These contributions shall continue until such time as  
26 the member has twenty-three years of earned service  
27 credit; he shall continue to contribute to the fund until  
28 he retires or until he has contributed to the fund for a  
29 period of twenty-three years, that is, has twenty-three  
30 years of "earned service credit." However, a member  
31 who has prior service credit shall be entitled to a full  
32 retirement payment when his prior service credit and  
33 his earned service credit totals twenty-three years of  
34 total service credit, if he has reached compulsory re-  
35 tirement age, or when he becomes so physically or men-  
36 tally disabled as to render him unfit for the perform-  
37 ance of the duties of the position he occupies.

38 The member's contribution provided for herein may be  
39 raised at any time from five per cent to any higher amount  
40 not in excess of six per cent, upon a vote in favor of  
41 such raise by seventy-five per cent of all the members  
42 of the fund: *Provided*, That such raise shall not be ef-  
43 fective unless the governing body of the municipality  
44 shall, by ordinance or resolution, agree to contribute an  
45 equal increase percentage. In the event of such change  
46 the maximum of ten dollars shall be raised in accordance  
47 with the raise in percentage. The municipality contribu-  
48 tion shall at all times be not less than the amount con-  
49 tributed by the members. Whenever it is found that the  
50 total contributions are more than necessary to adequately  
51 maintain the fund, upon recommendation of a reputable

52   actuary, a proper reduction shall be made of an equal per-  
53   centage from the contributions by the members and  
54   from the contributions by the municipality.

55   (3) In order to participate one hundred per cent in  
56   the retirement fund a member must have a total service  
57   credit of twenty-three years which may be composed of  
58   either prior service credit or earned service credit, or  
59   both. At retirement, because of having reached the com-  
60   pulsory retirement age, the member shall participate in  
61   the fund only to the extent of his total service.

62   A person who is employed by the municipality at the  
63   time of the effective date of the fund and becomes a mem-  
64   ber of the fund shall be entitled to prior service credit  
65   even though such prior service was not continuous.

66   A person who is not employed by the municipality at  
67   the time of the effective date of the fund, but who has  
68   been employed in the past shall be entitled to prior  
69   service credit if he returns to the service within two  
70   years from the date of his termination of service and  
71   becomes a member of the fund within such two-year  
72   period.

73   A member upon separation from the service shall be  
74   entitled to withdraw his contributions without interest.  
75   If such employee returns to the service of the municipality  
76   within two years and becomes a member of the fund, he  
77   shall be considered as a new employee and shall have lost  
78   all prior service credits unless he shall repay to the fund  
79   in cash at the time of reemployment the amount of money  
80   which he has withdrawn plus two per cent interest com-  
81   pounded annually on said amount during the time he was  
82   separated from the service.

83   If, however, the service breaks of such members is  
84   more than two years, he shall not be entitled to any  
85   prior service credits nor shall he be entitled to redeposit  
86   withdrawals but he shall reenter the fund as a new mem-  
87   ber.

2   Sec. 6. *Retirement Age and Benefits.*—After the  
3   effective date of the fund any member of the fund who  
4   has had at least twenty-three years service and has reach-  
ed the age of sixty may at his option retire from the

5 service of the city upon a retirement payment as herein-  
6 after provided.

7 Retirement for all members of the fund shall be com-  
8 pulsory at the age of sixty-five, subject to the following  
9 conditions:

10 The employee may be permitted to continue in the ser-  
11 vice if he so desires; if his services are still valuable to  
12 the municipality.

13 Whether an employee's services are valuable at the  
14 age of sixty-five shall be determined by the appointing  
15 officer of the municipality. If he determines that such  
16 services are valuable, his determination must be certified  
17 to the board for approval. If the board approves the  
18 employee may continue in the service of the municipality.  
19 The appointing officer shall annually certify to the board  
20 relative to the ability and competency of all employees  
21 over sixty-five years. A member of the fund upon re-  
22 tirement, shall be entitled to the following retirement  
23 payment;

24 A member with at least ten years of earned service  
25 credits, who has reached the retirement age or who has  
26 become so physically or mentally disabled as to render  
27 him unfit for the performance of the duties of the position  
28 he occupies shall upon retirement be paid according to  
29 the following table:

30 Twenty-three or more years of total service credits,  
31 fifty per cent of his average salary for the last fifteen  
32 years of service: *Provided*, That if a member has twenty-  
33 three years of total service credits he shall be entitled to  
34 a minimum retirement payment of fifty dollars per month.

35 Twenty-two years of total service credits, forty-nine  
36 per cent of his average salary for the last fifteen years  
37 of service.

38 Twenty-one years of total service credits, forty-eight  
39 per cent of his average salary for the last fifteen years  
40 of service.

41 Twenty years of total service credits, forty-seven per  
42 cent of his average salary for the last fifteen years of  
43 service.



44 Nineteen years of total service credits, forty-five per  
45 cent of his average salary for the last fifteen years of  
46 service.

47 Eighteen years of total service credits, forty-three per  
48 cent of his average salary for the last fifteen years of  
49 service.

50 Seventeen years of total service credits, forty-one per  
51 cent of his average salary for the last fifteen years of  
52 service.

53 Sixteen years of total service credits, thirty-nine per  
54 cent of his average salary for the last fifteen years of  
55 service.

56 Fifteen years of total service credits, thirty-six per cent  
57 of his average salary for his term of service.

58 Fourteen years of total service credits, thirty-three per  
59 cent of his average salary for his term of service.

60 Thirteen years of total service credits, thirty-one per  
61 cent of his average salary for his term of service.

62 Twelve years of total service credits, twenty-nine per  
63 cent of his average salary for his term of service.

64 Eleven years of total service credits, twenty-seven per  
65 cent of his average salary for his term of service.

66 Ten years of total service credits, twenty-five per cent  
67 of his average salary for his term of service.

Sec. 7. *Disability Retirement Payments.*—(1) If  
2 a member becomes disabled by bodily injury effected  
3 directly or independently of all other causes through ac-  
4 cidental means while engaged in the course of his em-  
5 ployment with the city and while in line of duty, and is  
6 totally disabled from performing any work for pay,  
7 whether for the municipality or other employer, he shall  
8 be entitled during the time of his disability to full re-  
9 tirement payment based on one-half his average salary  
10 during the time of service with the municipality: *Pro-*  
11 *vided*, That the minimum payment shall be fifty dollars  
12 per month and the maximum payment shall be one  
13 hundred dollars per month.

14 (2) If a member becomes disabled while an employee  
15 of the municipality after he has had at least ten years  
16 total service credits, and before he has reached retire-

17 ment age, but such disability is not incurred in the line of  
18 duty during the course of his employment, he shall be en-  
19 titled to a one-fourth retirement payment of (during the  
20 time of his disability) his average salary during the  
21 time of his service: *Provided*, That he shall be entitled  
22 to a minimum payment of twenty-five dollars per month  
23 and a maximum payment of fifty dollars per month.

24 (3) When a member has reached the retirement age  
25 or has become so physically or mentally disabled as to  
26 render him unfit for the performance of the duties of the  
27 position he occupies and who has less than ten years  
28 earned service credits, he shall be entitled to an annuity  
29 which shall be the actual equivalent of his total accumula-  
30 tion account at the time of his retirement.

31 (4) The board of trustees of the employees' retire-  
32 ment and benefit fund may order a reexamination of  
33 members of the fund receiving disability retirement pay-  
34 ment and if the disability no longer exists the payments  
35 shall be discontinued.

Sec. 8. *Death Benefits.*—(1) A member who dies  
2 after he has had ten or more years total service credits  
3 shall be entitled, for a period not to exceed ten years, to  
4 a retirement payment in accordance to the table contained  
5 in section two of this article. The payments shall be made  
6 to the person having an insurable interest in his life, as  
7 he shall nominate to the board.

8 (2) Death benefits after retirement shall be the same  
9 as death before retirement except a widow shall not be  
10 entitled to benefits unless she has been married to the  
11 member before the date of his retirement.

12 Payment shall be made for the remaining period of ten  
13 years from the date of the member's retirement. If a  
14 widow of a member remarries, her retirement payments  
15 shall be terminated.

Sec. 9. *Contributions by the Municipality.*—The coun-  
2 cil or other governing body shall annually provide suf-  
3 ficient funds in the budget to take care of the estimated  
4 cost of the employees' retirement and benefit fund over  
5 and above the amount contributed by the members.

6 The municipality shall contribute not less than the  
7 amount contributed by the members of the fund, plus an  
8 amount required, at three per cent interest per annum,  
9 to amortize, over the remainder of the period of forty  
10 years following the effective date, the amount as of the  
11 beginning of such year, of the obligation for the prior  
12 service credits granted to the employees, and a sufficient  
13 amount to pay the cost of the administration of the fund.

Sec. 10. *Investment of Funds.*—The board shall  
2 have full power in its sole discretion to invest or reinvest  
3 any moneys received by it, either in interest-bearing  
4 bonds of the United States, or of the state of West Vir-  
5 ginia, or the county, school district, or any municipality  
6 in the state of West Virginia, or upon approved real es-  
7 tate security to the extent of not more than fifty per  
8 cent of the assessed value of such real estate.

Sec. 11. *Records; Actuarial Data.*—The board of  
2 trustees shall maintain an individual account with each  
3 member, showing the amount of the member's contribu-  
4 tions and the interest accumulations thereon. It shall  
5 collect and keep in convenient form such data as may be  
6 necessary for the preparation of the required mortality  
7 and service tables, and for the compilation of such other  
8 information as may be needed for the actuarial valua-  
9 tion of the funds created by ordinance. The board of  
10 trustees shall adopt appropriate tables for the purpose of  
11 evaluating and computing retirement allowances.

Sec. 12. *Reports by Board of Trustees.*—At such  
2 times as the board of trustees may deem it necessary,  
3 but at least once within the first three years of the opera-  
4 tion of the fund and each quin-quennial period thereafter,  
5 the board of trustees shall employ a competent actuary  
6 to prepare a report containing an evaluation of the pres-  
7 ent and prospective assets and liabilities of the fund.  
8 The board of trustees shall submit to the council or  
9 other governing body an annual report showing the con-  
10 dition of the various funds under its control. It shall

11 certify in such report the amount of accumulated cash  
12 and securities in the funds and shall present a full ac-  
13 count of the operation of the system.

Sec. 13. *Custodian of Funds; Duties, Bond.*—The treas-  
2 urer or his equivalent of each municipality shall be the  
3 custodian of all funds, and shall deposit and pay out the  
4 same upon, and in accordance with, any proper order of  
5 the board of trustees. Such treasurer shall be liable upon  
6 his official bond as treasurer for the faithful performance  
7 of his duties in respect to such funds, and the official  
8 bond of the treasurer covering such funds shall be ex-  
9 ecuted with a good and financially responsible surety com-  
10 pany, authorized to do business in this state, as surety for  
11 such funds. Such funds shall not be used for any other  
12 purpose than provided herein.

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## CHAPTER 115

(Senate Bill No. 65—By Mr. Wylie)

AN ACT to amend article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section, numbered thirteen-a, authorizing municipal corporations to levy and collect a tax upon purchases of intoxicating liquors within municipalities.

[Passed March 7, 1947; in effect July 1, 1947. Approved by the Governor.]

### Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

#### Section

13-a. Tax on purchases of intoxicating liquors authorized.

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

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

Section 13-a. *Tax on Purchases of Intoxicating Liquors*

2 *Authorized.*—The governing authority of every municipal  
3 corporation, whether operating under a general, special  
4 or home-rule charter, may levy and collect a tax upon  
5 all purchases of intoxicating liquors at retail within a  
6 municipality. The tax shall be levied upon the purchaser  
7 and shall be added to and collected with the price of the  
8 purchase. The tax shall not exceed two per cent of the  
9 purchase price or charge, but a tax of one cent may be  
10 levied and collected on any fractional part of fifty cents.

11 Any ordinance imposing the tax authorized by this  
12 section shall be certified by the mayor or other chief  
13 officer of the municipality to the West Virginia liquor  
14 control commission. The commission by appropriate  
15 rules and regulations shall provide for the collection of  
16 such tax and for distribution thereof to the respective  
17 municipalities for which the same shall be collected.  
18 Such rules and regulations shall provide that all such  
19 taxes shall be deposited with the state treasurer and  
20 distributed quarterly by the treasurer, upon warrants  
21 of the auditor, at the same time distribution is made to  
22 municipalities in pursuance of the provisions of section  
23 nineteen, article three, chapter sixty of the code.

3

## CHAPTER 116

(Com. Sub. for Senate Bill No. 130—Originating in the Senate Committee on  
Counties and Municipal Corporations)

AN ACT to amend and reenact section nine, article six, chapter eight of the code of West Virginia, as amended and reenacted by chapter fifty-three, acts of the Legislature, one thousand nine hundred thirty-seven, relating to the maximum work week for firemen.

[Passed March 4, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 6. Fire Department, Fire Companies, and Firemen's and Policemen's Pension or Relief Funds.

#### Section

9. Maximum work week for firemen.

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

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

Section 9. *Maximum Work Week for Firemen.*—In any  
2 municipal corporation in this state with a population  
3 of more than thirteen thousand inhabitants under the  
4 federal census of one thousand nine hundred forty and  
5 having, or which may hereafter have, a fire department  
6 supported in whole or in part at public expense, the mem-  
7 bers of the fire department shall not be required to re-  
8 main on duty in excess of seventy-two hours during any  
9 week. The members of such department shall, by major-  
10 ity vote, determine the schedule of hours to be worked in  
11 any twenty-four hour period: *Provided, however,* That  
12 the members of said department shall not remain on  
13 duty for more than twenty-four consecutive hours except  
14 in case of a conflagration requiring the service of more  
15 than one half of the department. The chief executive offi-  
16 cer of the department is hereby authorized and directed  
17 to make the necessary assignments as provided in this  
18 section.

19 Nothing in this section shall apply to any town which  
20 does not maintain and pay for a fire department and  
21 employees thereof for full time.

## CHAPTER 117

(Senate Bill No. 131—By Mr. Hannig)

AN ACT to amend and reenact section ten, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the general powers of municipal councils and the extra-territorial operation of such powers.

[Passed February 19, 1947; in effect from passage. Approved by the Governor.]

**Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.**

**Section**

10. General powers of council; extra-territorial operation of powers.

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

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

Section 10. *General Powers of Council; Extra-territorial Operation of Powers.*—The council shall have plenary power and authority therein by ordinance or resolution as the case may require (so far as such power or authority is not in conflict with the constitution and laws of this state or the constitution of the United States) to lay off, vacate, close, open, alter, curb, recurb, pave or repave and keep in good repair roads, streets, alleys, sidewalks, crosswalks, drains and gutters, for the use of the public, and to improve and light the same, and have them kept free from obstructions on or over them; to prevent by proper fines and penalties the throwing, depositing or permitting to remain on any street, sidewalk, alley, lane, square or other public place any glass, scrap iron, nails, tacks, wire, other litter, or any offensive matter or anything likely to injure the feet of persons or animals or the tires of vehicles; to regulate the use of streets, alleys, lanes and sidewalks for vehicles propelled by man power, and for other vehicles the use of which is not regulated by general laws; to regulate the width of sidewalks on the streets, and, subject to the provisions of article eight of this chapter, to order the sidewalks, footways and crosswalks to be curbed, paved, repaved and kept in good order, free and clean, by the owners or occupants thereof, or of the real property next adjacent thereto; to establish and regulate markets, and prescribe the time of holding the same; to prevent injury or annoyance to the public or individuals from anything

29 dangerous, offensive or unwholesome; to prevent hogs,  
30 cattle, horses, sheep or other animals, and fowls of all  
31 kinds, from going at large in such town; to protect places  
32 of divine worship and to preserve peace and order in  
33 and about the premises where held; to arrest, convict  
34 and punish any persons for keeping a house of ill-fame,  
35 or for letting to another person any house or other build-  
36 ing for the purpose of being used or kept as a house of  
37 ill-fame, or for knowingly permitting any house owned  
38 by him, or under his control, to be kept or used as a  
39 house of ill-fame, or for loafing, boarding or loitering  
40 in a house of ill-fame, or frequenting same; to arrest,  
41 convict and punish any person for importing, printing,  
42 publishing, selling or distributing any pornographic pub-  
43 lications; to arrest, convict and punish any person for  
44 cruelly, unnecessarily or needlessly beating, torturing,  
45 mutilating, killing or overloading or overdriving, or will-  
46 fully depriving of necessary sustenance, any horse or  
47 other domestic animal; to arrest, convict, and punish any  
48 person for gambling or keeping gaming tables, commonly  
49 called "A, B, C," or "E, O," table or faro bank or keno  
50 table, or table of like kind, under any denomination,  
51 whether the gaming table be played with cards, dice or  
52 otherwise, or any person who shall be a partner or con-  
53 cerned in interest, in keeping or exhibiting such table or  
54 bank, or keeping or maintaining any gaming house or  
55 place, or betting or gambling for money or anything of  
56 value; to license, or for good cause to refuse to license  
57 in a particular case, or at its discretion to prohibit in all  
58 cases, the operation of pool and billiard rooms and main-  
59 taining for hire of pool and billiard tables, notwithstand-  
60 ing the general law as to state licenses for such business.  
61 When the council, in the exercise of its discretion, shall  
62 have refused to grant a license to operate a pool or bil-  
63 liard room mandamus shall not lie to compel the council  
64 to grant such license, unless it shall clearly appear that  
65 the refusal of the council to grant such license is dis-  
66 criminatory or arbitrary. In the event that the council  
67 decides to license any such business, the council shall  
68 have power, and it shall be the duty of the council, to



69 make and enforce reasonable ordinances regulating the  
70 licensing and operating of such businesses; the council  
71 shall also have such power and authority to arrest, con-  
72 vict and punish any person for carrying about his person  
73 any revolver, or other pistol, dirk, bowie-knife, razor,  
74 slung shot, billy, metallic or other false knuckles, or any  
75 other dangerous or other deadly weapon of like kind or  
76 character, within such town; to arrest, convict and pun-  
77 ish any person for driving or operating, within such  
78 town, a motor vehicle when intoxicated or under the  
79 influence of liquor, drugs or narcotics; to provide pen-  
80 alties for the offenses and violations of law mentioned  
81 herein in addition to the penalties provided in section  
82 twenty-three of this article, but which shall not exceed  
83 the penalties provided for like offenses and violations  
84 in this chapter, and in chapter sixty-one of this code; to  
85 abate or cause to be abated anything which, in the opin-  
86 ion of a majority of the whole council, shall be a nui-  
87 sance; to regulate the keeping of gunpowder and other  
88 combustibles; to establish and maintain a library and/or  
89 museum for the public use; to acquire, establish, equip  
90 and maintain a recreation park for the public use; to  
91 acquire, by purchase, condemnation and otherwise, land  
92 in or near the town for providing and maintaining proper  
93 places for the burial of the dead and to regulate inter-  
94 ments therein upon such terms and conditions as to price  
95 and otherwise as may be determined by the council, and,  
96 in order to carry into effect such provisions the council  
97 may acquire any cemetery or cemeteries already estab-  
98 lished; to acquire, construct, equip and maintain incin-  
99 erator plants and equipment; to provide for the regular  
100 building of houses or other structures, and for making  
101 of division fences by the owners of adjacent premises  
102 and the drainage of lots by the proper drains and ditches;  
103 to make regulations guarding against danger or damage  
104 by fire; to prevent the illegal sale of intoxicating liquors,  
105 drinks, mixtures and preparations therein; to protect the  
106 persons and property of the inhabitants of such town,  
107 and to preserve peace and good order therein, and, for  
108 this purpose, to appoint, when necessary, a police force

109 to assist the sergeant in the discharge of his duties; ex-  
110 cept as otherwise provided, to prescribe the powers and  
111 define the duties of the officers appointed by the council,  
112 fix their terms of service and compensation, and require  
113 and take from them bonds, when deemed necessary, pay-  
114 able to such town, in its corporate name, with such sure-  
115 ties and in such penalty as the council may see fit, con-  
116 ditioned for the faithful discharge of their duties; to  
117 require and take from employees and contractors bonds  
118 in such penalties, with such sureties and with such con-  
119 ditions, as council may see fit; to erect, or authorize or  
120 prohibit the erection of gas works, electric light works,  
121 water works, and sewage treatment and disposal works  
122 within or without the town, or partly within and partly  
123 without the town, except that it shall not erect or author-  
124 ize the erection of any such works partly without the  
125 town to serve persons already obtaining service from  
126 existing works of the character proposed, and where  
127 such works are by the municipality erected, or have  
128 heretofore been so erected, partly within and partly  
129 without the town, it shall have the right to lay and col-  
130 lect charges for service rendered to those served within  
131 and those served without the town, and to prevent injury  
132 to such works or the pollution of the water and its main-  
133 tenance in a healthful condition for public use within  
134 the town; to regulate and provide for the weighing of  
135 hay, coal and other articles sold or for sale in the town;  
136 to provide a revenue for the town and appropriate the  
137 same to its expenses, which power shall include the  
138 power to tax dogs; to impose a license tax upon persons  
139 or companies keeping for hire carriages, hacks, buggies  
140 or wagons, or for carrying passengers for pay in any  
141 such vehicles, in such town; to adopt rules for the trans-  
142 action of business, and the government and regulation  
143 of its own body.

144 Wherever the powers herein granted cannot be reason-  
145 ably and efficiently exercised by confining the exercise  
146 thereof within the corporate limits, the powers of the  
147 corporation shall extend beyond the corporate limits to  
148 the extent necessary to the reasonably efficient exercise

149 of such powers within the corporate limits. But such  
150 powers, unless otherwise provided, shall not extend more  
151 than one mile beyond the corporate limits, and such pow-  
152 ers shall not extend into the corporate limits of another  
153 municipal corporation; however, in the erection and ex-  
154 tension of water works, water mains, sewerage works  
155 and sewers, such powers may, without regard to whether  
156 or not such extension of powers is necessary to the rea-  
157 sonably efficient exercise of such powers within the cor-  
158 porate limits be extended to fifteen miles beyond the cor-  
159 porate limits, and within the corporate limits of another  
160 municipal corporation if the latter by ordinance requests  
161 such extension.

## CHAPTER 118

(Senate Bill No. 359—By Mr. Bambrick, by request)

AN ACT to amend and reenact section seven, article six, chapter eight-a, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to consolidation of municipalities.

[Passed March 7, 1947; in effect from passage. Approved by the Governor.]

### Article 6. Consolidation.

#### Section

7. Endorsement of certificate; filing.

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

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

Section 7. *Endorsement of Certificate; Filing.*—If a  
2 majority of the votes cast by the qualified voters in each  
3 of the municipalities are shown by the county court's cer-  
4 tificate to have been cast in favor of the consolidation, the  
5 circuit court or judge, if satisfied as to the correctness of  
6 the returns evidenced by that certificate, shall so certify

7 upon the certificate. He shall cause the same to be filed  
8 forthwith in the office of the clerk of the county court,  
9 and to be published in a newspaper of general circula-  
10 tion in the municipalities so voting.

## CHAPTER 119

(House Bill No. 361—By Mr. Piper and Mr. Flaccus)

AN ACT to amend and reenact section nineteen, article six-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter one hundred seventy-three, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to civil service for members of paid fire department in the city of Wheeling.

[Passed March 6, 1947; in effect from passage. Approved by the Governor.]

### Article 6-a. Paid Fire Departments.

#### Section

19. Article to apply to cities of Parkersburg and Wheeling; civil service commission for city of Bluefield abolished.

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

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

Section 19. *Article to Apply to Cities of Parkersburg and Wheeling; Civil Service Commission for City of Bluefield Abolished.*—The provisions of this article shall apply in their entirety to the municipalities of Parkersburg and Wheeling, notwithstanding any exception heretofore made as to said municipalities, and notwithstanding any provisions of the corporate charter of either of said cities which may be in conflict herewith; and the civil service

9 commission granted for the municipality of Bluefield un-  
10 der an act of the Legislature, regular session, one thou-  
11 sand nine hundred thirty-three, is hereby abolished.

## CHAPTER 120

(House Bill No. 437—By Mr. Moore, of Wood, by request)

AN ACT to amend and reenact section nine, article three, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to eligibility of mayor, recorder, treasurer and councilmen of municipalities, and providing exemption from certain requirements to honorably discharged veterans of World War II.

[Passed March 6, 1947; in effect from passage. Approved by the Governor.]

### Article 3. Election, Appointment and Qualification of Officers.

#### Section

9. Eligibility of mayor, recorder, treasurer and councilmen.

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

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

Section 9. *Eligibility of Mayor, Recorder, Treasurer and Councilmen.*—The mayor, recorder, treasurer and councilmen must be residents of such municipality, must be legal voters entitled to vote for members of its council, and for the year preceding their election must have been assessed with and paid taxes upon at least one hundred dollars worth of real or personal property therein: *Provided*, That for two years after the date of his discharge, the eligibility of any honorably discharged veteran of World War II for any of such offices in any municipality of this state, whether such municipality shall have been created under general law or by special law, shall not be affected or impaired by reason of his not having been assessed with or paid taxes.

## CHAPTER 121

(Senate Bill No. 285—By Mr. Love)

AN ACT to amend and reenact section four, article ten, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the compromise of actions and suits in behalf of infants and insane persons and the disbursement of funds arising therefrom.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Article 10. Miscellaneous Provisions Relating to Procedure.

#### Section

4. Compromise of actions and suits in behalf of infants and insane persons and the disbursement of funds arising therefrom.

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

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

Section 4. *Compromise of Actions and Suits in Behalf of Infants and Insane Persons and the Disbursement of Funds Arising Therefrom.*—In any action or suit wherein an infant or insane person is a party, the court in which the same is pending, or the judge thereof in vacation, shall have the power to approve and confirm a compromise of the matters in controversy on behalf of such infant or insane person, if such compromise shall be deemed to be to the best interest of the infant or insane person. Such approval or confirmation shall never be granted except upon written application therefor by the guardian, committee, curator, or next friend of the infant or insane person, setting forth under oath all the facts of the case and the reasons why such compromise is deemed to be for the best interest of the infant or insane person. And the court or judge, before approving such compromise, shall, in order to determine whether to approve or disapprove the compromise, hear the testimony of witnesses relating to the subject matter of the compromise,

20 and cause said testimony to be reduced to writing and  
21 filed with the papers in the case. The court or judge, upon  
22 approving and confirming such compromise, shall enter  
23 judgment or decree accordingly. Such judgment or de-  
24 cree shall bind the respective parties thereto, including  
25 such infant or insane person, with like force and effect,  
26 and shall be subject to review, modification or reversal  
27 to the same extent only, as if it were a consent judgment  
28 or decree, entered under similar circumstances, in a case  
29 in which all the parties were adults and sane. In any such  
30 compromise wherein the amount paid to the guardian or  
31 committee does not exceed the sum of one thousand dol-  
32 lars, the court or judge approving and confirming the  
33 compromise and entering judgment or decree thereon  
34 may, in its or his discretion, dispense with or withdraw  
35 a reference to a commissioner of accounts, authorize the  
36 disbursement of the fund so created by the compromise  
37 and may discharge the guardian or committee and the  
38 surety on his bond, and in all such cases a certified copy  
39 of the order of the court or judge, as the case may be,  
40 shall be recorded in the office of the clerk of the county  
41 court wherein the guardian or committee was appointed.

## CHAPTER 122

(Com. Sub. for Senate Bill No. 300—Originating in the Senate Committee on  
the Judiciary)

AN ACT to amend and reenact sections six and seven, article eleven, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, and to further amend said article by adding thereto four new sections, numbered sections eight, nine, ten and eleven, all relating to the judicial council of West Virginia, its executive secretary and the duties of said secretary.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

**Article 2. Judicial Council.****Section**

6. Faculty of college of law of West Virginia university to constitute a bureau of research on legal problems, etc.; reports; employment of persons to do research work.
7. Members of council to serve without compensation; reimbursement for traveling and other expenses.
8. Executive secretary.
9. Salary of executive secretary; travel expenses.
10. Powers, duties and authority of executive secretary.
11. Offices to be located in capitol building.

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

That sections six and seven, article eleven, chapter fifty-six 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 four new sections, numbered sections eight, nine, ten and eleven, all to read as follows:

*Section 6. Faculty of College of Law of West Virginia*

- 2 *University to Constitute a Bureau of Research on Legal*  
3 *Problems, etc.; Reports; Employment of Persons to Do*  
4 *Research Work.*—The faculty of the college of law of West  
5 Virginia university shall constitute a bureau of research  
6 on legal' problems and the legal aspects of industrial  
7 problems, insofar as funds may be conveniently made  
8 available by West Virginia university for work in the  
9 summer time, and for diminishing the teaching load of  
10 those members engaged on said work during the school  
11 year. Insofar as it may be possible, without interfering  
12 with the teaching schedule of the college of law, the fac-  
13 ulty or members thereof designated by the dean, shall  
14 prepare reports on matters within the scope of the powers  
15 of investigation by said council: *Provided, however,* That  
16 if the faculty of the college of law of West Virginia uni-  
17 versity shall be unable to render adequate and proper  
18 service as such bureau of research the council in its dis-  
19 cretion, may employ such competent person or persons as  
20 may be necessary to constitute and perform the services  
21 of such bureau of research.

- Sec. 7. Members of Council to Serve without Compensa-*  
2 *sation; Reimbursement for Traveling and Other Ex-*



3 *penses.*—Members of the council shall receive no com-  
4 pensation for their services, but shall receive reimburse-  
5 ment for the actual and necessary traveling expenses in-  
6 curred in the performance of their official duties.

Sec. 8. *Executive Secretary.*—The council shall appoint  
2 a competent person as executive secretary of the judicial  
3 council of West Virginia, who shall also be ex officio di-  
4 rector of the administrative office of the supreme court  
5 of appeals as prescribed by chapter forty-one, acts of the  
6 Legislature, one thousand nine hundred forty-five, as  
7 amended. The executive secretary shall be the chief ad-  
8 ministrative officer of the council and, under its direction,  
9 shall have charge of all activities within its jurisdiction.  
10 The executive secretary shall serve at the will and plea-  
11 sure of the council.

Sec. 9. *Salary of Executive Secretary; Travel Ex-*  
2 *penses.*—The executive secretary shall receive a salary of  
3 five thousand dollars per annum and his necessary travel-  
4 ing expenses incident to the performance of his duties.  
5 Requisition for traveling expenses shall be accompanied  
6 by a sworn and itemized statement which shall be filed  
7 with the auditor and preserved as a public record.

Sec. 10. *Powers, Duties and Authority of Executive*  
2 *Secretary.*—The executive secretary shall have such pow-  
3 ers, duties and authority as may be delegated to him by  
4 the council. As ex officio director of the administrative  
5 office of the supreme court of appeals he shall have such  
6 powers, duties and authority, as prescribed by law, but  
7 shall receive no additional salary for acting as such di-  
8 rector.

Sec. 11. *Offices to Be Located in Capitol Buildings.*—  
2 The offices of the executive secretary shall be located in  
3 the state capitol building.  
4 All acts and parts of acts so far as inconsistent with the  
5 provisions of this act, are hereby repealed.

## CHAPTER 123

(Com. Sub. for House Bill No. 9—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section two, article three, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, relating to the definition and scope of the term "practice medicine and surgery" and to provide that the term shall not apply to the practice of the religious tenets of any church.

[Passed February 19, 1947; in effect from passage. Approved by the Governor.]

### Article 3. Physicians and Surgeons.

#### Section

2. Who deemed practitioner; limitations of article.

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

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

#### Section 2. *Who Deemed Practitioner; Limitations of*

2 *Article.*—The term "practice medicine and surgery," as  
3 used in this article, shall be construed to mean the treat-  
4 ment of any human ailment or infirmity by any method.  
5 To open an office for such purpose or to announce to the  
6 public in any way a readiness to treat the sick or afflicted  
7 shall be deemed to engage in the practice of medicine and  
8 surgery within the meaning of this article: *Provided,*  
9 *however,* That the provisions of this article, with the  
10 exceptions of sections eight and ten, shall not apply to  
11 dentists, dental hygienists, nurses, optometrists, chirop-  
12 odists, osteopathic physicians and surgeons, midwives, or  
13 chiropractors, regularly licensed or registered as such  
14 under the provisions of this chapter applicable to such  
15 professions and occupations, in the practice of their re-  
16 spective professions and occupations; nor to physicians  
17 or surgeons living in other states and duly qualified to  
18 practice medicine therein who shall be called in con-

19 sultation into this state by a physician or surgeon legally  
20 entitled to practice medicine and surgery in this state;  
21 nor to commissioned officers of the United States army,  
22 navy or marine hospital service when in the actual dis-  
23 charge of their duties as such; nor to the practice of the  
24 religious tenets of any church in the ministration to the  
25 sick or suffering by mental or spiritual means, whether  
26 gratuitously or for compensation: *Provided*, That sanitary  
27 and public health laws shall be complied with: *And pro-*  
28 *vided further*, That no practices shall be used which may  
29 be dangerous or detrimental to life or health and that no  
30 person shall be denied the benefits of accepted medical  
31 and surgical practices.

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## CHAPTER 124

(Senate Bill No. 272—By Mr. Van Camp)

AN ACT to amend and reenact section thirty-five, article five, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers of county public assistance councils to receive for record, release, enforce and otherwise act upon the state's liens on property of public assistance recipients.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Article 5. Public Assistance.

#### Section

35. Powers of county councils; enforcement and release of liens.

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

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

Section 35. *Powers of County Councils; Enforcement  
2 and Release of Liens.*—A county council shall receive all

3 assignments and perform any and all acts necessary to  
4 protect the financial interests of the state in the assets  
5 of recipients of public assistance.

6 All liens and claims under this article shall be enforced  
7 by the county council as the agent and in the name of  
8 the state, and all money reclaimed shall be paid by the  
9 council into the state treasury.

10 Whenever, on application in writing, it shall appear  
11 to a county council that the obligation of a lien, as pro-  
12 vided in this article, has been satisfied by payment, re-  
13 imbursement, or otherwise by the recipient of public  
14 assistance, his heirs or assigns, the council shall there-  
15 upon enter an order accordingly and the chairman of  
16 the council shall thereupon prepare, execute and ac-  
17 knowledge a release of such lien and deliver same to  
18 said recipient, his heirs or assigns, as the case may be,  
19 for recordation. Any and all such releases heretofore  
20 ordered by a county council and executed, acknowledged  
21 and delivered, as herein provided, shall be as legal, valid,  
22 effective and binding, as if ordered, executed, acknowl-  
23 edged and delivered after the effective date of this section.

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## CHAPTER 125

(House Bill No. 52—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section three, article two, chap-  
ter sixteen of the code of West Virginia, one thousand nine  
hundred thirty-one, as amended, authorizing local govern-  
mental units to cooperate in the operation and maintenance  
of local public health programs.

[Passed February 6, 1947; in effect ninety days from passage. Approved by the  
Governor.]

### Article 2. Local Health Officers.

#### Section

3. Counties, or counties and municipalities, may combine in employ-  
ment of officers and installation and maintenance of equipment.

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

That section three, article two, 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 3. *Counties, or Counties and Municipalities, May Combine in Employment of Officers and Installation and Maintenance of Equipment.*—Any two or more counties, or any county and any one or more municipalities within the county, may combine to cooperate with the state department of health, either by special vote or by vote of the board of health in the case of a county and by vote of the council or other governing body in the case of a municipality, and may participate in the employment of trained health officers and other agents or in the installation and maintenance of a common laboratory and other equipment. Whenever any two such units shall decide so to cooperate and shall appropriate a sum or sums of money for such joint or cooperative action, a sum equal to two-fifths of the total amount contributed by the cooperating units, shall be added thereto from the appropriation made for the state department of health: *Provided*, That the general plan of cooperation, as well as the principal health officer, executive agent or laboratory director employed by the cooperating units, shall first have been approved by the public health council.

## CHAPTER 126

(House Bill No. 425—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section one, article eleven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter six, acts of the Legislature of West Virginia, one thousand nine hundred thirty-three, relating to the pollution of any of the waters of the state.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

**Article 11. State Water Commission.****Section****1. Definitions.**

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

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

Section 1. *Definitions.*—Terms used in this article are defined as follows: The term “commission” shall mean the state water commission, hereby created, and the term “commissioner” shall mean a member of said commission. The term “water” or “waters” shall mean all waters of any river, stream, watercourse, pond or lake. The term “pollution” means the discharge or deposit of sewage or putrid, nauseous or offensive substances, in such condition, manner, or quantity, as may cause any of the waters of the state to be contaminated, unclean, or impure to such an extent as to make such water directly or indirectly detrimental to the public health; unsuitable with reasonable treatment for use as present or possible future sources of public water supply, or unsuitable for commercial, industrial, agricultural, or other reasonable uses. The word “person” shall mean any and all persons natural or artificial, including any municipal or private corporation organized or existing under the laws of this or any other state or country, and as well as any firm or association: *Provided, however,* That nothing herein contained shall be deemed to amend or affect any section of the code of West Virginia not herein mentioned.

## CHAPTER 127

Senate Bill No. 358—By Mr. McKinley, by request)

AN ACT to amend and reenact sections one, five and nine, article five, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to vital statistics.

[Passed March 7, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 5. Vital Statistics.

#### Section

1. Supervision by state department of health.
5. Burial or removal permit.
9. Duties of undertaker; provisional death certificate; casket dealer.

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

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

#### Section 1. *Supervision by State Department of Health.*

- 2 —The state department of health shall have charge of the
- 3 registration of births, deaths and marriages; shall pre-
- 4 pare the necessary instructions, forms and blanks for ob-
- 5 taining and preserving the state records; and shall procure
- 6 the faithful registration of every birth occurring in the
- 7 state or children born of any citizen of this state while
- 8 temporarily outside of the state and requests such regis-
- 9 tration; and all of the deaths occurring in the state or to
- 10 persons who had a known place of residence or domicile
- 11 therein and died while outside this state and who is or
- 12 has been returned to the state for burial; and of every
- 13 marriage, the license for which is issued in this state;
- 14 in each primary registration district, as constituted in
- 15 section three of this article, and in the central division of
- 16 vital statistics at the capitol of the state. The said depart-
- 17 ment shall be charged with the uniform and thorough en-
- 18 forcement of the provisions of this article throughout the
- 19 state.

Sec. 5. *Burial or Removal Permit.*—The body of any  
2 person whose death occurs in this state, or who shall be  
3 found therein, or who had a known place of residence or  
4 was domiciled therein and who dies outside this state  
5 and is returned thereto for burial, shall not be interred,  
6 deposited in a vault or tomb, cremated, or otherwise dis-  
7 posed of, or removed from or into any registration dis-  
8 trict, or be temporarily held pending further disposition  
9 more than seventy-two hours after death, unless a permit  
10 for burial, removal, or other disposition thereof shall have  
11 been properly issued by the local registrar of the regis-  
12 tration district in which the death occurred or the body  
13 was found. And no such permit shall be issued by any  
14 registrar until, wherever practicable, a complete and sat-  
15 isfactory certificate of death has been filed with him as  
16 hereinafter provided: *Provided*, That when a dead body  
17 is transported from outside the state into a registration  
18 district in West Virginia for burial, or other disposition,  
19 the transit or removal permit, issued in accordance with  
20 the law and health regulations of the place where the  
21 death occurred, shall be accepted by the local registrar  
22 of the district into which the body has been transported  
23 for burial or other disposition, as a basis upon which he  
24 may issue a local permit; he shall note upon the face of  
25 such permit the fact that it was a body shipped in for in-  
26 terment, or other disposition, and give the actual place  
27 of death, and such additional information as may be re-  
28 quired in making the death certificate provided for  
29 above, a copy of which certificate shall be filed by the  
30 local registrar with the clerk of the county court where  
31 the deceased was a resident, and by such clerk recorded  
32 in his record of deaths; and for filing such copy the county  
33 court where such certificate is filed shall allow and pay  
34 such registrar a fee of twenty-five cents; and no local  
35 registrar shall receive any fee for the issuance of such  
36 permits under this article other than the compensation  
37 provided in section eighteen of this article.

Sec. 9. *Duties of Undertaker; Provisional Death Certifi-  
2 cate; Casket Dealer.*—The undertaker, or person acting as



3 undertaker, shall file the certificate of death with the local  
4 registrar of the district in the district in which the death  
5 occurred, or if the death occurred outside of the state and  
6 the deceased is to be buried in this state a copy of the  
7 certificate as complete as reasonably possible shall be  
8 filed with the local registrar in the county in which the  
9 deceased was a resident, and obtain a burial or removal  
10 permit prior to any disposition of the body. He shall  
11 obtain the required personal and statistical particulars  
12 from the person best qualified to supply them, over the  
13 signature and address of his informant. He shall then  
14 present the certificate to the attending physician, if any,  
15 or to the health officer or coroner, as directed by the local  
16 registrar, for the medical certificate of the cause of death  
17 and other particulars necessary to complete the record,  
18 as specified in sections seven and eight. And he shall  
19 then state the facts required relative to the date and  
20 place of burial or removal, over his signature and with  
21 his address, and present the completed certificate to the  
22 local registrar in order to obtain a permit for burial,  
23 removal or other disposition of the body: *Provided*, That  
24 in an emergency where it is necessary to ship a body,  
25 or where for other good and sufficient reasons an under-  
26 taker, or person acting as such, is unable to comply with  
27 the requirements of this section, he may file a provisional  
28 death certificate with the local registrar and secure from  
29 that official a burial, removal or transit permit: *Provided*  
30 *further*, That within a period of ten days the undertaker,  
31 or person acting as such, shall exchange, for the provi-  
32 sional death certificate previously filed, a death certificate  
33 completely and satisfactorily made out, as contemplated  
34 in this section. The undertaker shall deliver the burial  
35 permit to the person in charge of the place of burial,  
36 before interring or otherwise disposing of the body; or  
37 shall attach the removal permit to the box containing  
38 the corpse, when shipped by any transportation company;  
39 said permit to accompany the corpse to its destination,  
40 where, if within the state of West Virginia, it shall be  
41 delivered to the person in charge of the place of burial.  
42 Every person, firm or corporation selling a casket shall

43 keep a record showing the name of the purchaser, pur-  
44 chaser's post-office address, name of deceased, date of  
45 death, and place of death of deceased, which record  
46 shall be open to inspection of the state registrar at all  
47 times. On the first day of each month the person, firm or  
48 corporation selling caskets shall report to the state regis-  
49 trar each sale for the preceding month, on a blank pro-  
50 vided for that purpose: *Provided, however,* That no per-  
51 son, firm or corporation selling caskets to dealers or un-  
52 dertakers only shall be required to keep such record, nor  
53 shall such report be required from undertakers when they  
54 have direct charge of the disposition of a dead body.

55 Every person, firm or corporation selling a casket at  
56 retail, and not having charge of the disposition of the  
57 body, shall inclose within the casket a notice furnished by  
58 the state registrar calling attention to the requirements  
59 of the law, a blank certificate of death, and the rules and  
60 regulations of the state department of health concerning  
61 the burial or other disposition of a dead body.

## CHAPTER 128

(House Bill No. 252—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section eight, article eleven, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to investigations and reports by the state water commission concerning stream flow and pollution.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 11. State Water Commission.

#### Section

8. Investigations and reports regarding pollution; aid from other agencies.

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

That section eight, 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 8. *Investigations and Reports Regarding Pollution; Aid from Other Agencies.*—The commission shall study questions arising in connection with stream flow and pollution of waters in the state and make reports and recommendations in respect thereto; and in cooperation with the college of engineering at West Virginia university, make research, investigation and scientific experiments in efforts to discover economical and practical methods for elimination, disposal and treatment of industrial wastes and the control and correction of stream pollution; and to this end the commission may cooperate with any public or private agency and receive therefrom, on behalf of the state, and for deposit in its treasury, any money which such agency may contribute as its part of the expense thereof, and gifts, donations or contributions received as aforesaid may be expended according to the requirements or directions of the donor or contributor without the necessity of an appropriation therefor, except that an accounting thereof shall be made in the fiscal reports of the commission.

## CHAPTER 129

(Senate Bill No. 51—By Mr. Vickers, Mr. President)

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 five-b, defining and regulating hospitals, sanatoriums, rest homes, and related institutions, providing for the issuance, suspension and revocation of licenses therefor, and providing penalties for the violation of any provisions thereof.

[Passed February 12, 1947; in effect ninety days from passage. Approved by the Governor.]

**Article 5-b. Hospitals and Similar Institutions.****Section**

1. Hospitals and other institutions affected.
2. Existing hospitals and institutions to obtain licenses.
3. Application for licenses.
4. License fees.
5. Inspection.
6. State department of health to issue licenses.
7. Judicial review.
8. State department of health to establish standards.
9. Appointment and term of office of advisory board members.
10. Information not to be disclosed except in certain cases.
11. Violations; penalties; separability .
12. Injunction.

***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 five-b, to read as follows:

**Section 1. *Hospitals and Other Institutions Affected.*—**

2 After July one, one thousand nine hundred forty-eight,  
3 no person, partnership, association, corporation, or any  
4 local governmental unit or any division, department,  
5 board or agency thereof shall establish, conduct, or main-  
6 tain in the state of West Virginia any hospital, sanator-  
7 ium, rest home, nursing home, or other institution having  
8 five or more beds for the hospitalization or care of the  
9 sick or injured or for the care of any human being re-  
10 quiring or receiving chronic or convalescent care without  
11 first obtaining a license therefor in the manner hereinaf-  
12 ter provided. Hospitals operated by the federal govern-  
13 ment or the state government shall be exempt from the  
14 provisions of this article.

15 Hospital, sanatorium, rest home, nursing home, and  
16 other related institutions within the meaning of this ar-  
17 ticle, shall mean any institution, place, building, or agency  
18 in which an accommodation of five or more beds is main-  
19 tained, furnished or offered for the hospitalization of the  
20 sick or injured or care of any persons requiring or receiv-  
21 ing chronic or convalescent care. Nothing contained in  
22 this article, however, shall apply to hotels or other sim-

23 ilar places that furnish to their guests only board and  
24 room, or either of them.

25 Nothing in this article shall authorize any person, part-  
26 nership, association, corporation, or any local govern-  
27 mental unit or any division, department, board or agency  
28 thereof to engage in any manner in the practice of medi-  
29 cine, as defined by law. This article shall not be con-  
30 strued to restrict or modify any statute pertaining to the  
31 placement or adoption of children.

Sec. 2. *Existing Hospitals and Institutions to Obtain*  
2 *Licenses.*—No person, partnership, association, corpora-  
3 tion, or any local governmental unit or any division, de-  
4 partment, board or agency thereof may continue to oper-  
5 ate an existing hospital, sanatorium, rest home, nursing  
6 home, or related institution or open a hospital, sanator-  
7 ium, rest home, nursing home, or related institution af-  
8 ter July one, one thousand nine hundred forty-eight, un-  
9 less such operation shall have been approved and regu-  
10 larly licensed by the state as hereinafter provided.

11 Before a license shall be issued under this article, the  
12 person applying, if an individual, shall submit evidence  
13 satisfactory to the state department of health that he is  
14 not less than twenty-one years of age, of reputable and  
15 responsible character, and otherwise qualified. In the  
16 event the applicant is an association, corporation or gov-  
17 ernmental unit, like evidence shall be submitted as to  
18 the members thereof and the persons in charge. Every  
19 applicant shall, in addition, submit satisfactory evidence  
20 of his ability to comply with the minimum standards and  
21 with all rules and regulations lawfully promulgated  
22 hereunder.

Sec. 3. *Application for Licenses.*—Any person, partner-  
2 ship, association, or corporation, or any local governmen-  
3 tal unit or any division, department, board or agency  
4 thereof desiring a license hereunder shall file with the  
5 state department of health a verified application stating  
6 the name of the applicant, and if the applicant is an in-  
7 dividual, his age; the type of institution to be operated;  
8 the location thereof; the name of the person in charge

9 thereof; and such other information as the state depart-  
10 ment of health may require. An application on behalf  
11 of a corporation, association or governmental unit shall  
12 be made by any two officers thereof or by its managing  
13 agents and shall contain like information. The applica-  
14 tion shall be on a form prescribed, prepared and fur-  
15 nished by the state department of health.

Sec. 4. *License Fees.*—The application by any person,  
2 partnership, association, corporation or local governmen-  
3 tal unit for a license to operate a hospital, sanatorium, rest  
4 home, nursing home, or related institution within the  
5 meaning of this article shall be accompanied by a fee to  
6 be determined by the number of beds available for pa-  
7 tients, according to the following schedule of fees: Those  
8 with five beds but less than fifty beds shall pay a fee of  
9 twenty dollars; those with fifty beds or more and less  
10 than one hundred beds shall pay a fee of thirty dollars;  
11 those with one hundred beds or more and less than two  
12 hundred beds shall pay a fee of forty dollars; and those  
13 with two hundred beds or more shall pay a fee of fifty  
14 dollars. No such fee shall be refunded. All licenses issued  
15 under this article shall expire on the thirtieth day of  
16 June following their issuance, shall be on a form pre-  
17 scribed by the state department of health, shall not be  
18 transferable or assignable, shall be issued only for the  
19 premises named in the application, shall be posted in a  
20 conspicuous place on the licensed premises, and may be  
21 renewed from year to year upon application, investiga-  
22 tion, and payment of the license fee, as in the case of the  
23 procurement of an original license. All fees received by  
24 the state department of health under the provisions of  
25 this article shall be paid into the state treasury general  
26 revenue fund.

Sec. 5. *Inspection.*—Every building, institution or es-  
2 tablishment for which a license has been issued shall be  
3 inspected periodically by a duly appointed representative  
4 of the state department of health under rules and regu-  
5 lations to be promulgated by the department. Inspec-  
6 tion reports shall be prepared on forms prescribed by the

7 state department of health. Institutions licensed here-  
8 under shall in no way be exempt from being inspected or  
9 licensed under the laws of this state relative to hotels,  
10 restaurants, lodging houses, boarding houses and places  
11 of refreshment.

Sec. 6. *State Department of Health to Issue Licenses.*—

2 The state department of health is hereby authorized to  
3 issue licenses for the operation of hospitals, sanatoriums,  
4 rest homes, nursing homes, or other related institutions  
5 as herein defined, which are found to comply with the  
6 provisions of this article and with all regulations law-  
7 fully promulgated by the department.

8 The state department of health is hereby authorized to  
9 suspend or revoke a license issued hereunder, on any of  
10 the following grounds:

11 (1) Violation of any of the provisions of this article or  
12 the rules and regulations issued pursuant thereto;

13 (2) Knowingly permitting, aiding or abetting the com-  
14 mission of any illegal act in such institution;

15 (3) Conduct or practices detrimental to the health or  
16 safety of the patients and employees of such institu-  
17 tion.

18 Before any such license is suspended or revoked, how-  
19 ever, written notice shall be given the licensee, stating  
20 the grounds of the complaint, and of the date, time, and  
21 place set for the hearing of the complaint, which date  
22 shall not be less than thirty days from the time the notice  
23 is given. Such notice shall be sent by registered mail  
24 to the licensee at the address where the institution con-  
25 cerned is located. The licensee shall be entitled to be  
26 represented by legal counsel at the hearing.

27 If a license is revoked as herein provided, a new appli-  
28 cation for a license shall be considered by the state de-  
29 partment of health if, when, and after the conditions upon  
30 which revocation was based have been corrected and evi-  
31 dence of this fact has been furnished. A new license  
32 shall then be granted after proper inspection has been  
33 made and all provisions of this article and rules and regu-  
34 lations promulgated hereunder have been satisfied.

Sec. 7. *Judicial Review.*—Any applicant or licensee  
2 who is dissatisfied with the decision of the state depart-  
3 ment of health as a result of the hearing provided in sec-  
4 tion six may, within thirty days after receiving notice  
5 of the decision, appeal to the circuit court, in term or in  
6 vacation, of the county in which the applicant or licensee  
7 is located for judicial review of the decision. The court  
8 may, if it so desires, refer the matter to a commissioner  
9 in chancery for a hearing, with a request that he report  
10 to the court his findings of fact together with his recom-  
11 mendation.

12 The department shall promptly certify and file in the  
13 court the transcript of the hearings on which its decision  
14 is based.

15 Findings of fact by the department shall be considered  
16 as prima facie correct, but the court may remand the case  
17 to the department for the taking of further evidence.  
18 The department may thereupon make new or modified  
19 findings of fact which shall likewise be considered as  
20 prima facie correct. All evidence in the case shall be  
21 held secret until the final order is issued by the court  
22 which order shall be made public.

23 The court shall have the power to affirm, modify or re-  
24 verse the decision of the department and either the ap-  
25 plicant or licensee or the department may appeal from  
26 the court's decision to the supreme court of appeals.  
27 Pending the final disposition of the matter the status quo  
28 of the applicant or licensee shall be preserved.

Sec. 8. *State Department of Health to Establish Stand-*  
2 *ards.*—The state department of health shall have the  
3 power, with the advice and counsel of the advisory board,  
4 to establish and enforce such minimum standards and  
5 such rules and regulations, not in conflict with any pro-  
6 vision of this article, as it finds necessary, or in the public  
7 interest, in order to protect patients in institutions re-  
8 quired to be licensed under this article from detrimental  
9 practices and conditions, or to insure adequate provision  
10 for their accommodations and care. In like manner, the  
11 department, with the advice and counsel of the advis-



12 ory board, may from time to time rescind or modify such  
13 standards, rules and regulations in such manner as may  
14 be deemed in the public interest, but no rule, regulation,  
15 or standard of the board shall be adopted or enforced  
16 which would have the effect of denying a license to a  
17 hospital or other institution required to be licensed here-  
18 under, solely by reason of the school or system of prac-  
19 tice employed or permitted to be employed by physicians  
20 therein: *Provided*, That such school or system of practice  
21 is recognized by the laws of this state.

Sec. 9. *Appointment and Term of Office of Advisory*  
2 *Board Members.*—There shall be an advisory board of  
3 seven members, all of whom shall be citizens of West  
4 Virginia, to assist in the establishment of rules, regula-  
5 tions and standards necessary to carry out the provisions  
6 of this article and to serve as consultants to the commis-  
7 sioner of health. The board shall meet at least twice each  
8 year and at the call of the commissioner of health. The  
9 members of the board shall annually elect one of its  
10 members to serve as chairman.

11 The advisory board shall be appointed by the gov-  
12 ernor by and with the consent of the senate. Of the  
13 seven members of the board, four shall be persons who  
14 are well-versed in hospital organization and administra-  
15 tion, and the remaining three shall be chosen from per-  
16 sons of recognized ability in the fields of medicine and  
17 surgery, nursing, welfare, public health, architecture, or  
18 allied professions in the field of health, or consumers of  
19 hospital services.

20 The members shall be appointed for seven year terms  
21 except that in the original appointments one person shall  
22 be appointed for one year, one person for two years, one  
23 person for three years, one person for four years, one per-  
24 son for five years, one person for six years, and one per-  
25 son for seven years. Thereafter each member shall be  
26 appointed to serve seven years or until his successor is  
27 appointed. In the case of a vacancy the appointee shall  
28 serve the remainder of the unexpired term.

29 Members of the advisory board shall be eligible to

30 succeed themselves. Members of the advisory board  
31 shall serve without compensation but shall be entitled to  
32 reimbursement for actual expenses incurred in the per-  
33 formance of the duties of their office.

Sec. 10. *Information Not to be Disclosed Except in  
2 Certain Cases.*—Information received by the state de-  
3 partment of health under the provisions of this article  
4 shall be confidential and shall not be publicly disclosed  
5 except in a proceeding involving the question of the is-  
6 suance or revocation of a license.

Sec. 11. *Violations; Penalties; Separability.*—Any per-  
2 son, partnership, association, or corporation, and any local  
3 governmental unit or any division, department, board or  
4 agency thereof establishing, conducting, managing, or  
5 operating a hospital, sanatorium, rest home, nursing  
6 home, or institution within the meaning of this article,  
7 without first obtaining a license therefor as herein pro-  
8 vided, or violating any provision of this article or any  
9 rule or regulation lawfully promulgated thereunder,  
10 shall be guilty of a misdemeanor, and upon conviction  
11 thereof shall be punished for the first offense by a fine  
12 of not more than one hundred dollars, or by imprison-  
13 ment in the county jail for a period of not more than  
14 ninety days, or by both such fine and imprisonment, in  
15 the discretion of the court. For each subsequent offense  
16 the fine may be increased to not more than five hundred  
17 dollars, with imprisonment in the county jail for a per-  
18 iod of not more than ninety days, or both such fine and  
19 imprisonment in the discretion of the court. Each day  
20 of a continuing violation after conviction shall be con-  
21 sidered a separate offense.

Sec. 12. *Injunction.*—Notwithstanding the existence or  
2 pursuit of any other remedy, the department may, in  
3 the manner provided by law, maintain an action in the  
4 name of the state for injunction against any person,  
5 partnership, association, corporation, or any local gov-  
6 ernmental unit, or any division, department, board or  
7 agency thereof to restrain or prevent the establishment,

8 conduct, management or operation of any hospital, sana-  
9 torium, rest home, nursing home or other institution hav-  
10 ing five or more beds for the hospitalization or care of the  
11 sick or injured or for the care of any human being re-  
12 quiring or receiving chronic or convalescent care with-  
13 out first obtaining a license therefor in the manner here-  
14 inbefore provided.

15 If any part of this article shall be declared unconsti-  
16 tutional, such declaration shall not affect any other part  
17 thereof.

## CHAPTER 130

(Senate Bill No. 2—By Mr. Harmer)

AN ACT to amend and reenact section nine, article one, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter one hundred three, acts of the Legislature, one thousand nine hundred forty-five, relating to the vesting of title to bequests or donations of cash or other personal property or real estate for the benefit of a public library in a corporation composed of a board of library directors, and providing for exceptions thereto.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Article 1. Public Libraries.

#### Section

9. Library board to be a corporation; vesting of title to bequests or donations.

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

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

Section 9. *Library Board to Be a Corporation; Vesting of Title to Bequests or Donations.*—The board of library directors of each public library shall be a corporation; and as such it may contract and be contracted with, sue and be sued, plead and be impleaded, and shall have and use a common seal.

The title to all bequests or donations of cash or other personal property or real estate for the benefit of such library shall be vested in the board of library directors to be held in trust and controlled by such board according to the terms and for the purposes set forth in the deed, gift, devise or bequest: *Provided, however,* That the person making the bequest or donation of cash or other personal property or real estate for the benefit of such library shall have the right and privilege to vest the title thereto in a trustee, or trustees, of his own selection, and to provide for the selection of successor trustees, and to designate the manner in which said fund or property shall be invested and used.

## CHAPTER 131

(Com. Sub. for Senate Bill No. 129—Originating in the Senate Committee on Veterans Affairs)

AN ACT to amend and reenact section two, article three, chapter ten of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter one hundred forty-nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-five, relating to memorials to soldiers, sailors and marines, 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, repair, remove or replace existing buildings; to authorize the sale of existing war memorials and use the funds realized from the sale thereof together with other funds hereby authorized to create and establish and

maintain new memorials; to authorize contributions to memorials; 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 8, 1947; in effect from passage. Approved by the Governor.]

### Article 3. Monuments, Tablets and Memorials.

#### Section

2. Memorials to soldiers and sailors; sale of existing memorials; memorial fund; levies; board of directors; report of board to county court; use of memorial; itemized report for public inspection; itemized budget estimate.

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

Section 2. *Memorials to Soldiers and Sailors; Sale of Existing Memorials; Memorial Fund; Levies; Board of Directors; Report of Board to County Court; Use of Memorial; Itemized Report for Public Inspection; Itemized Budget Estimate.*—(a) The county court of any county shall have the power, upon petition of twenty per cent of the voters of such county, based on the number of votes cast at the last general election for governor, to acquire and establish at the county seat, or at any other suitable place within the county, by purchase or otherwise, ground, park or grove, and to erect and maintain thereon a building or buildings, structure or structures, monument or monuments, to remodel, repair, remove or replace existing buildings or structures, or, within its discretion, to contribute money out of the county treasury to aid in the erection or the maintenance, or both, of any building or buildings, structure or structures, where same is to be used with educational institutions operated by the state

19 or any political subdivision thereof, or to aid in the erection or the maintenance, or both, of any memorial hospital owned and operated by a non-profit corporation incorporated under the laws of this state, as a memorial or memorials, and, also shall have the power to sell any existing building or structure established and owned by the county court as a war memorial and use the funds realized from the sale thereof together with other funds hereby authorized to create and establish and maintain new memorials, for the use of the public and to render the greatest benefit to the greatest number, in memory and in recognition of the virtues and sacrifices of the soldiers, sailors and marines from the state of West Virginia and each county thereof, and who served in the armed forces of the United States in the world wars. It is the declared purpose of this act to create or assist in creating memorials to the memory of such soldiers, sailors and marines by aiding all the living, for their health, safety and betterment.

38 (b) The county court is authorized to and may lay a tax on all property in the county for the purposes of acquiring and establishing such memorials, remodeling, repairing, removing or replacing existing memorials, or making the initial contribution to memorials, said tax to be not in excess of the following maximum levies on each one hundred dollars' assessed valuation: On Class I property, six cents; on Class II property, twelve cents; and on Classes III and IV property, twenty-four cents; and thereafter for maintenance purposes a like tax to be not in excess of the following maximum levies on each one hundred dollars assessed valuation: On Class I property, two cents; on Class II property, four cents; and on Classes III and IV property, eight cents, such tax to be levied and collected in like manner as the general taxes of the county, which shall be kept separate in a fund to be known as the "Memorial Fund": *Provided*, That in any county where such memorial has been established and under construction or partly completed the amount of tax for acquiring and establishing the same, or making the initial contribution thereto, shall not be in excess

59 of the following maximum levies on each one hundred  
60 dollars assessed valuation: On Class I property, three  
61 cents; on Class II property, six cents; and on Classes III  
62 and IV property, twelve cents; and thereafter for main-  
63 tenance purposes a like tax to be not in excess of the fol-  
64 lowing maximum levies on each one hundred dollars  
65 assessed valuation: On Class I property, two cents; on  
66 Class II property, four cents; and on Classes III and IV  
67 property, eight cents.

68 (c) Whenever such memorial is acquired or estab-  
69 lished wholly by the county court under this act, the  
70 county court shall appoint a board of directors equal in  
71 number to the magisterial districts of the county and  
72 select one from each of such districts from the citizens  
73 thereof, with reference to their fitness for such office.  
74 Such directors shall hold office for four years from the  
75 first day of July following their appointment, and until  
76 their successors are appointed. No person shall be inelig-  
77 ible to appointment by reason of sex. Vacancies in the  
78 board shall be reported to the county court and filled by  
79 appointment in like manner as original appointments for  
80 the unexpired term. The county court may remove any  
81 director for misconduct or neglect of duty. No compen-  
82 sation shall be paid or allowed any director.

83 The board of directors of each memorial shall, imme-  
84 diately after their appointment, meet and organize by  
85 electing one of their number as president and one as sec-  
86 retary; a majority of all the members of any board shall  
87 constitute a quorum for the transaction of business. They  
88 shall make and adopt such by-laws, rules and regula-  
89 tions from time to time, for their own guidance and for  
90 the government and use of the memorial, as may be ex-  
91 pedient and not inconsistent with this section. Such  
92 board shall have authority to contract for the construc-  
93 tion or purchase of a memorial established under this  
94 section and for repairs thereon or maintenance thereof  
95 and the supervision, care and custody of the ground,  
96 structure or structures: *Provided, however,* That all con-  
97 tracts shall be approved by the county court and that the  
98 expenditures of all funds shall be subject to the approval

99 of the county court, and all moneys belonging to the  
100 memorial fund shall be deposited in the treasury of such  
101 county to the credit of the memorial fund and shall be  
102 drawn therefrom on orders issued by the county court.  
103 Such orders shall not be drawn except upon requisition  
104 of the memorial board attached to proper authenticated  
105 vouchers. Ground, park or a grove for a memorial may  
106 be acquired by condemnation by such board in the same  
107 manner as the county court may acquire other real estate  
108 for public uses and purposes, and the title of all such  
109 property shall be and vest in the county court. The board  
110 shall have power to appoint a suitable custodian and  
111 assistants and prescribe rules for their conduct, fix their  
112 duties and compensation, and shall have power to remove  
113 such appointees and, in general, to carry out the spirit  
114 and intention of this section.

115 Each memorial operated by a board of directors as  
116 provided hereby shall be free for the use of the inhabi-  
117 tants of the county, subject to such reasonable rules and  
118 regulations as the board may adopt, in order to render  
119 the use of such building or structure of greatest benefit  
120 to the greatest number; and the board may exclude from  
121 the use of the building any and all persons who shall  
122 wilfully violate such rules. The board of directors may  
123 extend the use and privileges of the building and struc-  
124 ture to an educational institution or to nonresidents of  
125 the county upon such terms and conditions as the board  
126 may prescribe.

127 The board of directors shall, on or before the first day  
128 of July in each year, make a report to the county court,  
129 stating the condition of the property, the various sums  
130 of money received from the memorial fund, and from all  
131 other sources, how much money was expended and for  
132 what expended; also an itemized budget estimate of ex-  
133 pense of the property for the ensuing year, with such oth-  
134 er information and suggestions as they deem of general  
135 interest, or that may be required by the county court.

136 Any person or persons, including corporations, who  
137 desire to make donations of cash or other personal prop-  
138 erty or real estate for the benefit of the memorial, shall



139 have the right to do so, and shall have the right to vest  
140 the title thereof in the county court, to be held in trust  
141 and controlled by such board, the same as the other prop-  
142 erty owned or acquired, and according to the terms and  
143 for the purposes set out in the deed, gift, devise or be-  
144 quest.

145 (d) Whenever the county court contributes money  
146 out of the county treasury to aid in the erection or the  
147 maintenance, or both, of any building or buildings, struc-  
148 ture or structures, where same is or are operated by the  
149 state or any political subdivision thereof, or to aid in the  
150 erection or the maintenance, or both, of a memorial hos-  
151 pital owned and operated by a non-profit corporation in-  
152 corporated under the laws of this state, as such memorial  
153 or memorials, there shall be filed with the county court,  
154 on or before the first day of July in each year, an annual  
155 itemized report, for public inspection, of the operation,  
156 income and expenditures for the twelve months preced-  
157 ing as of the thirty-first day of May in each year, and the  
158 condition of the property, by the officials, or board of  
159 directors, as the case may be, in charge thereof, and in  
160 the case of such memorial hospital such report also shall  
161 contain a complete schedule of the rates and charges to  
162 the public and the services rendered free to the indigent  
163 and needy unable to pay therefor; and there also shall  
164 be filed with the county court, on or before the first day  
165 of July in each year, an itemized budget estimate of the  
166 expense and operation of such memorial or memorials for  
167 the ensuing year, with such other information and sug-  
168 gestions as may be deemed of public interest, or that  
169 may be required by the county court.

## CHAPTER 132

(Senate Bill No. 68—By Mr. Harmer and Mr. Hardesty)

AN ACT to amend and reenact section one, article two, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, relating to the payment of taxes and other amounts due to the state of West Virginia, or to any political subdivision, official, department, board, commission or other collecting agency thereof.

[Passed February 20, 1947; in effect from passage. Approved by the Governor.]

### **Article 2. Payment and Deposit of Taxes and Other Amounts Due the State or Any Political Subdivision.**

#### **Section**

1. How and to whom taxes and other amounts due the state of West Virginia, or any political subdivision, official, department, board, commission or other collecting agency thereof may be paid.

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

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

Section 1. *How and to Whom Taxes and Other Amounts Due the State of West Virginia, or any Political Subdivision, Official, Department, Board, Commission or Other Collecting Agency Thereof May Be Paid.*—All persons, firms and corporations shall promptly pay all taxes and other amounts due from them to the state, or to any political subdivision, official, department, board, commission or other collecting agency thereof authorized by law to collect the same, in money, United States currency or by check, bank draft, certified check, cashier's check, post office money order, or express money order payable and delivered to the official, department, board, commission or collecting agency thereof authorized by law to collect the same and having the account upon which such taxes or amounts are chargeable against the payer thereof: *Provided, however,* That no check, bank draft, certified check, cashier's check, post office money order

18 or express money order shall be in an amount to ex-  
19 ceed one hundred thousand dollars. The duly elected  
20 or appointed officers of the state and of its political sub-  
21 divisions, departments, boards, commissions and collect-  
22 ing agencies having the account on which taxes or other  
23 amounts are chargeable against the payer thereof and  
24 authorized by law to collect the same, and their respec-  
25 tive agents, deputies, assistants and employees shall in  
26 no case be the agent of the payer in and about the col-  
27 lection of such taxes or other amounts, but shall at all  
28 times and under all circumstances be the agent of the  
29 state, its political subdivision, official, department, board,  
30 commission or collecting agency having the account on  
31 which such taxes or amounts are chargeable against the  
32 payer thereof and authorized by law to collect the same.  
33 All acts or parts of acts inconsistent herewith are here-  
34 by repealed.

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## CHAPTER 133

(House Bill No. 455—By Mr. Arbogast)

AN ACT to amend article three, chapter twenty-four of the  
code of West Virginia, one thousand nine hundred thirty-  
one, as amended, by adding thereto a new section to be  
designated section seven, permitting "The Seeing Eye"  
dogs to accompany blind persons on common carriers.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### **Article 3. Duties and Privileges of Public Utilities Subject to Regulation of the Commission.**

#### **Section**

7. Permitting "the seeing eye" dogs on common carriers.

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

That article three, chapter twenty-four 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 and to read as follows:

Section 7. *Permitting "The Seeing Eye" Dogs on Common Carriers.*—Every railroad doing business in this state, every corporation engaged in this state in the business of carrying passengers for hire in cabs or coaches, and every other common carrier shall permit a dog properly harnessed and muzzled, accompanying a blind person carrying a certificate of identification issued by "The Seeing Eye" to ride on all such carriers operated for public transportation, and no charge shall be made for the transportation of any such dog.

## CHAPTER 134

(House Bill No. 410—By Mr. Hansbarger and Mr. Flaccus)

AN ACT to amend and reenact sections two and three, article one; section five, article five; sections four, five and six, article six; article seven; and to repeal article four, all of chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, relating to regulation of motor carriers of passengers and property for hire.

[Passed March 7, 1947; in effect May 1, 1947. Approved by the Governor.]

### Article

1. **Purposes, Definitions and Exemptions.**
4. **Repealed.**
5. **Powers and Duties of Commission.**
6. **Duties and Privileges of Motor Carriers Subject to Regulation of the Commission.**
7. **Complaints, Damages and Violations.**

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

That article four, chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, be repealed; that sections two and three, article one; section five,

article five; sections four, five and six, article six; and article seven, of said chapter, be amended and reenacted to read as follows:

### Article 1. Purposes, Definitions and Exemptions.

#### Section

2. Definitions.
3. Exemptions.

Section 2. *Definitions.*—When used in this act: (a) the term “motor vehicle” means, and includes, any automobile, truck, tractor, truck-tractor, trailer, semi-trailer, motor bus, taxicab, any self-propelling motor-driven motor vehicle, or any combination thereof, used upon any public highway in this state for the purpose of transporting persons or property; (b) the term “public highway” means any public street, alley, road, or highway, or thoroughfare of any kind in this state used by the public; (c) the term “commission” means the public service commission of West Virginia; (d) the term “person” means and includes any individual, firm, co-partnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof; (e) the term “common carrier by motor vehicle” means any person who undertakes, whether directly or by lease or any other arrangement, to transport passengers or property, or any class or classes of property, for the general public over the highways of this state by motor vehicles for hire, whether over regular or irregular routes, including such motor vehicle operations of carriers by rail, water or air and of express or forwarding agencies, and leased or rented motor vehicles, with or without drivers; (f) the term “contract carrier by motor vehicle” means any person not included under paragraph (e) of this section, who under special and individual contracts or agreements, and whether directly or by lease or any other arrangement, transports passengers or property over the highways in this state by motor vehicle for hire; (g) the term “motor carrier” includes both a common carrier by motor vehicle and a contract carrier by motor vehicle; (h) the term “exempt carrier” means any person operat-

34 ing a motor vehicle exempt from the provisions of this  
35 act under section three thereof.

Sec. 3. *Exemptions.*—The provisions of this act, except where specifically otherwise provided, shall not apply to: (a) motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers; (b) motor vehicles owned and operated by the United States of America, the state of West Virginia, or any county, municipality, or county board of education, or by any department thereof, and any motor vehicles operated under a contract with a county board of education exclusively for the transportation of children to and from school or such other legitimate transportation for the schools as the commission may specifically authorize; (c) motor vehicles owned and operated by farmers for the transportation, with or without compensation, of agricultural products produced on the farm owned or leased by such farmer, or on lands within a radius of eight air miles of such farm or lands, or the transportation of agricultural supplies to be used on such farm or lands, and in the transportation by such farmer, of fresh fruits, raw milk, or livestock, from point of production to markets or processing plants, packing houses, railroad stations and cold storage plants.

#### **Article 4. Private Carriers of Property by Motor Vehicle.**

Article four is hereby repealed.

#### **Article 5. Powers and Duties of Commission.**

##### **Section**

5. Further regulatory powers of the commission.

Sec. 5. *Further Regulatory Powers of the Commission.*—The commission shall:

(a) Prescribe rules of practice and procedure, the method and manner of holding hearings, and for taking evidence on all matters that may come before it, and enter such orders as may be just and lawful. In the investigations, preparations, and hearings of cases, the commission shall not be bound by the technical rules of pleading and evidence, but in that respect it may exercise such discre-

10 tion as will facilitate its efforts to understand and learn  
11 all the facts bearing upon the right and justness of the  
12 matters before it.

13 (b) Appoint such employees as may be necessary to  
14 carry out the provisions of this act, and shall fix their  
15 respective salaries or compensation. Such employees  
16 shall hold office during the pleasure of the commission.  
17 The commission may designate such employees as it  
18 deems necessary to take evidence at any hearing held  
19 or required by the provisions of this act, which employees  
20 are hereby empowered to administer oaths in all parts of  
21 the state so far as the exercise of such power is properly  
22 incidental to the performance of their duties in connection with the provisions of this act.

24 (c) Prescribe a schedule of fees to accompany applications for certificates of convenience and necessity  
25 and permits and for the filing and recordation of other  
26 papers with the commission. The commission shall likewise prescribe a schedule of fees to be charged for the  
27 certification of all records and papers and sums to be  
28 paid witnesses and other costs necessary and incident to  
29 hearings before it or its employees and order the same  
30 paid by the unsuccessful party. Sums collected in this  
31 manner, except witness fees, shall be paid into the state  
32 treasury and be credited to the public service commission motor carrier fund provided for in section six of  
33 article six of this act. The witness fees shall be paid to  
34 the persons who are entitled thereto.

38 (d) Establish a system of accounts to be kept by  
39 motor carriers or classify motor carriers and establish  
40 a system of accounts for each class, and prescribe the  
41 manner in which such accounts shall be kept. It may also  
42 in its discretion prescribe the form of accounts, records,  
43 and memoranda to be kept by such motor carriers, including the accounts, records, and memoranda for the  
44 movement of traffic as well as the receipts and expenditures of money, and any other forms, records and memoranda which in the judgment of the commission may be  
45 necessary to carry out any of the provisions of this  
46 chapter.

50 (e) Require persons subject to the provisions of this

51 chapter, to furnish any information which may be in  
52 their possession, or obtainable from their accounting or  
53 other records, respecting rates, charges, classifications,  
54 or practices in conducting their business, and to furnish  
55 the commission at all times for inspection any books or  
56 papers or reports and statements, which reports and  
57 statements shall be under oath, when so required by the  
58 commission, and the form of all reports required under  
59 this act shall be prescribed by the commission.

60 (f) Either as a commission or by any of its members,  
61 or by designated employees, subpoena witnesses and take  
62 testimony, and administer oaths to any witness in any  
63 proceeding or examination instituted before it or  
64 conducted by it with reference to any matter  
65 within its jurisdiction. In all hearings or proceedings  
66 before the commission or its designated employees the  
67 evidence of witnesses and the production of documentary  
68 evidence may be required at any designated place of  
69 hearing within the state; and in the case of disobedience  
70 to a subpoena or other process the commission or any  
71 party to the proceedings before the commission may in-  
72 voke the aid of any circuit court in the state in requiring  
73 the evidence and testimony of witnesses and the produc-  
74 tion of papers, books, and documents. And such court,  
75 in case of refusal to obey the subpoena issued to any per-  
76 son or to any motor carrier subject to the provisions of  
77 this chapter, shall issue an order requiring such motor  
78 carrier or any person to appear before the commission  
79 or designated employees and produce all books and  
80 papers, if so ordered, and give evidence touching the mat-  
81 ter in question. Any failure to obey such order of the  
82 court may be punished by such court as contempt thereof.  
83 A claim that such testimony or evidence may tend to in-  
84 criminate the person giving the same shall not excuse  
85 such witness from testifying, but such witness shall not  
86 be prosecuted for any offense concerning which he is  
87 compelled hereunder to testify.

88 (g) Require common carriers by motor vehicle and  
89 contract carriers by motor vehicle subject to the provi-  
90 sions of this act either to procure insurance from a com-  
91 pany authorized to write such insurance in West Vir-



92 ginia, or to qualify as a self-insurer, or to deposit such  
93 security, upon such terms and conditions and for such  
94 limits of liability as the commission shall determine to  
95 be necessary for the reasonable protection of the travel-  
96 ing, shipping, and general public against injury, loss,  
97 damage or default for which such carrier may be liable,  
98 and prescribe rules and regulations governing the filing  
99 of evidence of such insurance and such security with the  
100 commission. In fixing the amount of such insurance  
101 policy or policies, the qualifications as a self-insurer, or  
102 the deposit of security, the commission shall give due  
103 consideration to the character and amount of traffic,  
104 the value of the property transported, the number of  
105 persons affected, and the degree of danger involved in  
106 any such motor carrier operation.

107 (h) Cooperate with the federal government and the  
108 interstate commerce commission of the United States or  
109 any other commission or organized delegated authority  
110 to regulate interstate or foreign commerce by motor  
111 vehicles, and it shall be its duty so to do, to the end that  
112 the transportation of persons and property by motor  
113 vehicles in interstate and foreign commerce into and  
114 through the state of West Virginia may be regulated and  
115 the laws of the United States and of the state of West  
116 Virginia enforced and administered cooperatively in the  
117 public interest.

118 (i) Make agreements on behalf of the state of West  
119 Virginia with any other state or states providing for  
120 reciprocal rights, privileges, and courtesies between the  
121 licensees or holders of certificates and permits of the  
122 said state or states and the state of West Virginia re-  
123 specting certificates and permits, fees, assessments, and  
124 identification cards and plates, and the transportation  
125 of either persons or property into or through the re-  
126 spective state or states and the state of West Virginia,  
127 and all existing agreements between a state or states  
128 and the state of West Virginia for reciprocal rights, priv-  
129 ileges, and courtesies may, provided constitutional and  
130 contractual rights are not violated, be declared void by  
131 the commission, and new agreements negotiated.

132 (j) . Promulgate safety rules and regulations applicable  
133 to motor vehicles subject to the provisions of this act and  
134 promulgate regulations governing the qualifications and  
135 maximum hours of service of drivers and chauffeurs of  
136 common and contract carriers by motor vehicle of pas-  
137 sengers and property subject to the provisions of this  
138 act, and promulgate any other rules and regulations  
139 which the commission may deem proper to carry out the  
140 provisions and intent of this act.

**Article 6. Duties and Privileges of Motor Carriers Subject to  
Regulation of the Commission.**

**Section**

4. Identification card.
5. Identification plate.
6. Motor carrier fund; assessment; collection; appropriation.

Sec. 4. *Identification Card.*—The commission shall  
2 prescribe an identification card which shall be displayed  
3 within the cab of each motor vehicle operated by any  
4 motor carrier, showing thereon the description and ser-  
5 ial number of the vehicle for which it is issued and the  
6 number of the identification plate issued for said vehicle.  
7 The identification card provided for herein may be in  
8 such form and contain such other information as may be  
9 required by the commission. It shall be unlawful for  
10 the motor carrier, his agent, servant, or employee, or  
11 any other person to use or display said identification  
12 card or other insignia of authority from the commission  
13 at any time after the certificate or permit issued to said  
14 motor carrier has expired or has been cancelled, sus-  
15 pended, revoked, or otherwise disposed of, or to operate  
16 any vehicle without such identification card.

Sec. 5. *Identification Plate.*—It shall be unlawful for  
2 any motor carrier to operate any motor vehicle  
3 within this state unless there shall be displayed  
4 and firmly fixed upon the rear of such vehicle,  
5 an identification plate to be furnished by the  
6 commission. Such plate shall be different in design for  
7 the different classes of certificates or permits, shall bear  
8 the number given to the vehicle by the commission, and  
9 such other marks of identification as may be prescribed,  
10 and shall be in addition to the regular license plate re-

11 quired by law. Such plates shall be issued annually and  
12 attached to each such motor vehicle not later than July  
13 first of each year.

Sec. 6. *Motor Carrier Fund; Assessment; Collection; Appropriation.*—In addition to the license fees,  
2 registration fees, or any other taxes required by law to  
3 be collected from motor carriers subject to this act, each  
4 such motor carrier shall be subject to, and shall pay to  
5 the public service commission, a special annual assess-  
6 ment for the purpose of paying the salaries, compensa-  
7 tion, costs and expenses of administering and enforcing  
8 this act. All proceeds or funds derived from such assess-  
9 ment shall be paid into the state treasury and credited to  
10 a special fund designated "Public Service Commission  
11 Motor Carrier Fund," to be appropriated as provided by  
12 law for the purposes herein stated. Each member of  
13 the commission shall receive a salary of fifteen hundred  
14 dollars per annum as compensation for the administra-  
15 tion of this act in addition to all other salary or com-  
16 pensation otherwise provided by law, to be paid in  
17 monthly installments from said fund, but in no event shall  
18 the salary of a commissioner exceed six thousand dollars  
19 per annum. The special assessment against each motor  
20 carrier shall be apportioned upon the number and capac-  
21 ity of motor vehicles used by said carrier, computed as  
22 hereinafter provided.  
23

24 (a) For each identification card and plate \$1.00.

25 (b) Upon each motor vehicle, except semi-trailers, of  
26 such carriers of property, in accordance with its capacity  
27 as rated by its manufacturer, in addition to amount in  
28 sub-section (a).

29 Of one ton or less capacity	\$ 9.00
30 Of over one to one and one-half tons capacity	13.50
31 Of over one and one-half tons to two tons capacity	18.00
32 Of over two tons to three tons capacity	22.50
33 Of over three tons to four tons capacity	27.00
34 Of over four tons to five tons capacity	31.50
35 Of over five tons to six tons capacity	36.00
36 Of over six tons to seven tons capacity	40.50
37 Of over seven tons to eight tons capacity	45.00

38	Of over eight tons to nine tons capacity	49.50
39	Of over nine tons to ten tons capacity	54.00
40	Of over ten tons capacity, \$54.00 plus \$4.50 for each additional ton of capacity in excess of ten tons.	

42 (c) Upon each semi-trailer of such carriers of property, 43 in accordance with its capacity as rated by its manufacturer, in an amount of two-thirds of the amount provided 44 for vehicles of its capacity in sub-section (b) of this 45 section. 46

47 (d) Upon each motor vehicle of such carriers of 48 passengers, in accordance with the seating capacity thereof, in addition to amount in sub-section (a). 49

50	Of ten passengers or less	\$13.50
51	Of eleven to twenty passengers, inclusive	22.50
52	Of twenty-one to thirty passengers, inclusive	31.50
53	Of thirty-one to forty passengers, inclusive	45.00
54	Of over forty passengers	54.00

55 (e) The annual assessment of each motor carrier shall 56 be paid on or before the first day of July of each year. 57 Additional assessments shall be collected upon the placing 58 in use of any additional motor vehicle: *Provided*, That 59 such additional assessments shall be subject to a reduction 60 in the amounts shown in sub-sections (b), (c), and (d) 61 corresponding to the unexpired quarterly periods of the 62 fiscal year, but shall not in any event be less than one- 63 fourth of such amount plus the sum of one dollar provided 64 in sub-section (a).

65 (f) Upon payment by any motor carrier of the assessment 66 provided for, the public service commission shall 67 advise the state road commission by notice in writing 68 that such assessment has been paid, whereupon the state 69 road commission may issue motor vehicle license for the 70 vehicles described in said notice.

71 (g) Prior to the beginning of any fiscal year the public 72 service commission, after taking into consideration any 73 unexpended balance in the motor carrier fund, the probable receipts to be received in the ensuing fiscal year, and 74 the probable costs of administering and enforcing the 75 motor carrier act for the ensuing fiscal year, may fix the 76 assessments provided for in this section for the ensuing 77

78 fiscal year in amounts which, in the commission's judg-  
79 ment, will produce sufficient revenue to administer and  
80 enforce the motor carrier act for said fiscal year: *Provided*,  
81 That in no event shall such assessments exceed the  
82 amounts set up in this section.

## Article 7. Complaints, Damages and Violations.

### Section

1. Complaints against motor carriers; investigation.
2. Falsifying records; penalty.
3. Continuing offenses.
4. Penalty for violation of chapter; second offense.
5. Duty of prosecuting attorneys and peace officers to enforce chapter; police powers of inspectors.

Section 1. *Complaints Against Motor Carriers; Investi-*  
2 *gation.*—Any person, firm, association of persons, cor-  
3 poration, municipality, or county, complaining of any-  
4 thing done or omitted to be done by any motor carrier  
5 subject to this act, in contravention of the provisions  
6 thereof, or any duty owing by it under the provisions of  
7 this act, may present to the commission a petition which  
8 shall succinctly state all the facts. Whereupon, if there  
9 shall be any reasonable ground to investigate such com-  
10 plaint, a statement of the charges thus made shall be  
11 forwarded by the commission to such motor carrier,  
12 which shall be called upon to satisfy such complaint or  
13 to answer the same in writing within a reasonable time  
14 to be specified by the commission. If such motor carrier  
15 of property by motor vehicle within the time specified  
16 shall make reparations for the injury alleged to have been  
17 done or to correct the practice complained of and obey the  
18 law and discharge its duties in the premises, then it shall  
19 be relieved of liability to the complainant for the partic-  
20 ular violation of law or duty complained of. If such motor  
21 carrier shall not satisfy the complaint within the time  
22 specified it shall be the duty of the commission to investi-  
23 gate the same in such manner and by such means as it  
24 shall deem proper.

Sec. 2. *Falsifying Records; Penalty.*—Any person,  
2 officer, agent or employee of any motor carrier subject  
3 to this act who will knowingly or wilfully make any false  
4 entries in the accounts, account books, records, or memo-

5 randa kept by any motor carrier, or who shall know-  
6 ingly or wilfully destroy or mutilate any account book,  
7 record, or memorandum useful for the enforcement or ad-  
8 ministration of this act by the commission, or who shall  
9 alter or by any other means or device falsify the record  
10 of any such accounts, account books, records, or memo-  
11 randa, or who shall knowingly or wilfully neglect or  
12 fail to make full, true, and correct entries of or in such  
13 account, account book, record, or memorandum of all the  
14 facts and transactions appertaining to such motor  
15 carrier, or who shall falsely make any statement required  
16 to be made to the commission, shall be deemed guilty of  
17 a felony, and, upon conviction thereof, shall be confined  
18 in the penitentiary not less than one year nor more than  
19 five years.

Sec. 3. *Continuing Offenses.*—Every day during  
2 which any person shall fail to observe and comply with  
3 any order or direction of the commission or to perform  
4 any duty enjoined by this act shall constitute a separate  
5 and distinct violation of the order or direction under this  
6 act.

Sec. 4. *Penalty for Violation of Chapter; Second Of-*  
2 *fense.*—Every officer, agent, employee, or stockholder  
3 of any motor carrier, or any motor carrier, and every  
4 person who violates, procures, aids, or abets in the vio-  
5 lating of any of the provisions of this act, or who fails to  
6 obey any order, decision, requirement, rule, or regula-  
7 tion of the commission or procures, aids, or abets any  
8 person in his failure to obey such order, decision, re-  
9 quirement, rule, or regulation, shall be deemed guilty  
10 of a misdemeanor and, upon conviction, shall be fined  
11 not exceeding one thousand dollars or confined in jail  
12 for not less than thirty days nor more than one year, or  
13 both, in the discretion of the court. When any person is  
14 convicted for a violation of any provision of this act or  
15 any order, decision, requirement, rule, or regulation of  
16 the commission and it is alleged in the indictment upon  
17 which he is convicted and it is admitted, or by jury found,  
18 that he has been before convicted of a violation of any  
19 provision of this act or order, decision, requirement, rule,

20 or regulation of the commission, committed prior to the  
21 violation for which the indictment upon trial was found,  
22 then he shall be fined not less than five hundred dollars  
23 nor more than five thousand dollars and shall, in addi-  
24 tion thereto, be confined in the county jail for not less  
25 than three months nor more than one year.

*Sec. 5. Duty of Prosecuting Attorneys and Peace Of-  
ficers to Enforce Chapter; Police Powers of Inspectors.—*

3 It shall be the duty of the department of public safety  
4 and the sheriffs of the counties in West Virginia to make  
5 arrests and the duty of the prosecuting attorneys of the  
6 several counties to prosecute all violations of this act,  
7 and the commission employees designated by it as in-  
8 spectors shall have all the lawful powers of peace officers  
9 to enforce this act in any county or city of this state.

## CHAPTER 135

(House Bill No. 6—By Mr. Moore, of Marshall)

AN ACT to amend and reenact section fourteen, article one,  
chapter thirty-seven of the code of West Virginia, one  
thousand nine hundred thirty-one, relating to the giving  
of bond in summary proceedings.

[Passed February 14, 1947: in effect from passage. Approved by the Governor.]

### **Article 1. Funds of Infants, Insane Persons, or Convicts, and Lands Held in Trust.**

#### **Section**

14. Bond for proceeds.

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

That section fourteen, 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 14. *Bond for Proceeds.*—In case such sale or  
2 lease be made, the guardian or committee shall in open

3 court, or before the judge in vacation, or before the clerk,  
4 enter into bond, with approved security, in penalty equal  
5 to double the value of the estate to be sold, conditioned  
6 for the faithful application of the proceeds of sale or lease.  
7 And in case of a mortgage or trust deed such guardian or  
8 committee shall enter into bond with approved security in  
9 a penalty equal to double the amount of any moneys which  
10 may come into his hands from the mortgaging or encum-  
11 brancing of the same by trust deed, conditioned for the  
12 faithful application of such moneys. And in either case  
13 such bonds shall be payable to the state, and the court  
14 may thereafter order a new bond, with other security,  
15 to be given if deemed necessary.

## CHAPTER 136

(Senate Bill No. 45—By Mr. Love)

AN ACT to amend section two, article eleven, chapter thirty-seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the validation of instruments, acknowledgments and records.

[Passed February 21, 1947; in effect from passage. Approved by the Governor.]

### Article 11. Curative Provisions Respecting Deeds and Other Writings and the Recordation Thereof.

#### Section

2. Validation of instruments, acknowledgments and records.

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

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

Section 2. *Validation of Instruments, Acknowledgments and Records.*—No deed or other writing conveying or  
2 purporting to convey or release or assign real estate, or  
3 any interest therein, or to create any power of attorney  
4 relating to real estate or any interest therein, heretofore  
5



6 made or executed and delivered by any person or persons  
7 whomsoever, or by a husband and wife to a bona fide  
8 purchaser for good and valuable consideration, and ac-  
9 knowledged by him or them before an officer duly au-  
10 thorized by law to take such acknowledgments, if such  
11 deed, writing or power of attorney was made, executed,  
12 acknowledged and delivered prior to the day this act  
13 takes effect, shall be deemed, held or adjudged invalid,  
14 or defective, or insufficient in law or in equity, by reason  
15 of any informality or omission in setting forth the par-  
16 ticulars of the acknowledgment made before such officer  
17 aforesaid in the certification thereof, or in stating the  
18 official character of such officer, or the place of taking  
19 the acknowledgment, or by reason of the fact that the  
20 wife executed such instrument prior to the execution  
21 thereof by the husband, or by reason of the fact that the  
22 parties making or executing the instrument or writing,  
23 or any of them omitted to seal the same; and if a period  
24 of ten years has elapsed from date of recordation of any  
25 deed, and said deed has an acknowledgment considered  
26 defective for any reason, then every such deed or writing  
27 shall be as good, valid and effectual in law as if the law  
28 with respect to acknowledgments and seals, in force at  
29 the date of such deed or writing had been fully complied  
30 with in regard to the matters hereinbefore mentioned;  
31 and the record of the same duly made in the proper of-  
32 fice for recording deeds in the state of West Virginia, or  
33 in the state of Virginia before the formation of West Vir-  
34 ginia, and exemplifications of the same duly certified,  
35 shall be legal evidence in all cases in which the original  
36 would be competent evidence: *Provided, however,* That  
37 this section shall not apply to suits now pending and  
38 undetermined insofar as it amends laws existing at the  
39 time such pending suits were instituted, nor to any suit  
40 that may be brought within one year after the day this  
41 act takes effect, insofar as it amends laws existing at the  
42 time this act takes effect; nor shall this section apply to  
43 any deed or other writing which has heretofore been  
44 declared or held invalid by any court of competent jur-  
45 isdiction.

## CHAPTER 137

(House Bill No. 253—By Mr. Speaker, Mr. Amos)

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

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

### Section

1. Road bonds; amount; when may issue.
2. Transfer, fee; registration, fee; where payable; interest rate; tax exempt.
3. Form of bond.
4. Form of coupon.
5. Listing by auditor.
6. State road sinking fund, sources; used to pay bonds and interest; investment of remainder.
7. Tax levy to pay, unless other funds available.
8. Sale by governor; minimum price.
9. Proceeds paid into state road fund.
10. Plates property of state.
11. Auditor to be custodian of unsold bonds.
12. Interim certificates.
13. Payment of expenses.

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

#### *Section 1. Road Bonds; Amount; When May Issue.—*

- 2 That bonds of the state of West Virginia of the par
- 3 value of ten million dollars are hereby authorized to be
- 4 issued and sold for the purpose of raising funds for
- 5 assisting in building, constructing and maintaining the
- 6 system of state road and highways provided for by the
- 7 constitution. Such bonds may be issued by the governor
- 8 in such amounts, in coupon or registered form, in such
- 9 denominations, at such times and bearing such date or

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

Sec. 2. *Transfer, Fee; Registration, Fee; Where Pay-  
2 able; Interest Rate; Tax Exempt.*—The auditor and the  
3 treasurer are hereby authorized to arrange for the trans-  
4 fer of registered bonds, and for each such transfer a fee  
5 of fifty cents shall be charged by and paid to the state of  
6 West Virginia, to the credit of the state road sinking  
7 fund. Bonds taken in exchange shall be cancelled by the  
8 auditor and treasurer and be carefully preserved by the  
9 treasurer. The treasurer shall make provisions for reg-  
10 istering "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 of  
15 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 first  
20 day of....., of each year, to bear, at the office of  
21 the treasurer of the state of West Virginia, at the  
22 capitol of the state, or at the bank designated by the  
23 governor, upon presentation and surrender of interest  
24 coupons then due, in the case of coupon bonds. In the  
25 case of registered bonds the treasurer of the state of

26 West Virginia shall issue his check for the interest then  
27 due on 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  
32 shall be exempt from taxation by the state of West  
33 Virginia, or by any county, district, or municipality  
34 thereof, which facts shall appear on the face of the bonds  
35 as part of the contract with the holder thereof.

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

8 COUPON ROAD BOND

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

10 OF THE

11 STATE OF WEST VIRGINIA

12 \$..... No.....

13 The state of West Virginia, under and by virtue of  
14 authority of an act of the Legislature passed at the  
15 regular session of one thousand nine hundred forty-  
16 seven, on the ..... day of  
17 ....., one thousand  
18 nine hundred forty-seven, and approved by the gover-  
19 nor on the ..... day of  
20 ....., one thousand nine  
21 hundred forty-seven, which is hereby made a part hereof  
22 as fully as if set forth at length herein, acknowledges  
23 itself to be indebted to, and hereby promises to pay to  
24 the bearer hereof (in the case of a coupon bond) or  
25 to ..... or assigns (the owner of record, in  
26 case of registered bonds) ..... years after the  
27 date of this bond, to-wit: On the ..... day of  
28 ....., 19...., in lawful money of the United  
29 States of America at the office of the treasurer of the

30 state of West Virginia at the capitol of said state, or  
31 at the option of the holder at \_\_\_\_\_ bank  
32 in the city of New York, the sum of \_\_\_\_\_  
33 dollars, with interest thereon at \_\_\_\_\_ per centum  
34 per annum from date, payable semi-annually in like  
35 lawful money of the United States of America at the  
36 treasurer's office or bank aforesaid, on the first day of  
37 \_\_\_\_\_ and the first day of \_\_\_\_\_ of each  
38 year, (and in the case of coupon bonds) according to  
39 the tenor of the annexed coupons, bearing the engraved  
40 facsimile signature of the treasurer of the state of West  
41 Virginia, upon surrender of such coupons. This bond  
42 (in the case of a coupon bond) may be exchanged for a  
43 registered bond of like tenor upon application to the  
44 treasurer of the state of West Virginia.

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

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

58 In testimony whereof, witness the signature of the  
59 treasurer of the state of West Virginia, and the counter-  
60 signature of the auditor of the state, hereto affixed ac-  
61 cording to law, dated the \_\_\_\_\_ day of \_\_\_\_\_,  
62 one thousand nine hundred \_\_\_\_\_, and the seal  
63 of the state of West Virginia.

64 (Seal)

65

66 \_\_\_\_\_  
Treasurer of the State of West Virginia

67 Countersigned:

68

69 \_\_\_\_\_  
Auditor of the State of West Virginia

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

STATE OF WEST VIRGINIA

Bond No. .... Coupon No. ....

On the first day of ....., 19...., the state of West Virginia will pay to the bearer, in lawful money of the United States of America, at the office of the treasurer of the state, or at the option of the holder at ..... bank in the city of New York, the sum of ..... dollars, the same being semi-annual interest on Road Bond No. ...., series of one thousand nine hundred.....

.....  
Treasurer of the State of West Virginia

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

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

Sec. 6. *State Road Sinking Fund, Sources; Used to Pay Bonds and Interest; Investment of Remainder.*—Into the state road sinking fund there shall be paid all moneys received from the annual state tax levy on the taxable property in the state levied under the provisions of this act, from any and all appropriations made by the state from other sources for the purpose of paying the interest on such bonds or paying off and retiring the

9 bonds, from fines, forfeitures and penalties, if any, made  
10 applicable by law for the payment of such bonds or the  
11 interest thereon, from transfer fees as herein provided,  
12 and from any source whatsoever, which is made liable  
13 by law for the payment of the principal of such bonds  
14 or the interest thereon.

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

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

Sec. 7. *Tax Levy to Pay, Unless Other Funds Available.*—  
2 In order to provide the revenue necessary for the  
3 payment of the principal and interest of such bonds,  
4 as hereinbefore provided, the board of public works,  
5 within the limits prescribed by the constitution, is author-  
6 ized, empowered and directed to lay annually a tax upon  
7 all real and personal property subject to taxation within  
8 this state, sufficient to pay interest on the bonds accruing  
9 during the current year and one twenty-fifth of the  
10 total issue (at par value) of such bonds, for such number  
11 of years, not exceeding twenty-five, as may be necessary

12 to pay the interest thereon and to pay off the principal  
13 sum of the bonds; and such taxes, when so collected,  
14 shall not be liable for or applicable to any other purpose:  
15 *Provided, however,* That if there be other funds in  
16 the state treasury, or in the state road funds, in any  
17 fiscal year, not otherwise appropriated, or if other sources  
18 of revenue be hereafter provided by law for the purpose,  
19 the board of public works is authorized, empowered and  
20 directed to set apart, in any year there be such funds,  
21 or other sources of revenue provided for such purpose,  
22 a sum sufficient to pay the interest on bonds accruing  
23 during the current year, and to pay off, and retire the  
24 principal of such bonds, or any part thereof, at maturity.  
25 The authority hereby vested in the board of public  
26 works shall be in addition to the authority now vested  
27 in it by present law.

Sec. 8. *Sale by Governor; Minimum Price.*—The gov-  
2 ernor shall sell the bonds herein mentioned at such time  
3 or times as he may determine necessary to provide funds  
4 for road construction and maintenance purposes, as  
5 herein provided, upon recommendation of the state road  
6 commission. All sales shall be at not less than par and  
7 accrued interest. All interest coupons becoming payable  
8 prior to the sale date shall be cancelled by the treasurer  
9 and rendered ineffective, before the delivery of the bonds  
10 so sold.

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

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

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

Sec. 12. *Interim Certificates.*—The governor may



2 authorize the issuance of interim certificates to be issued  
3 to the purchasers of such bonds to be held by them in  
4 lieu of engraved bonds. When interim certificates are  
5 so issued, they shall become full and legal obligations of  
6 the state of West Virginia under all of the provisions of  
7 this act just as fully and completely as the engraved and  
8 permanent bonds.

Sec. 13. *Payment of Expenses.*—All necessary expenses  
2 incurred in the execution of this act shall be paid out of  
3 the state road fund on warrants of the auditor of the  
4 state drawn on the state treasurer.

## CHAPTER 138

(Senate Bill No. 298—By Mr. Winters)

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 allocation of secondary road funds.

[Passed March 4, 1947; in effect July 1, 1947. 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 On or before the first day of January of each year the state  
3 road commissioner shall ascertain and determine the total  
4 amount of available funds for expenditure in the whole  
5 state for the construction, reconstruction and maintenance of secondary roads during such annual period. Of  
6 the amount so ascertained the commissioner may set  
7

8 aside as a reserve fund not to exceed twenty per cent  
9 thereof, to be used and expended by him in his discretion  
10 in such manner as will best serve the interests of the  
11 state and the convenience of its inhabitants.

12 The remaining eighty per cent, or, if such reserve fund  
13 is not set aside, then all the funds shall be appropriated  
14 in the following order and preference:

15 (1) *Maintenance Funds*.—To be allocated to the vari-  
16 ous counties on the basis of the mileage of various types  
17 of road surfaces:

18 (a) Paved surfaces of all types, such as, brick, cement  
19 concrete, bituminous, etc.

20 (b) Traffic-bound surfaces, such as, slag, crushed stone,  
21 gravel, chert, red dog, shale, etc.

22 (c) Unimproved earth roads; by applying certain  
23 weights or percentages, based on past experience, to the  
24 various types of road surfaces.

25 (2) *Construction and Reconstruction*.—To be allocated  
26 to the various counties on the basis of the ratio of the  
27 unimproved mileage of secondary roads in the county  
28 to the total unimproved mileage of secondary roads in  
29 the state.

30 For the purposes of this section, the words "unimproved  
31 mileage" are defined and shall be construed to mean  
32 roads which are not passable for all-weather travel by  
33 motor vehicle.

34 All moneys received from the federal government for  
35 road construction or reconstruction shall be expended as  
36 provided, or as may hereafter be provided by Act of  
37 Congress.

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## CHAPTER 139

(House Bill No. 428—By Mr. Knight)

AN ACT to facilitate vehicular traffic in the state of West Virginia by providing for the construction, maintenance, repair and operation of turnpike projects; creating the West Virginia turnpike commission and defining its

powers and duties; providing for financing the construction of such projects by the issuance of turnpike revenue bonds of the state, payable solely from tolls and other revenues; and providing for the collection of tolls and other revenues to pay the cost of maintenance, repair and operation of such projects and to pay such bonds and the interest thereon.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### **West Virginia Turnpike Commission.**

#### **Section**

1. Constructing and financing turnpike projects.
2. Credit of state not pledged.
3. West Virginia turnpike commission.
4. Definitions.
5. General grant of powers.
6. Incidental powers.
7. Acquisition of property.
8. Condemnation of property.
9. Turnpike revenue bonds.
10. Trust agreement.
11. Revenues.
12. Trust funds.
13. Remedies.
14. Exemption from taxation.
15. Miscellaneous.
16. Cessation of tolls.
17. Preliminary expenses.
18. Turnpike revenue refunding bonds.
19. Additional method.
20. Act liberally construed; constitutional construction; inconsistent acts repealed.

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

- Section 1. *Constructing and Financing Turnpike*
- 2 *Projects.*—In order to remove the present handicaps and
  - 3 hazards on the congested highways in the state of West
  - 4 Virginia, to facilitate vehicular traffic throughout the
  - 5 state, to promote the agricultural and industrial develop-
  - 6 ment of the state, and to provide for the construction of
  - 7 modern express highways embodying every known safety
  - 8 device including center division, ample shoulder widths,
  - 9 long sight distances, the by-passing of cities, multiple
  - 10 lanes in each direction and grade separations at all inter-
  - 11 sections with other highways and railroads, the West
  - 12 Virginia turnpike commission (hereinafter created) is

13 hereby authorized and empowered to construct, main-  
14 tain, repair and operate turnpike projects (as herein-  
15 after defined) at such locations as shall be approved by  
16 the state road commission, and to issue turnpike reve-  
17 nue bonds of the state of West Virginia, payable solely  
18 from revenues, to pay the cost of such projects.

Sec. 2. *Credit of State Not Pledged.*—Turnpike reve-  
2 nue bonds issued under the provisions of this act shall  
3 not be deemed to constitute a debt of the state or of any  
4 political subdivision thereof or a pledge of the faith and  
5 credit of the state or of any such political subdivision,  
6 but such bonds shall be payable solely from the funds  
7 herein provided therefor from revenues. All such turn-  
8 pike revenue bonds shall contain on the face thereof a  
9 statement to the effect that neither the state nor any  
10 political subdivision thereof shall be obligated to pay  
11 the same or the interest thereon except from revenues of  
12 the project or projects for which they are issued and that  
13 neither the faith and credit nor the taxing power of the  
14 state or any political subdivision thereof is pledged to  
15 the payment of the principal of or the interest on such  
16 bonds.

Sec. 3. *West Virginia Turnpike Commission.*—There  
2 is hereby created a commission to be known as the "West  
3 Virginia Turnpike Commission", and by that name the  
4 commission may sue and be sued, and plead and be  
5 impleaded. The commission is hereby constituted an  
6 agency of the state, and the exercise by the commission  
7 of the powers conferred by this act in the construction,  
8 operation and maintenance of turnpike projects shall  
9 be deemed and held to be an essential governmental func-  
10 tion of the state.

11 The West Virginia turnpike commission shall consist  
12 of five members, including the state road commissioner,  
13 who shall be a member ex officio, and four members  
14 appointed by the governor, by and with the advice and  
15 consent of the senate. The appointive members shall be  
16 residents of the state, and shall have been qualified  
17 electors therein for a period of at least one year next  
18 preceding their appointment. The members of the com-

19 mission first appointed shall continue in office for terms  
20 expiring on July first, one thousand nine hundred fifty-  
21 one, July first, one thousand nine hundred fifty-three,  
22 July first, one thousand nine hundred fifty-five, and July  
23 first, one thousand nine hundred fifty-seven, respectively,  
24 the term of each such member to be designated by the  
25 governor, and until their respective successors shall be  
26 duly appointed and qualified. The successor of each such  
27 member shall be appointed for a term of eight years,  
28 except that any person appointed to fill a vacancy shall  
29 be appointed to serve only for the unexpired term, and a  
30 member of the commission shall be eligible for reappoint-  
31 ment. Each appointed member of the commission before  
32 entering upon his duties shall take an oath as provided  
33 by section five of article four of the constitution of the  
34 state of West Virginia.

35 The commission shall elect one of the appointed mem-  
36 bers as chairman and another as vice chairman, and shall  
37 also elect a secretary and treasurer who need not be a  
38 member of the commission. Three members of the  
39 commission shall constitute a quorum and the vote of  
40 three members shall be necessary for any action taken  
41 by the commission. No vacancy in the membership of  
42 the commission shall impair the right of a quorum to  
43 exercise all the rights and perform all the duties of the  
44 commission.

45 Before the issuance of any turnpike revenue bonds  
46 under the provisions of this act, each appointed member  
47 of the commission shall execute a surety bond in the penal  
48 sum of twenty-five thousand dollars and the secretary  
49 and treasurer shall execute a surety bond in the penal  
50 sum of fifty thousand dollars, each such surety bond to  
51 be conditioned upon the faithful performance of the  
52 duties of his office, to be executed by a surety company  
53 authorized to transact business in the state of West  
54 Virginia as surety and to be approved by the governor  
55 and filed in the office of the secretary of state.

56 The members of the commission shall not be entitled  
57 to compensation for their services but each member shall  
58 be reimbursed for his actual expenses necessarily in-  
59 curred in the performance of his duties. All expenses

60 incurred in carrying out the provisions of this act shall  
61 be payable solely from funds provided under the autho-  
62 rity of this act and no liability or obligation shall be  
63 incurred by the commission hereunder beyond the extent  
64 to which moneys shall have been provided under the  
65 authority of this act.

Sec. 4. *Definitions.*—As used in this act, the following  
2 words and terms shall have the following meanings,  
3 unless the context shall indicate another or different  
4 meaning or intent:—

5 (a) The word “commission” shall mean the West  
6 Virginia turnpike commission, created by section three  
7 of this act, or, if said commission shall be abolished, the  
8 board, body or commission succeeding to the principal  
9 functions thereof or to whom the powers given by this  
10 act to the commission shall be given by law.

11 (b) The word “project” or the words “turnpike pro-  
12 ject” shall mean any express highway or turnpike which  
13 the commission may at any time determine to construct  
14 under the provisions of this act, and shall embrace all  
15 bridges, tunnels, overpasses, underpasses, interchanges,  
16 entrance plazas, approaches, toll houses, service stations,  
17 and administration, storage and other buildings which  
18 the commission may deem necessary for the operation of  
19 the project, together with all property, rights, easements  
20 and interests which may be acquired by the commission  
21 for the construction or the operation of the project.

22 (c) The word “cost” as applied to a turnpike project  
23 shall embrace the cost of construction, the cost of the  
24 acquisition of all land, rights-of-way, property, rights,  
25 easements and interests acquired by the commission for  
26 such construction, the cost of all machinery and equip-  
27 ment, financing charges, interest prior to and during con-  
28 struction and for one year after completion of construc-  
29 tion, cost of traffic estimates and of engineering and  
30 legal expenses, plans, specifications, surveys, estimates  
31 of cost and of revenues, other expenses necessary or inci-  
32 dent to determining the feasibility or practicability of  
33 constructing any such project, administrative expense,  
34 and such other expense as may be necessary or incident  
35 to the construction of the project, the financing of such

36 construction and the placing of the project in operation.  
37 Any obligation or expense hereafter incurred by the state  
38 road commission with the approval of the commission  
39 for traffic surveys, borings, preparation of plans and  
40 specifications, and other engineering services in connection  
41 with the construction of a project shall be regarded  
42 as a part of the cost of such project and shall be reimbursed  
43 to the state out of the proceeds of turnpike revenue  
44 bonds hereinafter authorized.

45 (d) The word "owner" shall include all individuals,  
46 copartnerships, associations or corporations having any  
47 title or interest in any property, rights, easements and  
48 interests authorized to be acquired by this act.

Sec. 5. *General Grant of Powers.*—The commission  
2 is hereby authorized and empowered:

3 (a) To adopt by-laws for the regulation of its affairs  
4 and the conduct of its business;

5 (b) To adopt an official seal and alter the same at  
6 pleasure;

7 (c) To maintain an office at such place or places  
8 within the state as it may designate;

9 (d) To sue and be sued in its own name, plead and  
10 be impleaded: *Provided, however,* That any and all  
11 actions at law or in equity against the commission shall  
12 be brought only in the county in which the principal  
13 office of the commission shall be located;

14 (e) To construct, maintain, repair and operate turn-  
15 pike projects as hereinabove defined at such locations  
16 within the state as may be determined by the commis-  
17 sion;

18 (f) To issue turnpike revenue bonds of the state of  
19 West Virginia, payable solely from revenues, for the  
20 purpose of paying all or any part of the cost of any one  
21 or more turnpike projects;

22 (g) To fix and revise from time to time tolls for  
23 transit over each turnpike project constructed by it;

24 (h) To acquire, hold and dispose of real and personal  
25 property in the exercise of its powers and the perform-  
26 ance of its duties under this act;

27 (i) To acquire in the name of the state by purchase or  
28 otherwise, on such terms and conditions and in such man-

29 ner as it may deem proper, or by the exercise of the right  
30 of condemnation in the manner hereinafter provided, such  
31 public or private lands, including public parks, play-  
32 grounds or reservations, or parts thereof or rights there-  
33 in, rights-of-way, property, rights, easements and inter-  
34 ests, as it may deem necessary for carrying out the pro-  
35 visions of this act: *Provided, however,* That no compen-  
36 sation shall be paid for public lands, playgrounds, parks,  
37 parkways or reservations so taken, and that all public  
38 property damaged in carrying out the powers granted  
39 by this act, shall be restored or repaired and placed in  
40 its original condition as nearly as practicable;

41 (j) To designate the locations, and establish, limit  
42 and control such points of ingress to and egress from  
43 each turnpike project as may be necessary or desirable  
44 in the judgment of the commission to insure the proper  
45 operation and maintenance of such project, and to pro-  
46 hibit entrance to such project from any point or points  
47 not so designated;

48 (k) To make and enter into all contracts and agree-  
49 ments necessary or incidental to the performance of its  
50 duties and the execution of its powers under this act, and  
51 to employ consulting engineers, attorneys, accountants,  
52 construction and financial experts, superintendents,  
53 managers, and such other employees and agents as may  
54 be necessary in its judgment, and to fix their compensa-  
55 tion: *Provided,* That all such expenses shall be payable  
56 solely from the proceeds of turnpike revenue bonds  
57 issued under the provisions of this act or from revenues;

58 (l) To receive and accept from any federal agency  
59 grants for or in aid of the construction of any turnpike  
60 project, and to receive and accept aid or contributions  
61 from any source of either money, property, labor or  
62 other things of value, to be held, used and applied only  
63 for the purposes for which such grants and contributions  
64 may be made; and

65 (m) To do all acts and things necessary or conven-  
66 nient to carry out the powers expressly granted in this  
67 act.



Sec. 6. *Incidental Powers.*—The commission shall  
2 have authority to construct grade separations at inter-  
3 sections of any turnpike project with public roads and  
4 state highways and to change and adjust the lines and  
5 grades of such roads and highways so as to accommodate  
6 the same to the design of such grade separation. The  
7 cost of such grade separations and any damage incurred  
8 in changing and adjusting the lines and grades of such  
9 roads and highways shall be ascertained and paid by the  
10 commission as a part of the cost of such turnpike project.

11 If the commission shall find it necessary to change  
12 the location of any portion of any public road or state  
13 highway, it shall cause the same to be reconstructed at  
14 such location as the commission shall deem most favor-  
15 able and of substantially the same type and in as good  
16 condition as the original road or highway. The cost of  
17 such reconstruction and any damage incurred in chang-  
18 ing the location of any such road or highway shall be  
19 ascertained and paid by the commission as a part of the  
20 cost of such turnpike project.

21 Upon the request of the commission the state road  
22 commissioner shall relocate or discontinue any road or  
23 highway over which he has authority and control which  
24 is affected by the construction of any turnpike project.

25 In addition to the foregoing powers the commission  
26 and its authorized agents and employees may enter upon  
27 any lands, waters and premises in the state for the pur-  
28 pose of making surveys, soundings, drillings and exami-  
29 nations as it may deem necessary or convenient for the  
30 purposes of this act, and such entry shall not be deemed  
31 a trespass, nor shall an entry for such purposes be  
32 deemed an entry under any condemnation proceedings  
33 which may be then pending. The commission shall make  
34 reimbursement for any actual damages resulting to such  
35 lands, waters and premises as a result of such activities.

36 The state of West Virginia hereby consents to the use  
37 of all lands owned by it, including lands lying under  
38 water, which are deemed by the commission to be neces-  
39 sary for the construction or operation of any turnpike  
40 project.

Sec. 7. *Acquisition of Property.*—The commission is

2 hereby authorized and empowered to acquire by pur-  
3 chase, whenever it shall deem such purchase expedient,  
4 any land, property, rights, rights-of-way, franchises,  
5 easements and other interests in lands as it may deem  
6 necessary or convenient for the construction or opera-  
7 tion of any turnpike project upon such terms and at such  
8 price as may be considered by it to be reasonable and  
9 can be agreed upon between the commission and the  
10 owner thereof, and to take title thereto in the name of  
11 the state.

Sec. 8. *Condemnation of Property.*—Whenever a  
2 reasonable price cannot be agreed upon, or whenever the  
3 owner is legally incapacitated, or is absent, unknown or  
4 unable to convey valid title, the commission is hereby  
5 authorized and empowered to acquire, by the exercise of  
6 the power of condemnation in accordance with and sub-  
7 ject to the provisions of any and all existing laws and  
8 statutes applicable to the exercise of the power of con-  
9 demnation of property for public use, any land, property,  
10 rights, rights-of-way, franchises, easements or other  
11 property deemed necessary or convenient for the con-  
12 struction or the efficient operation of any turnpike pro-  
13 ject or necessary in the restoration of, public or private  
14 property damaged or destroyed. In any condemnation  
15 proceedings the court having jurisdiction of the suit,  
16 action or proceeding may make such orders as may be  
17 just to the commission and to the owners of the property  
18 to be condemned and may require an undertaking or  
19 other security to secure such owners against any loss or  
20 damage by reason of the failure of the commission to  
21 accept and pay for the property, but neither such under-  
22 taking or security nor any act or obligation of the com-  
23 mission shall impose any liability upon the state or the  
24 commission except such as may be paid from the funds  
25 provided under the authority of this act.

Sec. 9. *Turnpike Revenue Bonds.*—The commission  
2 is hereby authorized to provide by resolution, at one time  
3 or from time to time, for the issuance of turnpike reve-  
4 nue bonds of the state for the purpose of paying all or  
5 any part of the cost of any one or more turnpike projects.

6 The principal of and the interest on such bonds shall be  
7 payable solely from the funds herein provided for such  
8 payment. The bonds of each issue shall be dated, shall  
9 bear interest at such rate or rates not exceeding five per  
10 centum per annum, shall mature at such time or times  
11 not exceeding forty years from their date or dates, as  
12 may be determined by the commission, and may be made  
13 redeemable before maturity, at the option of the commis-  
14 sion, at such price or prices and under such terms and  
15 conditions as may be fixed by the commission prior to  
16 the issuance of the bonds. The commission shall deter-  
17 mine the form of the bonds, including any interest cou-  
18 pons to be attached thereto, and shall fix the denomina-  
19 tion or denominations of the bonds and the place or  
20 places of payment of principal and interest, which may  
21 be at any bank or trust company within or without the  
22 state. The bonds shall be signed by the governor or with  
23 a facsimile signature of the governor and by the chair-  
24 man of the commission, and the official seal of the com-  
25 mission shall be affixed thereto and attested by the secre-  
26 tary and treasurer of the commission, and any coupons  
27 attached thereto shall bear the facsimile signature of the  
28 chairman of the commission. In case any officer whose  
29 signature or a facsimile of whose signature shall appear  
30 on any bonds or coupons shall cease to be such officer  
31 before the delivery of such bonds, such signature or such  
32 facsimile shall nevertheless be valid and sufficient for all  
33 purposes the same as if he had remained in office until  
34 such delivery. All bonds issued under the provisions of  
35 this act shall have and are hereby declared to have all the  
36 qualities and incidents of negotiable instruments under  
37 the negotiable instruments law of the state. The bonds  
38 may be issued in coupon or in registered form, or both,  
39 as the commission may determine, and provision may be  
40 made for the registration of any coupon bonds as to  
41 principal alone and also as to both principal and interest,  
42 and for the reconversion into coupon bonds of any bonds  
43 registered as to both principal and interest. The com-  
44 mission may sell such bonds in such manner, either at  
45 public or at private sale, and for such price, as it may  
46 determine to be for the best interests of the state, but no

47 such sale shall be made at a price so low as to require the  
48 payment of interest on the money received therefor at  
49 more than five per centum per annum, computed with  
50 relation to the absolute maturity of the bonds in accord-  
51 ance with standard tables of bond values, excluding,  
52 however, from such computation the amount of any  
53 premium to be paid on redemption of any bonds prior to  
54 maturity.

55 The proceeds of the bonds of each issue shall be used  
56 solely for the payment of the cost of the turnpike project  
57 or projects for which such bonds shall have been issued,  
58 and shall be disbursed in such manner and under such  
59 restrictions, if any, as the commission may provide in the  
60 resolution authorizing the issuance of such bonds or in  
61 the trust agreement hereinafter mentioned securing the  
62 same. If the proceeds of the bonds of any issue, by  
63 error of estimates or otherwise, shall be less than such  
64 cost, additional bonds may in like manner be issued to  
65 provide the amount of such deficit, and, unless otherwise  
66 provided in the resolution authorizing the issuance of  
67 such bonds or in the trust agreement securing the same,  
68 shall be deemed to be of the same issue and shall be  
69 entitled to payment from the same fund without prefer-  
70 ence or priority of the bonds first issued. If the proceeds  
71 of the bonds of any issue shall exceed the cost of the  
72 turnpike project or projects for which the same shall  
73 have been issued, the surplus shall be deposited to the  
74 credit of the sinking fund for such bonds.

75 Prior to the preparation of definitive bonds, the com-  
76 mission may, under like restrictions, issue interim  
77 receipts or temporary bonds, with or without coupons,  
78 exchangeable for definitive bonds when such bonds shall  
79 have been executed and are available for delivery. The  
80 commission may also provide for the replacement of any  
81 bonds which shall become mutilated or shall be destroyed  
82 or lost. Bonds may be issued under the provisions of  
83 this act without obtaining the consent of any department,  
84 division, commission, board, bureau or agency of the  
85 state, and without any other proceedings or the happen-  
86 ing of any other conditions or things than those proceed-  
87 ings, conditions or things which are specifically required  
88 by this act.

Sec. 10. *Trust Agreement.*—In the discretion of the  
2 commission any bonds issued under the provisions of  
3 this act may be secured by a trust agreement by and  
4 between the commission and a corporate trustee, which  
5 may be any trust company or bank having the powers of  
6 a trust company within or without the state. Any such  
7 trust agreement may pledge or assign the tolls and other  
8 revenues to be received, but shall not convey or mortgage  
9 any turnpike project or any part thereof. Any such  
10 trust agreement or any resolution providing for the issu-  
11 ance of such bonds may contain such provisions for pro-  
12 tecting and enforcing the rights and remedies of the  
13 bondholders as may be reasonable and proper and not in  
14 violation of law, including covenants setting forth the  
15 duties of the commission in relation to the acquisition of  
16 property and the construction, improvement, mainte-  
17 nance, repair, operation and insurance of the turnpike  
18 project or projects in connection with which such bonds  
19 shall have been authorized, and the custody, safeguard-  
20 ing and application of all moneys, and provisions for the  
21 employment of consulting engineers in connection with  
22 the construction or operation of such turnpike project or  
23 projects. It shall be lawful for any bank or trust com-  
24 pany incorporated under the laws of the state which may  
25 act as depository of the proceeds of bonds or of revenues  
26 to furnish such indemnifying bonds or to pledge such  
27 securities as may be required by the commission. Any  
28 such trust agreement may set forth the rights and reme-  
29 dies of the bondholders and of the trustee, and may  
30 restrict the individual right of action by bondholders as  
31 is customary in trust agreements or trust indentures  
32 securing bonds and debentures of corporations. In addi-  
33 tion to the foregoing, any such trust agreement may con-  
34 tain such other provisions as the commission may deem  
35 reasonable and proper for the security of the bond-  
36 holders. All expenses incurred in carrying out the pro-  
37 visions of any such trust agreement may be treated as a  
38 part of the cost of the operation of the turnpike project  
39 or projects.

Sec. 11. *Revenues.*—The commission is hereby autho-  
2 rized to fix, revise, charge and collect tolls for the use of

3 each turnpike project and the different parts or sections  
4 thereof, and to contract with any person, partnership, asso-  
5 ciation or corporation desiring the use of any part thereof,  
6 including the right-of-way adjoining the paved portion,  
7 for placing thereon telephone, telegraph, electric light or  
8 power lines, gas stations, garages, stores, hotels, restau-  
9 rants and advertising signs, or for any other purpose  
10 except for tracks for railroad or railway use, and to fix  
11 the terms, conditions, rents and rates of charges for  
12 such use. Such tolls shall be so fixed and adjusted in  
13 respect of the aggregate of tolls from the turnpike pro-  
14 ject or projects in connection with which the bonds of  
15 any issue shall have been issued as to provide a fund  
16 sufficient with other revenues, if any, to pay (a) the cost  
17 of maintaining, repairing and operating such turnpike  
18 project or projects and (b) the principal of and the  
19 interest on such bonds as the same shall become due and  
20 payable, and to create reserves for such purposes. Such  
21 tolls shall not be subject to supervision or regulation by  
22 any other commission, board, bureau or agency of the  
23 state. The tolls and all other revenues derived from the  
24 turnpike project or projects in connection with which  
25 the bonds of any issue shall have been issued, except such  
26 part thereof as may be necessary to pay such cost of  
27 maintenance, repair and operation and to provide such  
28 reserves therefor as may be provided for in the resolu-  
29 tion authorizing the issuance of such bonds or in the  
30 trust agreement securing the same, shall be set aside at  
31 such regular intervals as may be provided in such resolu-  
32 tion or such trust agreement in a sinking fund which is  
33 hereby pledged to, and charged with, the payment of  
34 (1) the interest upon such bonds as such interest shall  
35 fall due, (2) the principal of such bonds as the same shall  
36 fall due, (3) the necessary charges of paying agents for  
37 paying principal and interest, and (4) the redemption  
38 price or the purchase price of bonds retired by call or  
39 purchase as therein provided. The use and disposition  
40 of moneys to the credit of such sinking fund shall be  
41 subject to the provisions of the resolution authorizing  
42 the issuance of such bonds or of such trust agreement.  
43 Except as may otherwise be provided in such resolution

44 or such trust agreement, such sinking fund shall be a  
45 fund for all such bonds without distinction or priority of  
46 one over another. The moneys in the sinking fund, less  
47 such reserve as may be provided in such resolution or  
48 trust agreement, if not used within a reasonable time for  
49 the purchase of bonds for cancellation as above provided,  
50 shall be applied to the redemption of bonds at the redemp-  
51 tion price then applicable.

Sec. 12. *Trust Funds.*—All moneys received pursuant  
2 to the authority of this act, whether as proceeds from the  
3 sale of bonds or as revenues, shall be deemed to be trust  
4 funds, to be held and applied solely as provided in this  
5 act. The resolution authorizing the issuance of bonds  
6 of any issue or the trust agreement securing such bonds  
7 shall provide that any officer to whom, or any bank or  
8 trust company to which, such moneys shall be paid shall  
9 act as trustee of such moneys and shall hold and apply  
10 the same for the purposes hereof, subject to such regula-  
11 tions as this act and such resolution or trust agreement  
12 may provide.

Sec. 13. *Remedies.*—Any holder of bonds issued  
2 under the provisions of this act or any of the coupons  
3 appertaining thereto, and the trustee under any trust  
4 agreement, except to the extent the rights herein given  
5 may be restricted by such trust agreement, may, either at  
6 law or in equity, by suit, action, mandamus or other pro-  
7 ceeding, protect and enforce any and all rights under the  
8 laws of the state or granted hereunder or under such  
9 trust agreement or the resolution authorizing the issu-  
10 ance of such bonds, and may enforce and compel the  
11 performance of all duties required by this act or by such  
12 trust agreement or resolution to be performed by the  
13 commission or by any officer thereof, including the fix-  
14 ing, charging and collecting of tolls.

Sec. 14. *Exemption from Taxation.*—The exercise of  
2 the powers granted by this act will be in all respects for  
3 the benefit of the people of the state, for the increase of  
4 their commerce and prosperity, and for the improvement  
5 of their health and living conditions, and as the operation  
6 and maintenance of turnpike projects by the commission

7 will constitute the performance of essential governmental  
8 functions, the commission shall not be required to pay  
9 any taxes or assessments upon any turnpike project or  
10 any property acquired or used by the commission under  
11 the provisions of this act or upon the income therefrom,  
12 and the bonds issued under the provisions of this act,  
13 their transfer and the income therefrom (including any  
14 profit made on the sale thereof) shall at all times be free  
15 from taxation within the state.

Sec. 15. *Miscellaneous.*—Each turnpike project when  
2 constructed and opened to traffic shall be maintained and  
3 kept in good condition and repair by the commission.  
4 Each such project shall also be policed and operated by  
5 such force of police, toll-takers and other operating  
6 employees as the commission may in its discretion  
7 employ.

8 All private property damaged or destroyed in carrying  
9 out the powers granted by this act shall be restored or  
10 repaired and placed in its original condition as nearly as  
11 practicable or adequate compensation made therefor out  
12 of funds provided under the authority of this act.

13 All counties, cities, villages, townships and other  
14 political subdivisions and all public agencies and com-  
15 missions of the state of West Virginia, notwithstanding  
16 any contrary provision of law, are hereby authorized  
17 and empowered to lease, lend, grant or convey to the  
18 commission at its request upon such terms and condi-  
19 tions as the proper authorities of such counties, cities,  
20 villages, townships, other political subdivisions or public  
21 agencies and commissions of the state may deem reason-  
22 able and fair and without the necessity for any advertise-  
23 ment, order of court or other action or formality, other  
24 than the regular and formal action of the authorities  
25 concerned, any real property which may be necessary or  
26 convenient to the effectuation of the authorized purposes  
27 of the commission, including public roads and other real  
28 property already devoted to public use.

Sec. 16. *Cessation of Tolls.*—When all bonds issued  
2 under the provisions of this act in connection with any  
3 turnpike project or projects and the interest thereon



4 shall have been paid or a sufficient amount for the pay-  
5 ment of all such bonds and the interest thereon to the  
6 maturity thereof shall have been set aside in trust for  
7 the benefit of the bondholders, such project or projects,  
8 if then in good condition and repair to the satisfaction  
9 of the state road commission, shall become part of the  
10 state road system and shall thereafter be maintained by  
11 the state road commission free of tolls: *Provided, how-*  
12 *ever,* That the commission may thereafter charge tolls  
13 for the use of any such project and pledge such tolls to  
14 the payment of bonds issued under the provisions of this  
15 act in connection with another turnpike project or pro-  
16 jects, but any such pledge of tolls of a turnpike project  
17 to the payment of bonds issued in connection with  
18 another project or projects shall not be effectual until  
19 the principal of and the interest on the bonds issued in  
20 connection with the first mentioned project shall have  
21 been paid or provision made for their payment.

2       Sec. 17. *Preliminary Expenses.*—The state road com-  
3 mission is hereby authorized in its discretion to expend  
4 out of any funds available for the purpose such moneys  
5 as may be necessary for the study of any turnpike pro-  
6 ject or projects and to use its engineering and other  
7 forces, including consulting engineers and traffic engi-  
8 neers, for the purpose of effecting such study and to pay  
9 for such additional engineering and traffic and other  
10 expert studies as it may deem expedient; and all such  
11 expenses incurred by the state road commission prior to  
12 the issuance of turnpike revenue bonds under the provi-  
13 sions of this act, shall be paid by the state road commis-  
14 sion and charged to the appropriate turnpike project or  
15 projects, and the state road commission shall keep proper  
16 records and accounts showing each amount so charged.  
17 Upon the sale of turnpike revenue bonds for any turnpike  
18 project or projects, the funds so expended by the state  
19 road commission in connection with such project or pro-  
20 jects shall be reimbursed to the state road commission  
from the proceeds of such bonds.

2       Sec. 18. *Turnpike Revenue Refunding Bonds.*—The  
commission is hereby authorized to provide by resolution

3 for the issuance of turnpike revenue refunding bonds of  
4 the state for the purpose of refunding any bonds then  
5 outstanding which shall have been issued under the pro-  
6 visions of this act, including the payment of any redemp-  
7 tion premium thereon and any interest accrued or to  
8 accrue to the date of redemption of such bonds, and, if  
9 deemed advisable by the commission, for the additional  
10 purpose of constructing improvements, extensions or  
11 enlargements of the turnpike project or projects in con-  
12 nection with which the bonds to be refunded shall have  
13 been issued. The commission is further authorized to  
14 provide by resolution for the issuance of turnpike reve-  
15 nue bonds of the state for the combined purpose of (a)  
16 refunding any bonds then outstanding which shall have  
17 been issued under the provisions of this act, including  
18 the payment of any redemption premium thereon and  
19 any interest accrued or to accrue to the date of redemp-  
20 tion of such bonds, and (b) paying all or any part of the  
21 cost of any additional turnpike project or projects. The  
22 issuance of such bonds, the maturities and other details  
23 thereof, the rights of the holders thereof, and the rights,  
24 duties and obligations of the commission in respect of  
25 the same, shall be governed by the provisions of this act  
26 in so far as the same may be applicable.

Sec. 19. *Additional Method.*—The foregoing sections  
2 of this act shall be deemed to provide an additional and  
3 alternative method for the doing of the things authorized  
4 thereby, and shall be regarded as supplemental and addi-  
5 tional to powers conferred by other laws, and shall not be  
6 regarded as in derogation of any powers now existing:  
7 *Provided, however,* That the issuance of turnpike revenue  
8 bonds or turnpike revenue refunding bonds under the  
9 provisions of this act need not comply with the require-  
10 ments of any other law applicable to the issuance of  
11 bonds.

Sec. 20. *Act Liberally Construed; Constitutional Con-  
2 struction; Inconsistent Acts Repealed.*—This act, being  
3 necessary for the welfare of the state and its inhabitants,  
4 shall be liberally construed to effect the purposes thereof.  
5 The provisions of this act are severable, and if any of

- 6 its provisions shall be held unconstitutional by any court  
7 of competent jurisdiction, the decision of such court shall  
8 not affect or impair any of the remaining provisions.  
9 All acts and parts of acts inconsistent with this act are  
10 hereby repealed.

## CHAPTER 140

(Senate Bill No. 309—By Mr. Bean and Mr. Hannig)

AN ACT to amend chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article five-a relating to the creation and establishment of a department of motor vehicles and prescribing its powers and duties.

[Passed March 8, 1947; in effect July 1, 1947. Approved by the Governor.]

### Article 5-a. Department of Motor Vehicles.

#### Section

1. Purposes.
2. Department of motor vehicles created; powers and duties.
3. Office of commissioner created; appointment; term.
4. Qualifications.
5. Filling vacancies.
6. Oath and bond.
7. Offices.
8. Salary and expenses.
9. Organization of department; assistants and employees.
10. Administration of vehicle laws; issuance of licenses, etc.
11. Reciprocal agreements with other states.
12. Delegation of powers and duties.
13. Hearings and proceedings before commissioner.
14. Legal service rendered commissioner.
15. Revenue collected paid to state treasurer.
16. Administrative expense.
17. Separability; repeal.

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

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

Section 1. *Purposes.*—It is hereby declared to be the purpose and policy of the Legislature in enacting this law to confer upon the department of motor vehicles of West Virginia the power, authority and duty to regulate licenses, certificates of title, protection against operation of motor vehicles (financial responsibility of owners and operators), and licensing of chauffeurs and other motor vehicles of the state of West Virginia.

Sec. 2. *Department of Motor Vehicles Created; Powers and Duties.* — A department of the government of this state, to be known as the department of motor vehicles, is hereby created. It is the intent and purpose of this article, and it shall be liberally construed to accomplish that purpose, to transfer and consolidate under one administrative head in the department of motor vehicles of the state of West Virginia the automobile bureau and the safety responsibility division now operated under the state road commission of West Virginia and dealing with the subjects of the regulation of licenses, certificates of title, protection against operation of motor vehicles (financial responsibility of owners and operators) and licensing of chauffeurs and other motor vehicle operators as provided by articles six, seven, twenty and twenty-one of this chapter; and the department of motor vehicles of the state of West Virginia shall succeed to and is hereby vested with all the powers, duties and jurisdiction now vested by law in the state road commission or commissioner of West Virginia to administer the motor vehicle laws: *Provided, however,* That nothing in this article shall deprive the public service commission of West Virginia of any of the duties or powers now vested in it with regard to the regulation of motor vehicle carriers.

Sec. 3. *Office of Commissioner Created; Appointment; Term.*—The department of motor vehicles shall be directed by an executive officer to be designated as the commissioner of motor vehicles, who shall be appointed by the governor, with the advice and consent of the Senate. The commissioner shall be appointed for a four year term, to commence on the first day of July, one thousand nine

8 hundred forty-seven. He shall devote his entire time to  
9 the duties of his office.

Sec. 4. *Qualifications.*—The commissioner at the time  
2 of his appointment and qualification shall be a citizen of  
3 the United States and a resident of the state of West Vir-  
4 ginia, shall have been a qualified voter in the state for a  
5 period of at least one year next preceding his appoint-  
6 ment, and shall be not less than thirty years of age. No  
7 commissioner during his period of service as such shall  
8 hold any other office under the laws of this state or of the  
9 United States.

Sec. 5. *Filling Vacancies.*—All vacancies in the office  
2 of the commissioner that occur while the Legislature is not  
3 in session shall be filled by appointment by the governor,  
4 which appointment shall expire at the end of thirty days  
5 after the date on which the Legislature next convenes.  
6 Prior to the expiration of the thirty days the governor  
7 shall transmit to the Senate for its approval an appoint-  
8 ment for the unexpired portion of the regular term. Va-  
9 cancies occurring during a session of the Legislature shall  
10 be filled as regular appointments before the end of the ses-  
11 sion and for the unexpired portion of the regular term.

Sec. 6. *Oath and Bond.*—The commissioner before en-  
2 tering upon the duties of his office shall take and subscribe  
3 to the oath prescribed by the constitution. He shall also  
4 execute a bond in the penalty of twenty-five thousand  
5 dollars, conditioned according to law, and approved by  
6 the governor. The cost of such bond shall be borne by  
7 the department as a part of the operating cost of the  
8 department. The bond and the oath shall be filed with  
9 the secretary of state.

Sec. 7. *Offices.*—The offices of the commissioner and  
2 the department shall be located in the state capitol build-  
3 ing. The commissioner shall keep his offices open at all  
4 reasonable times for the transaction of public business.

Sec. 8. *Salary and Expenses.*—The commissioner shall  
2 receive a salary of five thousand dollars and the necessary  
3 traveling expenses incident to the performance of his

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

Sec. 9. *Organization of Department; Assistants and*  
2 *Employees.*—The commissioner shall organize the depart-  
3 ment in such manner as he may deem necessary to prop-  
4 erly segregate and conduct the work of the department.  
5 The commissioner shall employ such assistants and em-  
6 ployees as may be necessary for the efficient operation  
7 of his department, who shall possess all of the qualifica-  
8 tions which may from time to time be prescribed for  
9 such positions by the commissioner. The duties and sal-  
10 aries of such assistants and employees shall be fixed by  
11 the commissioner, who shall have authority to remove  
12 the same at his will and pleasure.

13 The commissioner shall require every employee who  
14 collects fees or handles funds or who has custody of  
15 equipment and supplies belonging to the state to take  
16 the constitutional oath and give an official bond, with  
17 corporate surety, properly conditioned and in a sum to  
18 be fixed by the commissioner, which bond shall be ap-  
19 proved by him and filed in the office of the secretary of  
20 state. The cost of such bond shall be borne by the depart-  
21 ment as a part of the operating cost of the department.  
22 The commissioner shall fix their compensation, but  
23 the total compensation paid to assistants and employees  
24 shall not exceed in any one year the appropriation made  
25 by the Legislature for that purpose.

Sec. 10. *Administration of Vehicle Laws; Issuance of*  
2 *Licenses, Etc.*—The commissioner shall have charge of  
3 the administration of the vehicle laws of this state, in-  
4 cluding the collection of all license fees and charges, for-  
5 feitures, costs and all other fees and charges arising there-  
6 from or incident thereto. He shall issue all licenses, per-  
7 mits, registration certificates, receipts and other official  
8 documents provided for by this article; shall issue all  
9 necessary notices, and keep all books; shall devise a sys-  
10 tem of accounting which shall show accurately and con-

11 cisely the amounts of all moneys received and paid out  
12 by him, the sources from which received, and the pur-  
13 poses for which disbursed.

Sec. 11. *Reciprocal Agreements with Other States.*—  
2 The motor vehicle commissioner in cooperation with the  
3 state road commissioner, the public service commission  
4 and the department of public safety may enter into such  
5 reciprocal agreements as he may deem proper or expedi-  
6 ent with the proper authorities of other states, regulating  
7 the use, on the roads and highways of this state, of trucks,  
8 automobiles and any other vehicles owned in such other  
9 states and duly licensed under the laws thereof. The  
10 commissioner may confer and advise with the proper  
11 officers and legislative bodies of this and other states and  
12 federal districts of the United States, to promote recip-  
13 rocal agreements under which the registration of vehicles  
14 owned in this state, and the licenses of operators and  
15 chauffeurs residing in this state shall be recognized by  
16 other states and federal districts.

Sec. 12. *Delegation of Powers and Duties.*—All pow-  
2 ers and duties vested in the commissioner, except the  
3 power to sign contracts, may be exercised by the ap-  
4 pointees or employees of the commissioner, under his  
5 direction; but the commissioner shall be responsible for  
6 their acts.

Sec. 13. *Hearings and Proceedings before Commis-*  
2 *sioner.*—In all hearings and proceedings before the com-  
3 missioner, the evidence of witnesses and the production  
4 of documentary evidence may be required at any desig-  
5 nated place of hearing and summons may be issued by  
6 him. In case of disobedience to a summons or other pro-  
7 cess so issued, the commissioner or any party to the pro-  
8 ceedings before the commissioner may invoke the aid  
9 of any circuit court in requiring the evidence and testi-  
10 mony of witnesses and the production of papers, books  
11 and documents. Upon proper showing, such court shall  
12 issue an order requiring such persons to appear before  
13 the commissioner and produce all books and papers and

14 give evidence touching the matter in question. Any per-  
15 son failing to obey such order may be punished by such  
16 court as for contempt. A claim that any such testimony  
17 or evidence may tend to incriminate the person giving  
18 the same shall not excuse such witness from testifying,  
19 but such witness shall not be prosecuted for any offense  
20 concerning which he is compelled hereunder to testify.

Sec. 14. *Legal Service Rendered Commissioner.*—It  
2 shall be the duty of the attorney general of this state  
3 and of his assistants and of the prosecuting attorneys of  
4 the several counties, to render to the commissioner, with-  
5 out additional compensation, such legal services as he  
6 shall require of them in the discharge of his duties under  
7 the provisions of this article.

Sec. 15. *Revenue Collected Paid to State Treasurer.*—  
2 Taxes and fees imposed and collected under the provi-  
3 sions of this article shall be paid to the state treasurer  
4 in the manner provided by law, and credited to the state  
5 road fund.

Sec. 16. *Administrative Expense.*—The expenses of the  
2 administration of the motor vehicle department shall be  
3 appropriated for that purpose from the state road fund.

Sec. 17. *Separability; Repeal.*—The provisions of this  
2 act shall be construed as separable and severable and  
3 should any provision or part hereof be held unconstitu-  
4 tional or for any reason invalid, the remaining provisions  
5 or parts shall not be thereby affected. All acts or parts  
6 of acts in conflict herewith are hereby repealed.

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## CHAPTER 141

(House Bill No. 160—By Mr. Hansbarger and Mr. Ballard)

AN ACT to amend and reenact sections fourteen and seven-  
teen, article four, chapter seventeen of the code of West  
Virginia, one thousand nine hundred thirty-one, as amend-  
ed, and to further amend said article by adding thereto



a new section, numbered seventeen-a, all relating to the division of the costs of separating grades of railroads and state roads, the relocation or reconstruction of existing grade separation structures, and the maintenance of same.

[Passed February 28, 1947; in effect from passage. Approved by the Governor.]

#### **Article 4. State Road System; Primary and Secondary Roads.**

##### **Section**

- 14. Cost distribution.
- 17. Maintenance of work.
- 17-a. Relocation or reconstruction of existing grade separation structures.

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

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

Section 14. *Cost Distribution.*—The total cost of preparing plans, specifications and estimates, of the necessary property including damages to property not taken, of securing bids, and of the work, in grade separations, shall be borne by the railroad company or companies and the state: *Provided, however,* That unless otherwise agreed upon, said railroad company or companies involved shall be liable for ten per cent of such total cost: *Provided further,* That all right-of-way, owned by the state or the railroad company or companies and needed and used for such grade separations, shall be donated for that purpose and shall not be considered as a part of such total cost to be pro rated between the parties involved.

Sec. 17. *Maintenance of Work.*—After the construction of a grade separation under this article, where the highway is carried over the railroad the state shall maintain the state highway and the structures supporting it and the drainage thereof, and the railroad company shall maintain its tracks; and where the state highway is passed under the railroad then the state shall maintain

8 the highway and the drainage thereof, and the railroad  
9 company shall maintain its road bed and the tracks and  
10 the structures supporting the same: *Provided, however,*  
11 That the state, at its sole expense, shall bear the cost of  
12 repairing or replacing any part of such supporting struc-  
13 ture which may be damaged or destroyed by highway  
14 traffic; and the railroad company, at its own sole expense,  
15 shall bear the cost of repairing or replacing any part of  
16 such supporting structure which may be damaged or  
17 destroyed by railroad traffic: *Provided further,* That the  
18 provisions of this section shall not be applicable to grade  
19 separations constructed prior to the effective date of  
20 this act.

Sec. 17-a. *Relocation or Reconstruction of Existing*  
2 *Grade Separation Structures.*—The state road commis-  
3 sioner shall have the same authority and follow the same  
4 procedure and the cost and maintenance provision shall  
5 be the same, in the relocation and reconstruction of exist-  
6 ing grade separation structures, where the tracks of any  
7 railroad and any state road cross, as is provided in sec-  
8 tions nine to seventeen, inclusive, of this article.

## CHAPTER 142

(House Bill No. 60—By Mr. Schupbach)

AN ACT to amend and reenact section eighteen, article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter fifty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-one, relating to general provisions as to speed and driving upon the highways of this state.

[Passed March 1, 1947; in effect July 1, 1947. Approved by the Governor.]

### Article 8. Traffic Regulations and Laws of the Road.

#### Section

18. General provisions as to speed and driving; when local authorities may increase speed limit; penalties.

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

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

Section 18. *General Provisions as to Speed and Driving; When Local Authorities May Increase Speed Limit; Penalties.*—(a) No person shall drive a vehicle upon a highway at a speed greater than is reasonable and prudent, having due regard to the traffic, surface and width of the highway and the hazard at intersections and any other conditions then existing.

Nor shall any person drive at a speed which is greater than will permit the driver to exercise proper control of the vehicle and to decrease speed or to stop as may be necessary to avoid colliding with any person, vehicle or other conveyance upon or entering the highway in compliance with legal requirements and with the duty of drivers and other persons using the highway to exercise due care: *Provided*, That this provision shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence upon the part of the defendant as the proximate cause of an accident.

(b) No person shall drive a vehicle upon a highway at a speed in excess of that indicated as follows for the particular districts or locations:

(1) Fifteen miles per hour; (a) When passing a school building or the grounds thereof during a school recess or while children are going to or leaving school during opening or closing hours; or (b) When approaching within one hundred feet of a grade crossing of a steam, electric or street railway where the driver's view of such crossing or of any traffic on such railway within a distance of four hundred feet in either direction is obstructed.

(2) Twenty miles per hour; (a) In any business district, herein defined to be the territory contiguous to a highway when fifty per cent or more of the frontage thereon for a distance of three hundred feet or more is occupied by buildings in use for business; or (b) Upon

36 approaching within fifty feet and in traversing an inter-  
37 section of highways where the driver's view in either  
38 direction along any intersecting highway within a dis-  
39 tance of two hundred feet is obstructed, except that when  
40 traveling upon a through street or at traffic-controlled  
41 intersections the district speed shall apply.

42 (3) Twenty-five miles per hour; (a) On suburban  
43 streets; or, (b) At any railway grade crossing where the  
44 view is not obstructed; or (c) In public parks within  
45 cities, unless a different speed is indicated by local au-  
46 thorities and duly posted.

47 (4) Fifty miles per hour; On open country highway,  
48 except as otherwise limited by this law.

49 (c) In every charge of violation of this section the  
50 complaint, also the summons or notice to appear, shall  
51 specify the speed at which the defendant is alleged to  
52 have driven, also the speed indicated in this section for  
53 the district or location and in the event charge shall  
54 also be made of violation of any other provision of this  
55 act, the complaint and the summons or notice to appear  
56 shall also specify such other offense alleged to have been  
57 committed.

58 (d) Local authorities in their respective jurisdictions  
59 are hereby authorized in their discretion to indicate by  
60 order or ordinance higher speeds than those indicated  
61 in subdivision (b) of this section upon through highways  
62 or upon open highways or portions thereof where there  
63 are no intersections or between widely spaced inter-  
64 sections if signs are erected giving notice of the indi-  
65 cated speed, but local authorities shall not have author-  
66 ity to modify or alter the basic rule set forth in sub-  
67 division (a) of this section, or in any event to indicate  
68 by order or ordinance a speed in excess of fifty miles  
69 per hour.

70 (e) It shall be unlawful for any person unnecessarily  
71 to drive at such a slow speed as to impede or block the  
72 normal and reasonable movement of traffic except when  
73 reduced speed is necessary for safe operation or because  
74 upon a grade or when the vehicle is a truck or truck and

75 trailer necessarily or in compliance with law proceeding  
76 at reduced speed.

77 Traffic and police officers are hereby authorized to en-  
78 force this provision by directions to drivers and in the  
79 event of apparent wilful disobedience to this provision  
80 and refusal to comply with direction of an officer in ac-  
81 cordance herewith the continued slow operation by a  
82 driver shall be unlawful and constitute a misdemeanor.

83 (f) No person shall drive a vehicle upon a highway  
84 at a speed in excess of that indicated as follows for the  
85 particular class of vehicles and the particular districts  
86 or location:

	On open country highway Miles per hour	On suburban street Miles per hour	On urban street Miles per hour
87 Maximum weight, in- 88 cluding gross weight of 89 vehicle and load:			
90 Vehicles not designed 91 for carrying passengers 92 equipped with pneu- 93 matic tires .....	35	25	15
94 Vehicles equipped with 95 solid tires less than 4000 96 pounds .....	25	15	10
97 Over 4000 pounds .....	15	10	10
98 Steel-tired vehicles over 99 2000 pounds .....	5	5	5

100 (g) It shall be unlawful to drive any vehicle upon  
101 any public bridge, causeway or viaduct at a speed which  
102 is greater than the maximum speed which can with  
103 safety to such structure be maintained thereon, when  
104 such structure is signposted as provided in this section.

105 The state road commission upon request from any  
106 local authorities shall, or upon its own initiative may,  
107 conduct an investigation of any public bridge, causeway  
108 or viaduct, and if it shall thereupon find that such struc-  
109 ture cannot with safety to itself withstand vehicles trav-  
110 eling at the speed otherwise permissible under this act,  
111 the commission shall determine and declare the max-  
112 imum speed of vehicles which such structure can with-

113 stand, and shall cause or permit suitable signs stating  
114 such maximum speed to be erected and maintained at  
115 a distance of one hundred feet before each end of such  
116 structure. The findings and determination of the com-  
117 mission shall be conclusive evidence of the maximum  
118 speed which can with safety to any structure be main-  
119 tained thereon.

120 (h) The speed limits set forth in this act shall not  
121 apply to authorized emergency vehicles when operated  
122 in emergencies and the drivers thereof sound audible  
123 signals by bell, siren or exhaust whistle. This provision  
124 shall not relieve the driver of an authorized emergency  
125 vehicle from the duty to drive with due regard for the  
126 safety of all persons using the street, nor shall it protect  
127 the driver of any such vehicle from the consequence of  
128 a reckless disregard of the safety of others.

129 (i) Any person who drives any vehicle upon a high-  
130 way carelessly and heedlessly in wilful or wanton dis-  
131 regard of the rights or safety of others, or without due  
132 caution and circumspection and at a speed or in a man-  
133 ner so as to endanger or be likely to endanger any per-  
134 son or property, shall be guilty of reckless driving.

135 (j) Any person violating the provisions of subdivi-  
136 sion (a) of this section shall be guilty of a misdemeanor,  
137 and upon conviction shall for a first conviction thereof  
138 be punished by a fine of not more than one hundred dol-  
139 lars or by imprisonment in the county or municipal jail  
140 for not more than ten days; for a second such conviction  
141 within one year thereafter such person shall be pun-  
142 ished by a fine of not more than two hundred dollars or  
143 by imprisonment in the county or municipal jail for not  
144 more than twenty days or by both such fine and impris-  
145 onment; upon a third or subsequent conviction within  
146 one year after the first conviction such person shall be  
147 punished by a fine of not more than five hundred dollars  
148 or by imprisonment in the county or municipal jail for  
149 not more than six months or by both such fine and im-  
150 prisonment.

151 Every person who drives a vehicle upon a highway  
152 at a speed in excess of that indicated in subdivisions

153 (b), (d), (f) and (g) of this section, and who, while so  
154 driving violates the basic rule set forth in subdivision  
155 (a), or any person who violates subdivision (i) of this  
156 section, shall be guilty of a misdemeanor, and upon con-  
157 viction shall be punished by imprisonment in the county  
158 or municipal jail for a period of not less than five days  
159 nor more than ninety days or by fine of not less than  
160 twenty-five dollars nor more than five hundred dollars,  
161 or by both such fine and imprisonment, and on a second  
162 or subsequent conviction shall be punished by imprison-  
163 ment for not less than ten days nor more than six months,  
164 or by a fine of not less than fifty dollars nor more than  
165 one thousand dollars, or by both such fine and imprison-  
166 ment.

## CHAPTER 143

(Senate Bill No. 365—By Mr. Stemple and Mr. Bowling)

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state, amending article fourteen thereof, relating to roads and bonds to be issued and sold for building secondary roads.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### Roads Amendment.

#### Section

1. Submitting an amendment to the state constitution.
2. Amendment to be known as the "fifty million dollar bond issue for roads 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:*

That the following amendment to the constitution of the state, relating to road bonds, be and the same is hereby proposed, as follows:

Section 1. *Submitting an Amendment to the State Constitution.*—That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provisions of section two, of article fourteen of said constitution, 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-eight, which proposed amendment is as follows:

9                   *Proposed Amendment*

10       The Legislature shall have power to authorize the issuing and selling of state bonds not exceeding in the aggregate fifty million dollars in addition to the state bonds which were authorized to be issued and sold by the amendment to the constitution proposed by Senate Joint Resolution No. 15, adopted February fifteenth, one thousand nine hundred nineteen, and afterwards ratified by a vote of the people, and Senate Joint Resolution No. 17, adopted by the Legislature at the regular session, one thousand nine hundred twenty-seven, and afterwards ratified by a vote of the people. The proceeds of said additional bonds hereby authorized to be issued and sold shall be used and appropriated solely for the building and construction, or for assisting in building and constructing a system of state secondary roads and highways.

25       When a bond issue as aforesaid is authorized, the Legislature shall at the same time provide for the collection of an annual state tax sufficient to pay annually the interest on such debt and to pay the principal thereof within 29 and not exceeding thirty years.

Sec. 2. *Amendment to Be Known as the "Fifty Million Dollar Bond Issue for Roads Amendment".*—For convenience in referring to said proposed amendment, and in the preparation of the form of the ballot hereinafter provided for, said proposed amendment is hereby designated as follows: "Fifty Million Dollar Bond Issue for Roads Amendment."

Sec. 3. *Form of Ballot; Election.*—For the purpose of enabling the voters of the state to vote on the question of said proposed amendment to the constitution at the said



4 general election to be held in the year one thousand nine  
5 hundred forty-eight, the board of ballot commissioners of  
6 each county is hereby required to prepare separate bal-  
7 lots from that of the official ballot to be voted at said  
8 election, and print thereon the following:)

9 ☐ For ratification fifty million dollar bond issue  
10 for roads amendment.

11 ☐ Against ratification fifty million dollar bond issue  
12 for roads amendment.

13 The said election on the proposed amendment at each  
14 place of voting shall be superintended, conducted and re-  
15 turned, and the result thereof ascertained by the same  
16 officers and in the same manner as the election of officers  
17 to be voted for at said election, and all the provisions of  
18 the law relating to general elections, including all duties  
19 to be performed by any officer or board, as far as prac-  
20 ticable, and not inconsistent with anything herein con-  
21 tained, shall apply to the election held under the provi-  
22 sions of this act, except when it is herein otherwise pro-  
23 vided. The ballots cast on the question of said proposed  
24 amendment shall be counted as other ballots cast at said  
25 election.

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

8 “We, the undersigned, who acted as commissioners (or  
9 canvassers, as the case may be) of the election held at  
10 Precinct No. ...., in the district of ....., in the county  
11 of ....., on the ..... day of .....<sup>1</sup> one thousand nine  
12 hundred forty-eight, upon the question of the ratification  
13 or rejection of the proposed constitutional amendment, do  
14 hereby certify that the result of said election is as follows:

15 “For ratification of ‘Fifty Million Dollar Bond Issue for  
16 Roads Amendment’ ..... votes.

“Against ratification of ‘Fifty Million Dollar Bond Issue

17 for Roads Amendment' ..... votes.

18 "Given under our hands this ..... day of .....  
19 one thousand nine hundred forty-eight."

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

29  
30 The said certificates, together with the ballots cast on  
31 the question of said proposed amendment, shall be laid  
32 before the commissioners of the county court at the court  
33 house at the same time the ballots, poll books, and the  
34 certificates of the election of the members of the Legislature are laid before them; and as soon as the result of  
35 said election in the county upon the question of such  
36 ratification or rejection is ascertained, two certificates of  
37 such result shall be made out and signed by said commissioners as a board of canvassers, in the form or to the  
38 following effect:

39  
40 "We, the board of canvassers of the county of.....,  
41 having carefully and impartially examined the returns  
42 of the election held in said county, in each district thereof,  
43 on the ..... day of November, one thousand nine  
44 hundred forty-eight, do certify that the results of the  
45 election in said county, on the question of the ratification or rejection of the proposed amendment is as follows:  
46  
47

48  
49 "For ratification of 'Fifty Million Dollar Bond Issue for  
50 Roads Amendment' ..... votes.

51 "Against ratification of 'Fifty Million Dollar Bond Issue  
52 for Roads Amendment' ..... votes.

53 "Given under our hands this ..... day of .....  
54 one thousand nine hundred forty-eight.

55 One of the certificates shall be filed in the office of the

56 clerk of the county court, and the other forwarded by  
57 mail to the secretary of state, who shall file and preserve  
58 the same until the day on which the result of said election  
59 in the state is to be ascertained, as hereinafter stated.

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

2 —On the twenty-fifth day after the election is held, or  
3 as soon thereafter as practicable, the said certificates  
4 shall be laid before the governor, whose duty it shall  
5 be to ascertain therefrom the result of said election in  
6 the state, and declare the same by proclamation pub-  
7 lished in one or more newspapers printed at the seat of  
8 government. If a majority of the votes cast at said elec-  
9 tion upon said question be for ratification of said amend-  
10 ment, the proposed amendment so ratified shall be in  
11 force and effect from and after the time of such ratifica-  
12 tion, as part of the constitution of the state.

Sec. 6.—*Publication of Proposed Amendment by Gov-*

2 *ernor.*—The governor shall cause the said proposed  
3 amendment, with the proper designation for the same as  
4 hereinbefore adopted, to be published one time at least  
5 three months before such election in some newspaper in  
6 every county in which a newspaper is printed, at a price  
7 to be agreed upon in advance, in writing, and the cost of  
8 such advertising shall in the first instance, if found nec-  
9 essary by him, be paid out of the governor's contingent  
10 fund and be afterwards repaid to such fund by appropri-  
11 ation of the Legislature.



## CHAPTER 144

(Senate Bill No. 73—By Mr. Bean and Mr. Reed)

AN ACT to repeal section nineteen-b, article eight, chapter sev-  
enteen of the code of West Virginia, one thousand nine  
hundred thirty-one, as last amended, relating to the use of  
highways by motor vehicles, carrying other vehicles.

[Passed February 20, 1947; in effect from passage. Approved by the Governor.]

## **Article 8. Traffic Regulations and Laws of the Roads.**

### **Section**

1. Section nineteen-b repealed.

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

- Section 1. *Section Nineteen-b Repealed.*—Section nineteen-b, article eight, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter eighty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, is hereby repealed.

# **CHAPTER 145**

(Senate Bill No. 220—By Mr. Love)

AN ACT to amend and reenact sections three, four and nine, article one, chapter thirty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the regulation of securities, exclusion of securities and transactions therefrom, and service of process on nonresident applicants.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

## **Article 1. Securities; Definitions; Registration; Unlawful Acts; Penalties; Liabilities.**

### **Section**

3. Securities not included.
4. Transactions not included.
9. Consent to service of process.

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

That sections three, four and nine, 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 securities:
- 4 (a) Any security issued or guaranteed by the United  
5 States or any territory or insular possession thereof, or  
6 by the District of Columbia, or by any state or political  
7 subdivision or agency thereof;
- 8 (b) Any security issued by a national bank or by any  
9 federal land bank or by a corporation created or acting  
10 as an instrumentality of the government of the United  
11 States pursuant to authority granted by the congress of  
12 the United States, or any security issued by provisions of  
13 the federal laws: *Provided*, That such corporation is sub-  
14 ject to supervision or regulation by the government of  
15 the United States;
- 16 (c) Any security issued or guaranteed either as to  
17 principal, interest or dividend by a corporation owning  
18 or operating a railroad engaged in interstate commerce  
19 and under supervision of the Interstate Commerce Com-  
20 mission; any security issued or guaranteed either as to  
21 principal, interest or dividend by a corporation owning  
22 or operating any public service utility other than a rail-  
23 road, provided the issuance of such security is supervised  
24 or regulated by a public commission, board or officer of  
25 the government of the United States or of any state,  
26 territory or insular possession of the United States or of  
27 the District of Columbia or of the Dominion of Canada  
28 or any province thereof; and any equipment security  
29 based on chattel mortgages, leases or agreements for con-  
30 ditional sale of cars, motive power or other rolling stock  
31 or equipment mortgaged, leased or sold to or furnished  
32 for the use of or upon a railroad or other public service  
33 utility corporation, or equipment securities where the  
34 ownership or title of such equipment is pledged or re-  
35 tained in accordance with the provisions of the laws of  
36 the United States or of any state, or of the Dominion of  
37 Canada, to secure the payment of such equipment secu-  
38 rities;
- 39 (d) Any security issued by a person organized and  
40 operated exclusively for educational, benevolent, frater-

41 nal, charitable or reformatory purposes and not for  
42 pecuniary profit, and no part of the net earnings of which  
43 inures to the benefit of any person, private stockholder or  
44 individual;

45 (e) Any security which, at the time of the sale, is listed  
46 on the New York Stock Exchange, the New York Curb  
47 Exchange or the Chicago Stock Exchange, pursuant to  
48 authorization by any such exchange, and additional  
49 amounts of any such securities when regularly approved  
50 for listing upon the issuance thereof, and securities senior  
51 to the securities so listed: *Provided*, That the commis-  
52 sioner shall have power and authority at any time to  
53 withdraw such exemption for any security or group of  
54 securities so listed, pending an investigation and hearing  
55 on securities included in such order. A date for hearing  
56 shall be set by the commissioner not more than twenty  
57 days after such withdrawal order. The commissioner, by  
58 ruling, may grant this same exemption to securities listed  
59 on any other exchange following an application from such  
60 exchange and after an investigation and examination has  
61 been made by him. The expense of all hearings, investiga-  
62 tions and examinations shall be paid by the exchange  
63 making application or receiving a hearing;

64 (f) Any security issued by a state bank, trust com-  
65 pany, building and loan association or savings institution,  
66 incorporated under the laws of and subject to the exami-  
67 nation, supervision and control of any state or territory  
68 of the United States or any insular possession thereof;

69 (g) Any insurance or endowment policy or annuity  
70 contract or optional annuity contract, issued by a person  
71 licensed and supervised by the insurance commissioner  
72 of this state;

73 (h) Any security other than common stock outstand-  
74 ing and in the hands of the public for a period of not less  
75 than three years upon which no default in payment of  
76 principal, interest or dividend exists and upon which no  
77 such default has occurred for a continuous immediately  
78 preceding period of three years: *Provided*, That the issuer  
79 of such securities has continued such payments of prin-  
80 cipal, interest or dividends as provided at the time of

81 original issue: *Provided further*, That no plan or pro-  
82 posal of recapitalization, reorganization, rearrangement of  
83 capitalization, or other form of readjustment of issuer's  
84 finances, has been made or a petition of voluntary or  
85 involuntary bankruptcy has been filed in any court by  
86 or for such issuer within the preceding period of three  
87 years;

88 (i) Any securities bought or sold upon customers'  
89 orders: *Provided*, That such securities are bought or sold  
90 on an exchange which, at the time of such transaction, is  
91 registered as a national exchange by the securities and  
92 exchange commission: *Provided further*, That no solici-  
93 tation is made of the orders so executed.

94 (j) Any note, draft, bill of exchange or bankers ac-  
95 ceptance which arises out of a current transaction or the  
96 proceeds of which have been or are to be used for a  
97 current transaction, is not the subject of a public offering,  
98 has at the time of issuance a definite maturity (after all  
99 days of grace, if any) of not exceeding one year, is pay-  
100 able in cash only, and is not convertible into and does  
101 not carry an option or right to receive payment or any  
102 bonus in any other security.

Sec. 4. *Transactions Not Included.*—The provisions of  
2 this chapter shall not apply to any of the following trans-  
3 actions:

4 (a) Any judicial, sheriff's, constable's, executor's, ad-  
5 ministrator's, guardian's or conservator's sale or any sale  
6 by a receiver or trustee in insolvency or bankruptcy, or  
7 the sale by a pledgee, in good faith and in ordinary course  
8 of business and not for the purpose of evading any pro-  
9 vision of this chapter, of a security pledged for a bona  
10 fide debt;

11 (b) An isolated transaction in which any security is  
12 sold, offered for sale, subscription or delivery by the  
13 owner thereof, such sale or offer for sale, subscription or  
14 delivery not being made in the course of repeated and  
15 successive transactions of a like character by such owner;

16 (c) A sale upon a customer's order of any security, if  
17 sale is made to a person outside this state: *Provided*, That

18 such sale in another state is not a violation of the secu-  
19 rities laws of that state;

20 (d) The distribution by a corporation actively engaged  
21 in the business authorized by its charter, of capital stock,  
22 bonds or other securities to its stockholders or its other  
23 security-holders as a stock dividend or other distribution  
24 out of earnings or surplus;

25 (e) The sale, transfer or delivery to any bank, savings  
26 institution, trust company, insurance company or to any  
27 broker or dealer: *Provided*, That such broker or dealer  
28 is actually engaged in buying and selling securities as a  
29 business;

30 (f) Bonds or notes or other obligations secured by  
31 mortgage, deed of trust, or other lien upon property,  
32 where the entire lien together with all of the bonds or  
33 notes secured thereby is sold to a single purchaser at a  
34 single sale or where the lien is given or incurred to secure  
35 the payment of unpaid purchase money;

36 (g) The issue and delivery of any security in exchange  
37 for any other security of the same issuer pursuant to a  
38 right of conversion entitling the holder of the security  
39 surrendered in exchange to make such conversion: *Pro-*  
40 *vided*, That the security so surrendered has been regis-  
41 tered under the provisions of this chapter or was, when  
42 sold, exempt through the provisions of said chapter;

43 (h) The sale by a domestic corporation of its securi-  
44 ties if the aggregate number of holders of all its securities,  
45 after the securities to be issued are sold, does not exceed  
46 fifteen, and no commission, profit or other compensation  
47 is or has been paid for the sale of any securities of such  
48 corporation, and the total organization and promotion  
49 expense in connection with the issue of all securities of  
50 such corporation, exclusive of statutory fees, does not  
51 exceed three per cent of the aggregate sale price of all  
52 such securities or two hundred fifty dollars, which ever  
53 is greater;

54 (i) The transfer or exchange by one corporation to  
55 another corporation of its own securities in connection  
56 with a consolidation or merger of such corporations:

57 (j) The solicitation or execution by a registered dealer



58 of orders for the purchase of any security, provided such  
59 dealer acts as agent for the purchaser, has no direct  
60 material interest in the sale or distribution of such secu-  
61 rity, receives no commission, profit or other compensa-  
62 tion from any source other than the purchaser, and  
63 delivers to the purchaser written confirmation of the  
64 transaction which clearly itemizes his commission, profit  
65 or other compensation.

Sec. 9. *Consent to Service of Process.*—Upon any ap-  
2 plication for registration by qualification, under section  
3 six hereof, where the applicant is not domiciled in this  
4 state, there shall be filed with such application the irrevoc-  
5 cable written consent of the applicant that suits and ac-  
6 tion growing out of the violation of any provision or provi-  
7 sions of this chapter, may be commenced against such  
8 applicant in the proper court of any county in this state  
9 in which a cause of action may arise or in which the  
10 plaintiff may reside, by the service of any process or  
11 pleading authorized by the laws of this state, on the com-  
12 missioner of securities, and by the acceptance of such  
13 service of process by the commissioner for and on behalf  
14 of such applicant, such consent stipulating and agreeing  
15 that such service of such process or pleading on such com-  
16 missioner, or such acceptance by the commissioner, shall  
17 be taken and held in all courts to be as valid and binding  
18 as if due service had been made upon the applicant itself  
19 and said written consent shall be authenticated by the  
20 seal of said applicant, if it has a seal, and by the acknowl-  
21 edged signature of a member of the copartnership or com-  
22 pany, or by the acknowledged signature of any officer  
23 of the incorporated or unincorporated association, duly  
24 authorized by the resolution of the board of directors,  
25 trustees or managers of the corporation or association,  
26 and shall in such case be accompanied by a duly certified  
27 copy of the resolution of the board of directors, trustees  
28 or managers of the corporation or association, authorizing  
29 the officers to execute the same, but no such process shall  
30 be served on the commissioner or accepted by him less  
31 than ten days before the return day thereof. In case any  
32 process or pleadings mentioned in this chapter are served

33 upon the commissioner, or accepted by him, it shall be  
34 by duplicate copies, one of which shall be filed in the  
35 office of the commissioner and another immediately for-  
36 warded by registered mail to the principal office of the  
37 applicant against which such process or pleadings are  
38 directed: *Provided, however,* That the commissioner, in  
39 cases where, in his opinion, the facts warrant it, may  
40 require the issuer thereof to file the written consent of  
41 such issuer to service of process as aforesaid upon it in  
42 like manner as hereinbefore provided in respect of an  
43 applicant for registration.

44 All acts or parts of acts in conflict or inconsistent here-  
45 with are hereby repealed.

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## CHAPTER 146

(Senate Bill No. 351—By Mr. McKinley and Mr. Harmer)

AN ACT to amend article one, chapter nine of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be known as section three-a, relating to the acceptance of future federal legislation by the state of West Virginia permitting state and local public employees to secure coverage under the old age and survivors insurance provisions of the social security act.

[Passed March 7, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 1. Social Security.

#### Section

3-a. Acceptance of federal legislation to permit state and political subdivisions to secure old age and survivors insurance benefits for their employees.

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

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

Section 3-a. *Acceptance of Federal Legislation to Permit State and Political Subdivisions to Secure Old Age and Survivors Insurance Benefits for Their Employees.*—  
The state of West Virginia hereby assents to any legislation by the Congress of the United States amending the social security act to permit states and their political subdivisions and instrumentalities to secure coverage for their employees under the provisions of the old age and survivors insurance benefits of such act and the director of public assistance shall, upon the enactment of such legislation by the Congress of the United States, take such action as may be necessary to secure the benefits of old age and survivors insurance for the officers and employees of the state of West Virginia, its political subdivisions and instrumentalities in conformity with such act of the Congress of the United States.  
Nothing contained in this section shall deprive any person of benefits under any existing pension or retirement system, nor repeal, amend, modify or supersede any law, charter amendment or ordinance establishing or pertaining to an existing pension or retirement system.

## CHAPTER 147

(House Bill No. 50—By Mr. Speaker, Mr. Amos)

AN ACT to amend chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article to be designated article five-b, relating to tuberculosis control and to the supervision and management of state institutions for the care of persons suffering from tuberculosis.

[Passed February 10, 1947; in effect ninety days from passage. Approved by the Governor.]

**Article 5-b. Tuberculosis Control.****Section**

1. Report of admissions; registration by department of health.
2. Forms for committing patients; other records.
3. Maintenance of patients' reimbursement.
4. Report of tuberculosis cases.
5. Procedure when patient is health menace to others.
6. Employees who contract tuberculosis.

*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, as amended, be amended by adding thereto a new article to be designated article five-b, to read as follows:

Section 1. *Report of Admissions; Registration by Department of Health.*—The superintendent of each state tuberculosis institution shall within ten days after the admission of any patient report the admission to the department of health together with any other information the department of health may require. He shall make a similar report of the discharge or death of any patient.

From such reports and other sources, the department of health shall prepare and keep current a register of persons in this state who are suffering from tuberculosis.

The name of a person so registered shall not be made public nor shall the register be accessible to anyone except by order of the department of health, the patient, or by order of the judge of a court of record.

Sec. 2. *Forms for Committing Patients; Other Records.*—The board of control shall have authority, in consultation with the superintendents of the tuberculosis institutions, to prepare, prescribe, and have printed forms to be used in committing patients to any state tuberculosis institution.

For each patient there shall be kept a case record with such complete information as to aid in qualifying all state tuberculosis institutions for the training of internes and nurses with a specialty in tuberculosis.

Whenever a patient is transferred from one state tuberculosis institution to another, his complete record shall

13 be forwarded to the institution to which the patient is  
14 being transferred.

Sec. 3. *Maintenance of Patients' Reimbursement.*—The  
2 cost of the maintenance of patients admitted to state  
3 tuberculosis institutions shall be paid out of funds ap-  
4 propriated for the respective institutions, but the institu-  
5 tion, through the department of health, shall have a right  
6 of reimbursement from each patient or from the commit-  
7 tee or guardian of the estate of the patient, or if that be  
8 insufficient, then from the patient's husband, wife, child-  
9 ren, father and mother, or any of them, for all or any part  
10 of such maintenance, in no case to exceed one dollar  
11 per day. In exercising this right of reimbursement, the  
12 department of health may, whenever it is deemed just and  
13 expedient to do so, exonerate any person chargeable with  
14 such maintenance and from the payment thereof in whole  
15 or in part, if it finds that he is unable to pay or the pay-  
16 ment would work an undue hardship on him or on those  
17 dependent upon him.

18 There shall be no discrimination on the part of the in-  
19 stitution as to food, care, protection, treatment or rehabil-  
20 itation, between patients who pay for their maintenance  
21 and those who are unable to do so.

22 It shall be the responsibility of the department of health  
23 to determine the ability of the patient or of his relatives  
24 to pay for his maintenance.

25 All claims due the institution under the provisions of  
26 this section may be collected as provided in chapter  
27 fourteen of this code.

Sec. 4. *Report of Tuberculosis Cases.*—It shall be man-  
2 datory for every physician practicing in this state, for  
3 every public health officer in the state, and for every chief  
4 medical officer having charge of any hospital or clinic or  
5 other similar public or private institution in the state, to  
6 report in writing to the department of health the name,  
7 age, sex, race, home address and type of disease, of every  
8 person having tuberculosis who comes under his obser-  
9 vation or care. Such report shall be made within forty-  
10 eight hours after diagnosis.

Sec. 5. *Procedure When Patient is Health Menace to Others.*—If such practicing physician, public health officer, or chief medical officer having under observation or care any person who is suffering from tuberculosis in a communicable stage is of the opinion that the environmental conditions of such person are not suitable for proper isolation or control by any type of local quarantine as prescribed by the state health department, and that such person is unable or unwilling to conduct himself and to live in such a manner as not to expose members of his family or household or other persons with whom he may be associated to danger of infection, he shall report the facts to the department of health which shall forthwith investigate or have investigated the circumstances alleged. If it shall find that any such person's physical condition is a health menace to others, the department of health shall petition the circuit court of the county in which such person resides, or the judge thereof in vacation, alleging that such person is afflicted with communicable tuberculosis and that such person's physical condition is a health menace to others, and requesting an order of the court committing such person to one of the state tuberculosis institutions. Upon receiving the petition, the court shall fix a date for hearing thereof and notice of such petition and the time and place for hearing thereof shall be served personally, at least seven days before the hearing, upon the person who is afflicted with tuberculosis and alleged to be dangerous to the health of others. If, upon such hearing, it shall appear that the complaint of the department of health is well founded, that such person is afflicted with communicable tuberculosis, and that such person is a source of danger to others, the court shall commit the individual to an institution maintained for the care and treatment of persons afflicted with tuberculosis. Such person shall be deemed to be committed until discharged in the manner authorized in this section. The chief medical officer of the institution to which any such person has been committed, may discharge such person when in his judgment the person may be discharged without danger to the health or life of

41 others. He shall report immediately to the department  
42 of health each such discharge.

43 Every person committed under the provisions of this  
44 section shall observe all the rules and regulations of the  
45 institution. Any patient so committed may, by direction  
46 of the chief medical officer of the institution, be placed  
47 apart from the others and restrained from leaving the in-  
48 stitution so long as he continues to be afflicted with tuber-  
49 culosis and remains a health menace to other people.

50 Nothing in this section shall be construed to prohibit  
51 any person committed to any institution under the pro-  
52 visions thereof from applying to the supreme court of  
53 appeals for a review of the evidence on which such com-  
54 mitment was made. Nothing in this section shall be  
55 construed or operate to empower or authorize the board  
56 of control, the department of health, or chief medical of-  
57 ficer of the institution, or their representatives, to restrict  
58 in any manner the individual's right to select any method  
59 of tuberculosis treatment offered by the institution.

Sec. 6. *Employees Who Contract Tuberculosis.*—Any  
2 employee of a state tuberculosis institution who can prove  
3 to the satisfaction of the board of control that he has  
4 contracted tuberculosis in the course of and resulting  
5 from his employment in one of the institutions, shall be  
6 eligible for free treatment in a state-supported institu-  
7 tion for the treatment of the disease. He shall also re-  
8 ceive, from the funds appropriated to the institution in  
9 which he was employed, seventy-five per cent of his  
10 monthly salary, but in no event more than one hundred  
11 dollars per month, for a period not to exceed thirty  
12 months.

—C—

## CHAPTER 148

(House Bill No. 61—By Mr. Speaker, Mr. Amos, by request)

AN ACT to amend and reenact sections two and three, article  
five-a, chapter twenty-eight, of the code of West Virginia,

one thousand nine hundred thirty-one, as enacted by chapter one hundred three, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, and to further amend said article by adding thereto two new sections, numbered sections four and five, all relating to the West Virginia medium security prison.

[Passed February 21, 1947; in effect ninety days from passage. Approved by the Governor.]

#### **Article 5-a. West Virginia Medium Security Prison.**

##### **Section**

2. Management and control.
3. Warden; bond; duties; residence.
4. Laws applicable; exception.
5. Transfer of prisoners.

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

That sections two and three, article five-a, chapter twenty-eight, of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred three, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted and that said article be further amended by adding thereto two new sections, numbered sections four and five, all to read as follows:

Section 2. *Management and Control.*—The medium security prison, a state penitentiary, shall be managed, directed, and controlled as provided in chapter twenty-five of this code.

Sec. 3. *Warden; Bond; Duties; Residence.*—The warden shall be the chief executive officer of the medium security prison. He shall be appointed by the governor, by and with the advice and consent of the Senate, and shall give bond in such sum as the board of control may require. His duties shall be fixed by the board of control, and shall conform to, as nearly as possible, the duties heretofore assigned to the warden of the West Virginia penitentiary at Moundsville. The warden shall reside in or near the medium security prison.

Sec. 4. *Laws Applicable; Exception.*—The laws govern-



2 ing the West Virginia penitentiary at Moundsville shall,  
3 as nearly as may be, apply to the medium security prison,  
4 except that criminal proceedings against inmates in said  
5 medium security prison shall be in the circuit court of the  
6 county of Randolph.

Sec. 5. *Transfer of Prisoners.*—Upon the request of the  
2 warden of the West Virginia penitentiary or the warden  
3 of the medium security prison, the board of control may,  
4 in its discretion, order the transfer of prisoners from one  
5 institution to the other.

## CHAPTER 149

(Senate Bill No. 267—By Mr. Harmer)

AN ACT to amend and reenact section two, article one, and  
section two, article two, and section two, article three, and  
section two, article four, chapter twenty-eight of the code  
of West Virginia, one thousand nine hundred thirty-one,  
relating to state correctional institutions.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the  
Governor.]

### Article

1. Industrial School for Boys.
2. Industrial School for Colored Boys.
3. Industrial Home for Girls.
4. Industrial Home for Colored Girls.

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

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

### Article 1. Industrial School for Boys.

#### Section

2. Commitment to industrial school; age limits.

Section 2. *Commitment to Industrial School; Age Limits.*—Any white male youth between the ages of ten and eighteen years may be committed to the West Virginia industrial school for boys:

(a) By any juvenile or domestic relations court of competent jurisdiction for any of the causes, and in the manner prescribed in article two, chapter forty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-six, pertaining to delinquent children.

(b) By any court of record of competent jurisdiction of this state or of the United States for the districts of West Virginia in the manner prescribed in the next succeeding section of this article: *Provided, however,* That any white male youth who has been adjudged delinquent and placed on probation by a court of competent jurisdiction prior to his eighteenth birthday may be committed to the West Virginia industrial school for boys for any act or omission amounting to a violation of any condition of his probation which said act or omission occurred prior to the expiration of the period of his probation and prior to the attainment of his twenty-first birthday.

But no youth shall be committed to such school as an inmate thereof, who is of unsound mind, or imbecilic, or idiotic, or epileptic, or afflicted with tuberculosis. Before committing a boy to the industrial school for boys, the court committing him shall cause him to be examined by a full time county health physician duly authorized to practice medicine in this state, or if there be no full time county health physician, then by some physician duly authorized to practice medicine in this state designated by the juvenile court for that purpose, in order to ascertain whether such boy is sound in mind, or whether he is an imbecile, or an idiot, or afflicted with tuberculosis, epilepsy, syphilis, gonorrhea or any other infectious disease, and as to any other particulars deemed necessary by the juvenile court as may be prescribed in the rules and regulations of the West Virginia board of control.

41 In the event there is no full time health officer in the  
42 county or if there be one and the county health depart-  
43 ment is not adequately equipped or staffed to give the men-  
44 tal or physical examinations required in cases, in the  
45 opinion of the juvenile court, needing specialized diag-  
46 nostic services, the juvenile court may order the child to  
47 receive such physical or mental examinations from a duly  
48 qualified physician designated by the juvenile court, and  
49 it shall be the duty of the county court and the county  
50 court shall pay for such examinations and services upon  
51 receipt of an itemized statement along with the written  
52 order and approval of the juvenile court. Such examina-  
53 tion shall be made in private. The physician making such  
54 examination shall make out a statement respecting the  
55 particulars named in the form prescribed by the state  
56 health department and the West Virginia board of con-  
57 trol, which certificate of the physician shall accompany  
58 the commitment. If it shall appear from such examina-  
59 tion or otherwise that the boy is of unsound mind, or  
60 is imbecilic, or idiotic, or epileptic, or is afflicted with  
61 tuberculosis, epilepsy, syphilis, gonorrhea or has any in-  
62 fectious disease, he shall not be committed to the said  
63 industrial school, except as hereinafter provided; and  
64 the superintendent of the industrial school shall not re-  
65 ceive any boy into such school unless the commitment  
66 is accompanied by a certificate of health, signed by such  
67 physician, showing that he is not of unsound mind and  
68 is not an imbecile, or idiot, nor afflicted with tuberculo-  
69 sis, epilepsy, syphilis, gonorrhea, or any other infectious  
70 disease. If, upon such examination, it shall appear that  
71 the boy is suffering with tuberculosis, or a venereal dis-  
72 ease, in any stage, the judge committing such boy shall  
73 make an order committing him to the industrial school,  
74 and shall make an additional order directing that he  
75 first be transferred to one of the state hospitals for tuber-  
76 culosis, in case he is found to have tuberculosis, and in  
77 case he is found to be infected with any venereal disease,  
78 then to the Fairmont emergency hospital or the Welch  
79 emergency hospital for observation, treatment and de-  
80 tention, pending such treatment until cured of such vene-

81 real disease or rendered completely non-infectious there-  
82 from, after which time he shall be transferred to the  
83 industrial school at Pruntytown and be kept as provided  
84 by law: *Provided, however,* That any such boy who is  
85 feeble-minded shall be sent to the West Virginia train-  
86 ing school, or if there is no room in the training school,  
87 then to one of the state hospitals for the insane, and not  
88 to Fairmont emergency hospital or Welch emergency  
89 hospital. It shall be the duty of the superintendents of  
90 the hospitals at Fairmont or Welch to receive into said  
91 hospitals all boys who may be committed thereto as pro-  
92 vided herein, and to detain, care for, and treat such boys  
93 until cured or rendered completely non-infectious, and  
94 as soon thereafter as convenient arrange to transfer them  
95 to the industrial school at Pruntytown, except as herein  
96 provided.

97 The said board of control shall provide such suitable  
98 buildings or equipment at the said hospitals as may be  
99 necessary to carry out the provisions of this section in-  
100 cluding the expenses of transferring the boys to the  
101 industrial school for boys and their care and treatment  
102 at said hospitals.

103 It shall be the duty of the clerk of the committing court,  
104 upon the commitment of a boy who is infected with a  
105 venereal disease to the said hospitals, as provided herein,  
106 to notify the director of the bureau of venereal diseases  
107 of West Virginia of the fact, giving the name, age and  
108 address of the boy, and the disease from which he is suf-  
109 fering; and it shall be the duty of the superintendent of  
110 the hospital receiving such boy to notify the director  
111 when any boy is received and when he is transferred to  
112 the industrial school as provided herein.

113 In the case of boys found to be afflicted with venereal  
114 disease but who have been rendered non-infectious, but  
115 who have not by treatment as herein provided been com-  
116 pletely cured, the further treatment of such boys shall  
117 be continued by a competent doctor at the industrial  
118 school for boys, following the directions given by the  
119 superintendent of the Fairmont emergency hospital or  
120 the Welch emergency hospital; and the decision of the

121 superintendent of Fairmont emergency hospital or Welch  
122 emergency hospital that any boy is non-infectious and  
123 admissible to the industrial school for boys may be ques-  
124 tioned only by appeal to the commissioner of health of  
125 the state of West Virginia, who, in such a case, shall make  
126 due investigation and shall order such boy returned to  
127 the Fairmont emergency hospital or Welch emergency  
128 hospital for further treatment or order that such boy  
129 have his treatment continued at the industrial school for  
130 boys; and in all such cases where treatment is given or  
131 continued at the industrial school for boys, careful rec-  
132 ords shall be kept for each boy under treatment showing  
133 the dates of treatment and the progress of the case.

## **Article 2. Industrial School for Colored Boys.**

### **Section**

2. Industrial school for colored boys; general provisions.

Section 2. *Industrial School for Colored Boys; General Provisions.*—All of the provisions of sections two, three, four, five, six, seven, eight, nine, ten and eleven of article one of this chapter, and any amendment or amendments thereto, or reenactment thereof, shall apply to the West Virginia industrial school for colored boys; to commitments thereto, and the inmates thereof, to the same extent and with the same effect as if such sections expressly related to colored boys were set out in this article, except where commitment to the West Virginia training school, or one of the state hospitals for the insane is provided for a boy found to be feeble-minded, the Lakin state hospital shall be substituted therefor; and where commitment to the Fairmont emergency hospital or Welch emergency hospital of a boy found to be suffering from a venereal or other disease is provided, the Lakin state hospital shall be substituted therefor, in cases of colored boys, and the Denmar sanitarium for colored boys found to be afflicted with tuberculosis.

## **Article 3. Industrial Home for Girls.**

### **Section**

2. Commitment to industrial home.

Section 2. *Commitment to Industrial Home.*—Any white

2 girl, a legal resident of the state between the ages of  
3 twelve and eighteen years, may be committed to the  
4 West Virginia industrial home for girls:

5 (a) By any juvenile or domestic relations court of com-  
6 petent jurisdiction for any of the causes and in the man-  
7 ner prescribed in article two, chapter forty-nine of this  
8 code for dealing with delinquent children;

9 (b) By any court of record of competent jurisdiction of  
10 this state or of the United States for the districts of West  
11 Virginia, in the manner provided in the next succeeding  
12 section of this article.

13 But no girl shall be committed to such home as an in-  
14 mate thereof who is of unsound mind, or imbecilic, or  
15 idiotic, or epileptic: *Provided, however,* That any white  
16 girl who has been adjudged delinquent and placed on pro-  
17 bation by a court of competent jurisdiction prior to her  
18 eighteenth birthday may be committed to the West Vir-  
19 ginia industrial home for girls for any act or omission  
20 amounting to a violation of any condition of her probation  
21 which said act or omission occurred prior to the expira-  
22 tion of the period of her probation and prior to the at-  
23 tainment of her twenty-first birthday.

#### **Article 4. Industrial Home for Colored Girls.**

##### **Section**

2. Industrial home for colored girls; general provisions.

Section 2. *Industrial Home for Colored Girls; General Provisions.*—All of the provisions of sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one and twenty-two of article three of this chapter and any amendment or amendments thereto, or reenactment thereof, shall apply to the West Virginia industrial home for colored girls, to commitments thereto, and the inmates thereof, to the same extent and with the same effect as if such sections expressly related to colored girls and were set out in this article, except where commitment to the West Virginia training school or to one of the state hospitals for the insane is provided for a girl found to be feeble-minded, the Lakin

15 state hospital shall be substituted therefor; and where  
16 commitments to the Fairmont emergency hospital of a  
17 girl found to be suffering from a venereal or other infec-  
18 tious disease is provided for, the Lakin state hospital shall  
19 be substituted therefor.

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## CHAPTER 150

(Senate Bill No. 40—By Mr. Vickers, Mr. President, by request)

AN ACT to amend chapter twenty-eight of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new article, to be designated article five-c, establishing the West Virginia state prison for women, providing for its management and control and for the venue of trials of inmates therein.

[Passed February 12, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 5-c. West Virginia State Prison for Women.

#### Section

1. Establishment.
2. Management and control.
3. Superintendent; bond; duties; residence.
4. Laws applicable; exception.

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

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

- Section 1. *Establishment.*—The West Virginia state  
2 prison for women, a penal institution exclusively for fe-  
3 male prisoners, is hereby established at Pence Springs,  
4 Summers county, West Virginia, as a state penitentiary.  
5 As soon as practicable after the passage of this act, all  
6 female prisoners then incarcerated at the West Virginia  
7 penitentiary at Moundsville, West Virginia, shall be re-

8 moved therefrom to the West Virginia state prison for  
9 women.

Sec. 2. *Management and Control.*—The West Virginia  
2 state prison for women shall be managed, directed and  
3 controlled as provided in chapter twenty-five of this code.

Sec. 3. *Superintendent; Bond; Duties; Residence.*—The  
2 superintendent shall be the chief executive officer of the  
3 West Virginia state prison for women. She shall be ap-  
4 pointed by the governor, by and with the advice and con-  
5 sent of the Senate, and shall give bond in such sum as the  
6 board of control may require. Her duties shall be fixed by  
7 the board of control, and shall conform, as nearly as pos-  
8 sible, to the duties heretofore assigned to the warden of  
9 the West Virginia penitentiary at Moundsville. The super-  
10 intendent shall reside in or near the West Virginia state  
11 prison for women.

Sec. 4. *Laws Applicable; Exception.*—The laws govern-  
2 ing the West Virginia penitentiary at Moundsville shall,  
3 where applicable, apply to the West Virginia state prison  
4 for women, except that criminal proceedings against in-  
5 mates in the West Virginia state prison for women shall  
6 be in the proper court of the county of Summers.

## CHAPTER 151

(House Bill No. 379—By Mr. Flaccus)

AN ACT to amend and reenact section four, article twelve-a,  
chapter eleven of the code of West Virginia, one thousand  
nine hundred thirty-one, as enacted by chapter thirty-  
three, acts of the Legislature, first extraordinary session,  
one thousand nine hundred thirty-three, relating to taxes  
on motor vehicle carriers.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]



**Article 12-a. Privilege Tax on Certain Carrier Corporations.****Section**

4. Gross income of motor vehicle carrier, railroad car corporation, express company, pipe line corporation, telephone and telegraph corporation.

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

That section four, article twelve-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter thirty-three, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 4. *Gross Income of Motor Vehicle Carrier, Railroad Car Corporation, Express Company, Pipe Line Corporation, Telephone and Telegraph Corporation.*—Every motor vehicle carrier operating on the public highways of this state and every railroad car corporation, express corporation or company, pipe line corporation, telephone and telegraph corporation doing business in the state shall pay to the state an annual privilege tax for each calendar year for the privilege of doing business in the state. This tax shall be equal to the gross income from all business beginning and ending within the state multiplied by the respective rates as follows: Motor vehicle carriers, railroad car corporations, express corporations, or companies, one and one-half per cent; pipe line corporations, three and one-half per cent; telephone corporations two and three-fourths per cent; and telegraph corporations, five per cent.

No municipal corporation of the state shall levy a license or privilege tax on motor vehicle carriers taxed under this section.

## CHAPTER 152

(House Bill No. 161—By Mr. Hansbarger)

AN ACT to amend article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as

amended, by adding thereto a new section, to be designated section ten-a, providing for the exemption of the estates of certain deceased veterans from payment of forfeitures for the failure of the veterans to make returns of property for taxation.

[Passed February 24, 1947; in effect ninety days from passage. Approved by the Governor.]

### **Article 3. Assessments Generally.**

#### **Section**

10-a. Estate of certain deceased veterans exempt from payment of forfeiture for failure to return property for taxation.

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

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

Section 10-a. *Estate of Certain Deceased Veterans Ex-*  
2 *empt from Payment of Forfeiture for Failure to Return*  
3 *Property for Taxation.*—No forfeiture imposed by the  
4 provisions of the preceding section for failure to make  
5 a return of property for taxation for any year and dur-  
6 ing which the veteran hereinafter mentioned was in ac-  
7 tive service, from the year one thousand nine hundred  
8 forty-one to one thousand nine hundred forty-six, inclu-  
9 sive, shall be collected from the estate of any deceased  
10 veteran who died during any such year while he was  
11 in active service or within one year after his discharge  
12 therefrom.

## **CHAPTER 153**

(Com. Sub. for Senate Bill No. 93—Originating in the Senate Committee on Finance)

AN ACT to amend and reenact section three, article thirteen, chapter eleven of the code of West Virginia, one thousand

nine hundred thirty-one, as last amended by chapter ninety-five, acts of the Legislature, regular session, one thousand nine hundred forty-three, relating to tax on industrial loan companies.

[Passed March 8, 1947; in effect July 1, 1947. Approved by the Governor.]

### Article 13. Business and Occupation Tax.

#### Section

#### 3. Exemptions; non-exempt businesses.

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

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

#### Section 3. Exemptions; Non-Exempt Businesses.—

2 There shall be an exemption in every case of fifty dol-  
3 lars in amount of tax computed under the provisions of  
4 this article. A person exercising a privilege taxable  
5 hereunder for a fractional part of a tax year shall be en-  
6 titled to an exemption of the sum bearing the propor-  
7 tions to fifty dollars that the period of time the privilege  
8 is exercised bears to a whole year. Only one exemption  
9 shall be allowed to any one person, whether he exer-  
10 cises one or more privileges taxable hereunder.

11 The provisions of this article shall not apply to: (a)  
12 Insurance companies which pay the state of West Vir-  
13 ginia a tax upon premiums: *Provided, however,* That  
14 said exemption shall not extend to that part of the gross  
15 income of insurance companies which is received for the  
16 use of real property, other than property in which any  
17 such company maintains its office or offices, in this state,  
18 whether such income be in the form of rentals or royal-  
19 ties; (b) persons engaged in the business of banking:  
20 *Provided, however,* That said exemption shall not ex-  
21 tend to that part of the gross income of such persons  
22 which is received for the use of real property owned,

23 other than the banking house or building in which the  
24 business of the bank is transacted, whether such income  
25 be in the form of rentals or royalties; (c) non-profit  
26 cemetery companies organized and operated for the ex-  
27 clusive benefit of their members; (d) societies, organiza-  
28 tions and associations organized and operated for the ex-  
29 clusive benefit of their members and not for profit; (e)  
30 corporations, associations and societies organized and  
31 operated exclusively for religious or charitable purposes:  
32 *Provided, however,* That the exemptions of this section  
33 shall not apply to corporations or cooperative associations  
34 organized under the provisions of article four, chapter  
35 nineteen of the code of West Virginia, one thousand nine  
36 hundred thirty-one, as amended; (f) building and loan  
37 associations and federal savings and loan associations;  
38 (g) persons engaged in conducting the business of indus-  
39 trial loans under authority granted them by article seven,  
40 chapter thirty-one of the code of West Virginia, one  
41 thousand nine hundred thirty-one: *Provided, however,*  
42 That said exemption shall not extend to that part of the  
43 gross income of such persons which is received from the  
44 use of real property owned, other than the business house  
45 or building in which the business of the industrial loan  
46 company is transacted, whether such income be in the  
47 form of rentals or royalties.

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## CHAPTER 154

(House Bill No. 56—By Mr. Hansbarger)

AN ACT to amend and reenact sections three and twenty-two, article fourteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter one hundred forty-one, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to tax on gasoline.

[Passed March 7, 1947; in effect July 1, 1947. 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 sections three and 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 one hundred forty-one, acts of the Legislature, regular session, one thousand nine hundred forty-five, be amended and reenacted to read as follows:

*Section 3. Amount, Duration, Measure and Lien of*

2 *Tax; Notice of Discontinuance, etc., of Business.*—There  
3 is 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 pro-  
6 duced, purchased, sold or used in this state, which tax  
7 shall until July first, one thousand nine hundred forty-  
8 nine, be equivalent to five cents per gallon thereof, and  
9 shall be paid as hereinafter provided. On and after July  
10 first, one thousand nine hundred forty-nine, the tax here-  
11 in provided shall be equivalent to four cents per gallon.

12 A distributor, importer, or retail dealer shall use as the  
13 measure of the tax the gallonage produced, purchased,  
14 sold or used in this state (as provided in section four of  
15 this article). Gallonage shall be included in the measure  
16 of the tax by refiners and producers when such gallonage  
17 has been placed into any tank from which withdrawals  
18 are made for sales or transfers to any other person.

19 The excise tax imposed by this article shall be paid by  
20 the person first producing, or receiving in this state, the  
21 gallonage of gasoline which under this article shall form  
22 the measure of such tax; but in no case shall any such  
23 gallonage be used more than once in determining taxes  
24 due hereunder.

25 The taxes imposed by this article are in addition to all  
26 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  
32 shall be a debt due the state of West Virginia. It shall be  
33 a personal obligation of the taxpayer and shall be a lien  
34 in favor of the state of West Virginia upon all property  
35 and rights to property, whether real or personal, belong-  
36 ing to such taxpayer. The lien shall arise when a tax-  
37 payer fails to file his return and remit the tax at the  
38 time required by this article. Such lien shall not be valid  
39 or enforceable against a purchaser (including lien cred-  
40 itor) of real estate or personal property for a valuable  
41 consideration, without notice unless docketed in the office  
42 of the clerk of the county court as provided in sections one  
43 and two, article ten-c, chapter thirty-eight of the code of  
44 West Virginia, one thousand nine hundred thirty-one, as  
45 last amended and reenacted by chapter ninety-nine, acts  
46 of the Legislature, regular session, one thousand nine hun-  
47 dred forty-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  
54 notice shall give the date of discontinuance and in the  
55 event of a sale or transfer of the business, the date thereof  
56 and the name and address of the purchaser or transferee  
57 thereof; all taxes accruing under this article, but not yet  
58 due and payable under the provisions of this article shall,  
59 notwithstanding such provisions, become due and pay-  
60 able concurrently with such discontinuance, sale or trans-  
61 fer, and it shall be the duty of such distributor, importer  
62 or retail dealer to make a report and pay all such taxes,  
63 and to surrender to the tax commissioner the license cer-  
64 tificate theretofore issued, under the provisions of this  
65 article.

66 Unless the notice shall have been given to the tax com-  
67 missioner as above provided, such purchaser or transferee

68 shall be liable to the state of West Virginia for the amount  
69 of all taxes and penalties, under this article accrued  
70 against such distributor, importer or retail dealer so sell-  
71 ing or transferring his business, on the date of such sale  
72 or transfer, but only to the extent of the value of the  
73 property and business thereby acquired from such dis-  
74 tributor, importer or retail dealer.

Sec. 22. *Taxes to be Used for Road Purposes.*—All taxes  
2 collected under the provisions of this article shall be paid  
3 into the state treasury and shall be used only for the pur-  
4 pose of the construction, reconstruction, maintenance and  
5 repair of roads and highways, and for the payment of the  
6 interest and sinking fund on state bonds issued for road  
7 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-nine.

## CHAPTER 155

(Senate Com. Sub. for House Bill No. 271—Originating in the Senate  
Committee on Finance)

AN ACT to amend and reenact article sixteen, chapter eleven  
of the code of West Virginia, one thousand nine hundred  
thirty-one, as amended, by amending and reenacting sec-  
tion six and section nineteen thereof, relating to tax on  
nonintoxicating beer.

[Passed March 7, 1947; in effect July 1, 1947. Approved by the Governor.]

### Article 16. Nonintoxicating Beer.

#### Section

6. Barrel tax.
19. Revenue collected and paid to the state treasurer; administration expense.

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

That article sixteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by amending and reenacting section six and section nineteen, all to read as follows:

Section 6. *Barrel Tax.*—There is hereby levied and imposed, in addition to the license taxes hereinabove provided for, a tax of two dollars and seventy-five cents on each barrel of thirty-one gallons and in like ratio on each part barrel of nonintoxicating beer manufactured in this state for sale within this state, whether contained or sold in barrels, bottles or other containers, and a like tax is hereby levied and imposed upon all nonintoxicating beer manufactured outside of this state and brought into this state for sale within this state; but no nonintoxicating beer manufactured, sold or distributed in this state shall be subject to more than one barrel tax. The brewer manufacturing or producing nonintoxicating beer within this state for sale within this state shall pay the barrel tax on such nonintoxicating beer, and the distributor who is the original consignee of nonintoxicating beer manufactured or produced outside this state, or who brings such nonintoxicating beer into this state, shall pay the barrel tax on such nonintoxicating beer manufactured or produced outside of this state.

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



35 tributed for the preceding tax year or part thereof by  
36 such person.

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

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## CHAPTER 156

(Com. Sub. for House Bill No. 105—Originating in the House Committee on Finance)

AN ACT to amend chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by enacting and adding thereto two new articles to be designated articles seventeen and eighteen, relative to cigarette tax, to raise revenues by levying and imposing taxes upon the sale of cigarettes, to provide for the payment and collection of such tax, to provide for administration, and prescribing penalties for violation thereof.

[Passed March 7, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article

17. Excise Tax on Sale of Cigarettes.

18. Excise Tax on Use, Consumption or Storage for Consumption of Cigarettes.

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

That chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto two new articles designated as article seventeen and article eighteen, to read as follows:

**Article 17. Excise Tax on Sale of Cigarettes.****Section**

1. Definitions.
2. Purpose of tax; ratio.
3. Money received paid into general revenue fund.
4. How tax paid; stamps; how affixed and cancelled; violations.
5. Dealer's records.
6. Tobacco license requirements.
7. List of licensees.
8. Wholesale and retail dealers; separate places of business.
9. Power of tax commissioner; rules and regulations; records of wholesalers and retailers; metering in lieu of stamping; agents for metering; levy to collect tax.
10. Form of stamps; custody; discounts; security for payments.
11. Sales by deputies; fees; reports of deputies.
12. Possession of unstamped cigarettes; failure to produce invoices; penalties.
13. False records; penalties.
14. Preventing inspections; penalties.
15. Sales without affixing stamps; penalties.
16. Altering or counterfeiting stamps; penalties.
17. Penalties.
18. Seizure and sale of cigarettes by commissioner; forfeiture; collection of tax.
19. Issuance of warrant to sheriff by attorney general or commissioner; priority of tax.
20. Revocation of license.
21. Amounts allowed for administration.
22. No cigarette tax by municipalities or other governmental subdivisions.

**Section 1. Definitions.**—As used in this article:

- 2 "Person" includes firms and corporations;
- 3 "Wholesale dealer" includes only those persons who
- 4 sell cigarettes to licensed retail dealers for the purpose of
- 5 resale only;
- 6 "Retail dealer" includes every person other than a
- 7 wholesale dealer engaged in the business of selling cig-
- 8 arettes in this state, irrespective of quantity or amount
- 9 or number of sales thereof;
- 10 "Sale" includes exchange, barter, gift, offer for sale and
- 11 distribution, and excludes transactions in interstate or
- 12 foreign commerce;
- 13 "Cigarette" includes any roll for smoking made wholly
- 14 or in any part of tobacco irrespective of size or shape
- 15 and whether or not such tobacco is flavored, adulterated
- 16 or mixed with any other ingredient, the wrapper or cover
- 17 of which is made of paper or any other material except-
- 18 ing tobacco;

19 "Package" means the individual package, box or other  
20 container in or from which retail sales of cigarettes are  
21 normally made or intended to be made;

22 "Stamp" shall mean any cigarette stamps required un-  
23 der this article, or any meter or ink impression author-  
24 ized by the tax commissioner to serve as such stamp;

25 "Commissioner" means the state tax commissioner and  
26 where the meaning of the context requires, all deputies,  
27 and employees duly authorized by him.

Sec. 2. *Purpose of Tax; Ratio.*—For the purpose of pro-  
2 viding revenues for the general revenue fund of the state  
3 an excise tax is hereby levied and imposed on sales of  
4 cigarettes on and after midnight of the thirtieth day of  
5 June, one thousand nine hundred forty-seven, at the rate  
6 of one-half cent on each ten cigarettes or fractional part  
7 thereof. Only one sale of the same article shall be used in  
8 computing the amount of tax due hereunder.

Sec. 3. *Money Received Paid into General Revenue*  
2 *Fund.*—All moneys received by the state tax commis-  
3 sioner from the excise tax on sales of cigarettes under  
4 this article, less deductions therefrom allowed for the  
5 cost of administration and operation, and refunds pro-  
6 vided in section ten hereunder, shall be paid into the  
7 general revenue fund of the state and expended there-  
8 from in satisfaction of appropriations.

Sec. 4. *How Tax Paid; Stamps; How Affixed and*  
2 *Cancelled; Violations.*—The tax hereby imposed shall  
3 be paid by the purchase of stamps as provided in  
4 this article. No stamp shall be of a denomination  
5 of less than one-half cent. A stamp or stamps shall  
6 be affixed to or printed on each package of an  
7 aggregate denomination not less than the amount  
8 of the tax upon the contents thereof. The stamp  
9 or stamps, so affixed, shall be prima facie evidence  
10 of payment of the tax imposed by this article.  
11 Except as may be otherwise provided in the rules  
12 and regulations prescribed by the commissioner under  
13 authority of this article, and unless such stamps have  
14 been previously affixed, they shall be so affixed by

15 each wholesale dealer in this state, and cancelled, by  
16 writing across the face thereof the name of such whole-  
17 sale dealer and the date of cancellation, prior to the de-  
18 livery of any cigarettes to any retail dealer in this state.

19 Each retail dealer in this state shall immediately upon  
20 the receipt of any cigarettes at his place of business, so  
21 affix such stamps to each package, unless such stamps  
22 shall have been previously affixed thereto, and shall can-  
23 cel the same by writing or stamping his name and the  
24 date of cancellation across the face thereof, or shall im-  
25 mediately mark in ink on each unopened box, carton, or  
26 other container of such cigarettes the word "Received"  
27 and the month, day and hour of such receipt and shall  
28 affix his signature thereto. He shall in any event open  
29 such box, carton or other container and immediately so  
30 affix such stamps to each package therein, and cancel the  
31 same in the manner herein designated, within twenty-  
32 four hours after such receipt and prior to the sale of such  
33 cigarettes.

34 Whenever any cigarettes are found in the place of busi-  
35 ness of such retail dealer without the stamps so affixed  
36 and cancelled or not so marked as having been received  
37 within the preceding twenty-four hours, the prima facie  
38 presumption shall arise that such cigarettes are kept  
39 therein in violation of the provisions of this article.

Sec. 5. *Dealer's Records.*—From and after the first day  
2 of July, one thousand nine hundred forty-seven, and at  
3 the time of delivering cigarettes to any person each whole-  
4 sale dealer in this state shall make a true duplicate in-  
5 voice showing the date of delivery, the amount and value  
6 of each shipment of cigarettes delivered and the name  
7 of the purchaser to whom delivery is made, and retain  
8 the same for a period of two years, subject to the use  
9 and inspection of the tax commissioner.

10 Each wholesale and retail dealer in this state shall  
11 procure and retain invoices showing the amount and  
12 value of each shipment of cigarettes received by him after  
13 the first day of July, one thousand nine hundred forty-  
14 seven, the date thereof and the name of the shipper and

15 shall retain the same for a period of two years subject to  
16 the use and inspection of the commissioner.

17 In each case in which cigarettes are shipped into the  
18 state of West Virginia by public carrier, the railroad com-  
19 pany, express company or other public carrier transport-  
20 ing any shipment thereof shall file with the commissioner  
21 a copy of the freight bill within ten days after the de-  
22 livery in this state of each shipment when requested so  
23 to do by the tax commissioner.

Sec. 6. *Tobacco License Requirements.*—No person  
2 shall engage in the business of trafficking in cigarettes  
3 within this state without having first secured the license  
4 provided in section six, article twelve, chapter eleven  
5 of this code or having taken an assignment of such license  
6 in the manner permitted by law. Companies operating  
7 club and dining cars or other cars upon which cigarettes  
8 are sold shall comply with the requirements of this article  
9 with respect to the imposition of cigarette tax and affix-  
10 ing stamps to packages in which the same are sold in the  
11 state of West Virginia.

Sec. 7. *List of Licensees.*—The county clerk of each  
2 county shall prepare and certify to the tax commissioner  
3 a list of the names of all persons to whom he has issued  
4 tobacco licenses under section six, article twelve, chap-  
5 ter eleven of this code, quarterly or oftener as required  
6 by the tax commissioner, together with the business or  
7 residential address of such licensee as furnished to him.  
8 The tax commissioner is authorized to allow and pay to  
9 each county clerk such reasonable expense as the com-  
10 missioner may allow for preparing such list and charge  
11 the same as a part of the costs of the administration of  
12 this article, and payments so made to the clerk are to be  
13 paid by him into the general fund of his county. The tax  
14 commissioner shall prepare and keep alphabetical indices  
15 with respect to such licensees for use in connection with  
16 the administration of this article.

Sec. 8. *Wholesale and Retail Dealers; Separate Places  
2 of Business.*—No person in this state shall sell any cigar-  
3 ettes both as a retail dealer and as a wholesale dealer at

4 the same place of business. No wholesale dealer shall  
5 sell cigarettes to any person in this state other than to  
6 a licensed retail dealer, and no person in this state other  
7 than a licensed wholesale dealer shall sell cigarettes to  
8 a licensed retail dealer.

Sec. 9. *Power of Tax Commissioner; Rules and Regu-*  
2 *lations; Records of Wholesalers and Retailers; Metering*  
3 *in Lieu of Stamping; Agents for Metering; Levy to Col-*  
4 *lect Tax.*—The tax commissioner shall have power and  
5 authority to enforce and administer the provisions of  
6 this article and article eighteen of this chapter. The tax  
7 commissioner shall have authority to promulgate in ac-  
8 cordance with the provisions of this article such rules  
9 and regulations as he may deem necessary to carry out  
10 its provisions, and may adopt different detailed regula-  
11 tions applicable to diverse methods and conditions of  
12 sale of cigarettes in this state, prescribing, in each class  
13 of cases, upon whom, as between the wholesale dealer  
14 and the retail dealer, the primary duty of affixing stamps  
15 shall rest and the manner in which stamps shall be af-  
16 fixed. Each licensed dealer shall be furnished a copy of  
17 such regulations upon request. Any such rule or regula-  
18 tion so furnished, excusing a wholesale dealer from af-  
19 fixing stamps under the circumstances of the particular  
20 case, shall be a defense in the prosecution of such dealer  
21 for violation of section sixteen of this article.

22 All books, papers, invoices and records of any whole-  
23 sale or retail dealer in this state, whether or not required  
24 under the provisions of this article to be kept by him,  
25 showing his sales, receipts and purchases of cigarettes,  
26 shall at all times, during the usual business hours of the  
27 day, be open for the inspection of the tax commissioner  
28 for such purposes; and the tax commissioner or a deputy  
29 shall have power to investigate and examine the stock of  
30 cigarettes in and upon any premises where the same are  
31 placed, stored or sold, for the purpose of determining  
32 whether or not the provisions of this act are being obeyed.

33 The tax commissioner, if he shall determine that it is  
34 practicable to stamp packages of cigarettes by impression  
35 by means of a metering device, shall provide that such me-

36 tering device and its impression may be used in lieu of the  
37 stamps otherwise required by law. The tax commissioner  
38 shall authorize any wholesale or retail dealer to use any  
39 metering device approved by the tax commissioner, such  
40 device to be sealed by the tax commissioner or a deputy,  
41 or agent authorized by the commissioner, before being  
42 used, and which device shall be used only in accordance  
43 with the regulations prescribed by the tax commissioner.

44 Any wholesale or retail dealer authorized by the tax  
45 commissioner to affix stamps to packages of cigarettes by  
46 means of a metering device shall file with the tax commis-  
47 sioner a bond in such amount as the tax commissioner  
48 may designate, conditioned upon the payment of the tax  
49 upon the cigarettes so stamped.

50 Wholesale and retail dealers licensed to use said device  
51 shall make a monthly return to the tax commissioner and  
52 remit monthly the amounts of tax due the state: *Pro-*  
53 *vided, however,* That a wholesale or retail dealer may  
54 elect to pay the tax in advance where a metering device  
55 is used, in which event such dealer shall deliver the  
56 metering device to the tax commissioner, or his agent  
57 authorized for the purpose, who shall seal the meter in  
58 accordance with the prepayment so made. The commis-  
59 sioner may designate and authorize any bank or trust  
60 company with banking offices in any county of this state,  
61 to act as his deputy or agent for the purpose of perform-  
62 ing his duties with respect to sealing of metering de-  
63 vices in such county, and may require bond, and the  
64 action of any such deputy by its duly authorized officer  
65 or employees shall be as valid as though performed by  
66 the commissioner.

67 The tax commissioner shall have power to make an  
68 assessment against any retail or wholesale dealer who  
69 fails to return or makes a false or erroneous return. The  
70 tax commissioner may collect such assessment by levy,  
71 action at law, distraint or any other method of enforc-  
72 ing taxes which may be provided by law and shall have  
73 the right to file liens therefor in any county.

Sec. 10. *Form of Stamps; Custody; Discounts; Secu-*  
2 *rity for Payments.*—The tax commissioner shall design,

3 and procure stamps to be used as herein provided for,  
4 affixed and attached to containers, packages or receptacle  
5 of whatever kind that may be used for containing cigar-  
6 ettes. In the preparing of said stamp or stamps the same  
7 shall have printed or impressed thereon the words "State  
8 of West Virginia-Cigarette Tax Stamp" and such other  
9 words and figures as he may deem proper to show the  
10 value and denomination of the stamp or stamps. He shall  
11 also prescribe the form of impression to be placed upon  
12 any package or container of cigarettes by any metering  
13 device. The state tax commissioner shall collect the taxes  
14 provided for by this article.

15 Such stamps shall be kept in the custody of the state  
16 tax commissioner or such deputies as he may designate  
17 to sell the same. Such stamps shall be sold and ac-  
18 counted for at the face value thereof except that the  
19 tax commissioner may authorize sale thereof, or sell to  
20 wholesale or retail dealers in this state, or to wholesalers  
21 outside of this state such stamps at a discount of ten  
22 per cent of the face value of such stamps, the same  
23 to be allowed as a commission for affixing and cancel-  
24 ling such stamps; and excepting further that the tax com-  
25 missioner may, by like regulation so certified, authorize  
26 the delivery of stamps to wholesale or retail dealers in  
27 this state or to wholesale dealers outside of this state on  
28 credit, allowing the same discount as when sold for cash,  
29 if and when the purchaser shall file with the tax com-  
30 missioner a bond not exceeding fifteen thousand dol-  
31 lars, payable to the state of West Virginia, in such form  
32 and amount as the tax commissioner shall prescribe, and  
33 with surety or sureties to the satisfaction of the tax com-  
34 missioner, conditioned as he may require, to guarantee  
35 payment within thirty days for stamps so delivered with-  
36 in such period of time and by making of such reports and  
37 settlements as the tax commissioner may require. In the  
38 event a wholesale dealer in this state has aggregate  
39 purchases during thirty-day credit periods in excess  
40 of fifteen thousand dollars, such dealer may file with  
41 the tax commissioner a statement of excess credit  
42 requirement, together with a financial statement duly



43 verified by a certified public accountant or public ac-  
44 countant. Should the tax commissioner determine that  
45 the maximum bond together with such dealer's known  
46 assets are sufficient to insure payment to the state for  
47 stamps purchased, the tax commissioner shall authorize  
48 the delivery of stamps to such dealer on credit. The tax  
49 commissioner may, by further regulations, provide for  
50 cancelling, renewing or increasing such bond or for the  
51 substitution of the surety thereon. The tax commissioner  
52 shall redeem and pay for any unused or spoiled stamps  
53 on written verified requests made by the purchaser, his  
54 administrators, executors, successors or assigns. Such  
55 payments shall for purposes hereof be deemed to be re-  
56 funds of taxes improperly collected and shall be allowed  
57 and paid as part of the costs of administration of this  
58 article as in this article provided.

Sec. 11. *Sales by Deputies; Fees; Reports of Deputies.*—

2 The tax commissioner may appoint any sheriff, or any  
3 bank or trust company authorized to do business in, and  
4 doing business in this state, as his deputy for the purpose  
5 of selling such stamps, excepting that no such deputy  
6 shall be thereby authorized to sell the same at a dis-  
7 count or on credit, and excepting, further, that provisions  
8 hereof relating to sale of stamps shall not prevent any  
9 bank or trust company from acting as the commission-  
10 er's deputy for purposes of checking and sealing meters  
11 under other provisions of this article. The tax commis-  
12 sioner is hereby authorized to allow to any such deputy,  
13 authorized to sell stamps hereunder, a fee of one-half of  
14 one per cent of the face value of all stamps sold by  
15 such deputy, and pay the same from the proceeds of sales  
16 of stamps sold by such deputy and charge the same as a  
17 part of the costs of administration of this article. It shall  
18 be the duty of any such deputy to act as such deputy and  
19 all the powers and duties thereby imposed upon any  
20 such sheriff shall be deemed and considered to be within  
21 the scope of his office as county treasurer for all purposes.  
22 The state tax commissioner shall be responsible for the  
23 delivery of stamps to any county sheriff or other deputy

24 so appointed, and may prescribe such regulations and  
25 forms of receipts and reports as he may deem necessary  
26 and advisable for the transaction of the business of selling  
27 such stamps. Each such deputy shall remit monthly or  
28 oftener as requested, to the tax commissioner all moneys  
29 arising from the sale of such stamps by him, together  
30 with a report showing the names of the purchasers and  
31 the number of each denomination and the aggregate face  
32 value sold by each such deputy. Commissions or allow-  
33 ances retained or paid to sheriffs shall be paid by such  
34 sheriffs into the general fund of his county. The tax  
35 commissioner may sell stamps at his office.

Sec. 12. *Possession of Unstamped Cigarettes; Failure  
2 to Produce Invoices; Penalties.*—Whoever, being a retail  
3 dealer in this state, has in his possession packages of cig-  
4 arettes not bearing the stamps herein required to be af-  
5 fixed thereto after the first day of July, one thousand  
6 nine hundred forty-seven, unless such packages shall be  
7 in unbroken containers marked, pursuant to section four  
8 of this article, as received within the preceding twenty-  
9 four hours; or fails to produce, on demand by the com-  
10 missioner, invoices of all cigarettes purchased or received  
11 by him within two years prior to such demand, or on  
12 hand or received and purchased after the first day of  
13 July, one thousand nine hundred forty-seven, as the case  
14 may be, unless upon satisfactory proof it is shown that  
15 such non-production is due to providential or other causes  
16 beyond his control, shall be fined not less than twenty-  
17 five dollars nor more than five hundred dollars.

Sec. 13. *False Records; Penalties.*—Whoever makes  
2 any false entry upon an invoice, package or container  
3 of cigarettes required to be made under the provisions  
4 of this article, or with intent to evade the tax imposed  
5 by this article, presents any such false entry for the in-  
6 spection of the commissioner, shall be fined not less than  
7 twenty-five dollars nor more than five hundred dollars.

Sec. 14. *Preventing Inspections; Penalties.*—Whoever  
2 prevents or hinders the commissioner or his deputy from  
3 making a full inspection of any place where cigarettes

4 subject to the tax imposed by this state are sold or  
5 stored, or prevents or hinders the full inspection of in-  
6 voices, books, records or papers required to be kept un-  
7 der the provisions of this act, shall be fined not less than  
8 twenty-five dollars nor more than five hundred dollars.

Sec. 15. *Sales Without Affixing Stamps; Penalties.*—

2 Whoever sells cigarettes in this state without there hav-  
3 ing been first affixed to each individual package thereof  
4 the stamp or stamps required to be affixed thereto by  
5 this article shall be fined not more than five hundred  
6 dollars, or imprisoned in the county jail not more than  
7 ninety days, or both, in the discretion of the court.

Sec. 16. *Altering or Counterfeiting Stamps; Penalties.*

2 —Whoever falsely or fraudulently makes, forges, alters,  
3 or counterfeits any stamp prescribed by the commis-  
4 sioner under the provisions of this article, or causes or  
5 procures to be falsely or fraudulently made, forged, al-  
6 tered or counterfeited any such stamps, or knowingly  
7 or wilfully utters, publishes, passes or tenders as true,  
8 any such false, altered, forged or counterfeited stamps,  
9 or uses more than once any stamp provided for and re-  
10 quired by this article for the purpose of evading the tax  
11 hereby imposed shall be imprisoned in the penitentiary  
12 for a term of not less than one year nor more than five  
13 years.

Sec. 17. *Penalties.*—Whoever violates any of the pro-  
2 visions of this article or any lawful rule or regulation  
3 promulgated by the commissioner under authority of this  
4 article for the violation of which no penalty is provided  
5 by law, shall be fined not less than twenty-five dollars  
6 nor more than one hundred dollars.

Sec. 18. *Seizure and Sale of Cigarettes by Commis-*  
2 *sioner; Forfeiture; Collection of Tax.*—Whenever the  
3 commissioner or any of his deputies or employees author-  
4 ized by him for such purpose shall discover any cigar-  
5 ettes, subject to tax as provided by this article and upon  
6 which the tax has not been paid as herein required, the  
7 commissioner, or such deputy or employee is hereby au-

8   thorized and empowered forthwith to seize and take pos-  
9   session of such cigarettes, which shall thereupon be  
10   deemed to be forfeited to the state and the commissioner  
11   may within a reasonable time thereafter by a notice post-  
12   ed upon the premises where such seizure was made, or  
13   by publication in some newspaper having circulation in  
14   the county wherein such seizure is made, at least five  
15   days before the day of sale, sell such forfeited cigarettes,  
16   and from the proceeds of such sale shall collect the tax  
17   due thereon together with a penalty of fifty per centum  
18   thereof and the cost incurred in such proceedings, and  
19   pay the balance, if any, to the person in whose posses-  
20   sion such forfeited cigarettes were found: *Provided, how-*  
21   *ever,* That such seizure and sale shall not be deemed to  
22   relieve any person from fine or imprisonment provided  
23   herein for violation of any provision of this article. Such  
24   sale shall be made in the county where most convenient  
25   and economical. All moneys collected under the provi-  
26   sions of this section shall be paid into the state treas-  
27   ury and treated as other taxes collected under this article.

Sec. 19. *Issuance of Warrant to Sheriff by Attorney*  
2   *General or Commissioner; Priority of Tax.*—In addition  
3   to all other remedies for the collection of any taxes or  
4   fees due under the provisions of law, the attorney gen-  
5   eral, or the tax commissioner, may issue a warrant, di-  
6   rected to the sheriff of any county of the state, command-  
7   ing said sheriff to levy upon and sell the goods and chat-  
8   tels of such dealer, without exemption, found within  
9   his jurisdiction, for the payment of the amount of such  
10   delinquency with the added penalties and interest and  
11   the cost of executing the warrant; and to return such  
12   warrant to the tax commissioner, or attorney general, and  
13   to pay him the money collected by virtue thereof within  
14   the time to be therein specified which shall not be less  
15   than twenty nor more than sixty days from the date of  
16   the warrant. The sheriff to whom any such warrant shall  
17   be directed shall proceed upon the same in all respects  
18   and with like effect and in the same manner as prescribed  
19   by law in respect to executions issued against goods and  
20   chattels upon judgments by a court of record, and shall

21 be entitled to the same fees for his services in executing  
22 the warrant to be collected in the same manner.

23 The claim arising by reason of delinquent cigarette  
24 taxes shall be a preferred claim against all of the assets  
25 of the dealer, real and personal, with priority over all  
26 taxes except claims of the United States, real property  
27 taxes and other recorded state tax claims docketed accord-  
28 ing to law.

Sec. 20. *Revocation of License.*—The state tax com-  
2 missioner shall have the right to revoke any tobacco  
3 license, issued under article twelve, chapter eleven of  
4 this code, for violation by licensee thereunder of the pro-  
5 visions of this article, and article eighteen of this chap-  
6 ter. Persons whose licenses are revoked hereunder shall  
7 have the same rights of appeal provided in sections forty-  
8 seven and forty-eight of article twelve of this chapter.

Sec. 21. *Amounts Allowed for Administration.*—The  
2 state tax commissioner, in the administration and en-  
3 forcement of this article, shall be allowed to expend out  
4 of the taxes collected thereunder, or proceeds of sales of  
5 stamps a sum of not to exceed one and one-half  
6 per centum of the tax collected or stamps sold, and in  
7 addition to said one and one-half per centum all  
8 refunds allowed by this article and discounts allowed and  
9 commissions paid to deputies for the sales of stamps shall  
10 be charged as a part of the expense of administration.  
11 The tax commissioner is authorized to draw his warrants  
12 for any costs of administration authorized by this article  
13 upon the proper officer of the state in the manner pro-  
14 vided by law.

Sec. 22. *No Cigarette Tax by Municipalities or Other*  
2 *Governmental Subdivisions.*—No municipality or govern-  
3 mental subdivision shall levy any excise or other tax  
4 requiring cigarettes to be stamped, or requiring licenses  
5 for sale thereof other than licenses which may be im-  
6 posed as a result of licenses provided for in article twelve  
7 of this chapter.

## Article 18. Excise Tax on Use, Consumption or Storage for Consumption of Cigarettes.

### Section

1. Definitions.
2. Levy of tax on cigarettes.
3. Returns; remittance.
4. Assessment by commissioner.
5. Penalties for failure to make and file return.
6. Disposition of taxes collected.
7. Separability of provisions of act.

Section 1. *Definitions.*—As used in this article:

- 2 "Person" includes individuals, firms, partnerships, as-
- 3 sociations, joint stock companies and corporations, and
- 4 combinations or individuals of whatsoever form and
- 5 character.
- 6 "Commissioner" means the tax commissioner of West
- 7 Virginia.
- 8 "Storage" means and includes any keeping or reten-
- 9 tion of cigarettes for use or consumption in this state.
- 10 "Use" means and includes the exercise of any right
- 11 or power incidental to the ownership of cigarettes.
- 12 "Consumer" means any person who shall have title to
- 13 or possession of cigarettes in storage, for use or other
- 14 consumption in this state.

Sec. 2. *Levy of Tax on Cigarettes.*—For the purpose  
2 of providing revenue for the general fund of this state  
3 an excise tax is hereby levied on the use, consumption  
4 or storage for consumption of cigarettes by consumers  
5 in this state at the rate of one-half cent on each ten or frac-  
6 tional part thereof: *Provided, however,* That the tax  
7 shall not apply if the tax levied in article seventeen of  
8 this chapter has been paid.

Sec. 3. *Returns; Remittance.*—Every person who has  
2 acquired cigarettes for use, storage or other consumption  
3 subject to the tax herein levied shall, on or before the  
4 fifteenth day of the month following receipt of such cig-  
5 arettes, make and file with the commissioner a return  
6 showing the amount of cigarettes acquired, together with  
7 remittance of the tax thereon.

Sec. 4. *Assessment by Commissioner.*—In case any person required to pay the taxes levied by this article, fails to make remittance as herein required, the commissioner shall have the power to issue an assessment against such person, based on any information in his possession or which may come to his possession or knowledge.

All of the provisions of section nine and nineteen of article seventeen of this chapter, and other provisions of law, relating to assessments, distraints, levies, findings or appeals from assessments or findings, and the effect of assessments or findings before or after hearing, and before or after filing same in the office of the clerk of the county court, and all provisions of such sections relating to the procedure, authority, duties, liabilities, powers and privileges of the person assessed, the commissioner, the clerk of the county court and all other public officials shall be applicable to assessments made pursuant to the provisions of this article.

Sec. 5. *Penalties for Failure to Make and File Return.*—If any person required by this act to make and file a return with the commissioner, neglects or refuses to make such return, or neglects or refuses to pay the tax levied by this article, or neglects or refuses to pay any lawful assessment issued by the commissioner he shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars.

Sec. 6. *Disposition of Taxes Collected.*—The moneys received as taxes under the provisions of this article, shall be credited and held for the same purposes as taxes collected under article seventeen of this chapter.

Sec. 7. *Separability of Provisions of Act.*—The various provisions of the several sections of article seventeen and article eighteen, contained in this act, shall be deemed to be separable insofar as they or their meaning is not inseparably connected, and if any provisions of this act shall be held unconstitutional, such holding shall not af-

7   fect any of the other provisions of this act, and said arti-  
8   cles seventeen and eighteen, not inseparably connected  
9   in meaning and effect with such part so held unconsti-  
10   tutional.

—C—

## CHAPTER 157

(House Bill No. 412—By Mr. Burgess)

AN ACT to amend and reenact section seventeen, article three, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter one hundred seventeen, acts of the Legislature, regular session, one thousand nine hundred forty-one, relating to amounts an individual must pay for the redemption of real estate sold for taxes.

[Passed March 7, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article 3. Sale of Land for Taxes.

#### Section

17. Redemption from purchase by individual; receipt; list of redemption; lien.

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

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

Section 17. *Redemption from Purchase by Individual; Receipt; List of Redemption; Lien.*—After the sale, the former owner of, or any other person who was entitled to pay the taxes on, any real estate purchased by an individual, may redeem at any time before June first of the second year following the sale. In order to redeem, he must pay to the purchaser, his heirs or assigns, the following amounts: (1) The amount of pur-



9 chase money paid to the sheriff, with interest at the rate  
10 of twelve per cent per annum from the date of sale. (2)  
11 All other taxes thereon, which have since been paid by  
12 the purchaser, his heirs or assigns, with interest at the  
13 rate of twelve per cent per annum from the date of pay-  
14 ment. (3) Such additional expenses as may have been  
15 incurred in procuring the survey or report provided for  
16 in sections twenty-one and twenty-two of this article;  
17 and for the examination of the title in order to prepare  
18 the list of those to be served with notice and giving the  
19 notice required by sections twenty-three and twenty-four  
20 of this article, but the amount he shall be required to pay  
21 for the expenses incurred in preparing the list of those  
22 to be served with notice to redeem, required by sections  
23 twenty-three and twenty-four of this article, shall not ex-  
24 ceed fifteen dollars.

25 The person redeeming shall be given duplicate receipts  
26 for the payment. If the purchaser, his heirs or assigns,  
27 shall refuse or fail to sign and give such receipts when  
28 lawfully required to do so, he or they shall pay to the  
29 person redeeming twice the amount of such payment,  
30 which may be recovered by action on the case in any  
31 court of competent jurisdiction. One of such receipts  
32 shall be filed with the clerk of the county court on or  
33 before the day on which the right to redeem expires. The  
34 clerk shall endorse on both receipts the fact and time of  
35 such filing, and shall note the fact of redemption on his  
36 record of delinquent lands. If the receipt is not filed on or  
37 before such date, the redemption shall be void as to cred-  
38 itors and subsequent bona fide purchasers from the pur-  
39 chaser, his heirs or assigns. If, however, the receipt is filed  
40 after the date required, it shall operate as notice from and  
41 after the date of filing. In June of each year the clerk of  
42 the county court shall prepare and certify to the auditor  
43 a list of all redemptions from sales to individual pur-  
44 chasers, which have not been included in any former list.

45 Any person who, by reason of the fact that no provi-  
46 sion is made for partial redemption of real estate pur-  
47 chased by an individual, is compelled in order to protect  
48 himself to redeem all of such real estate when it belongs

49 in whole or in part to some other person, shall have a  
50 lien on the interest of such other person for the amount  
51 paid to redeem such interest. He shall lose his right to  
52 the lien, however, unless within thirty days after pay-  
53 ment he shall file with the clerk of the county court his  
54 claim in writing against the owner of such interest, to-  
55 gether with the receipt provided for in this or the follow-  
56 ing section. The clerk shall docket the claim on the judg-  
57 ment lien docket in his office and properly index the  
58 same. Such lien may be enforced as other judgment  
59 liens are enforced.

## CHAPTER 158

(Com. Sub. for House Bill No. 104—Originating in the House Committee on Finance)

AN ACT to amend chapter seventy-one, acts of the Legislature, one thousand nine hundred thirty-five, by amending and reenacting sections three, six and seven thereof, and by adding thereto a new section, to be designated section six-a, relating to the regulation and licensing of horse racing, and the operation of the pari-mutuel system of wagering within the state.

[Passed March 7, 1947; in effect ninety days from passage. Approved by the Governor.]

### \*Article 23. Horse Racing.

#### Section

3. Revenue from operation of pari-mutuel pools deposited to credit of general fund.
6. Per diem tax on tracks; tax on total contribution to pari-mutuel pools; when bond required.
- 6-a. Disposition of funds for payment of outstanding pari-mutuel tickets.
7. Only pari-mutuel system of wagering permitted; minors; supervisor.

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

That chapter seventy-one, acts of the Legislature, one thou-

\*Michle's Code, 1943, c. 19.

sand nine hundred thirty-five, be amended by amending and reenacting sections three, six and seven thereof, and by adding thereto a new section to be designated section six-a, to read as follows:

Section 3. *Revenue from Operation of Pari-Mutuel*

2 *Pools Deposited to Credit of General Fund.*—All revenue  
3 collected as taxes from the operation of pari-mutuel pools  
4 shall be paid directly to the treasurer of the state of West  
5 Virginia, and be deposited by him to the credit of the gen-  
6 eral fund of the state.

Sec. 6. *Per Diem Tax on Tracks; Tax on Total Contri-*

2 *bution to Pari-Mutuel Pools; When Bond Required.*—A  
3 person operating any horse race track one mile or more in  
4 length shall pay each day upon which horse races are  
5 run a license tax of five hundred dollars; any race track  
6 less than one mile in length shall pay for each day  
7 upon which horse races are run a license tax of two hun-  
8 dred fifty dollars: *Provided, however,* That the per diem  
9 tax shall not apply to horse shows or county fairs at which  
10 racing is conducted for not more than five days. Any  
11 person licensed by the commission to conduct racing and  
12 to permit and conduct pari-mutuel wagering under this  
13 act, shall in addition to the aforementioned tax, pay to  
14 the racing commission of the state of West Virginia a tax  
15 of three per cent of the total contribution to all pari-  
16 mutuel pools conducted or made at any and every race  
17 meeting licensed under this article. Said payments shall  
18 be made to the commission or its agent after the last race  
19 on each day and every day of each and every race meet-  
20 ing, and shall be made from all contributions to all pari-  
21 mutuel pools to each and every race of the day, which  
22 payment shall be deposited with the treasurer of the state  
23 of West Virginia.

24 Any person making application for a license for a meet-  
25 ing to be held on any track in the state of West Virginia,  
26 shall, when required, furnish satisfactory evidence to the  
27 commission of his or their ability to pay license fees,  
28 purses, salaries of officials and other expenses incident to  
29 the meeting. In the event the applicant is not able to fur-

30 nish such satisfactory evidence of his or their ability to  
31 pay such expenses and fees, then the commission may  
32 require bond or other adequate security for not more  
33 than four successive days before such license is issued.

Sec. 6-a. *Disposition of Funds for Payment of Outstanding Pari-Mutuel Tickets.*—All moneys held by any  
2 licensee for payment of outstanding pari-mutuel tickets,  
3 if not claimed within one year after the close of any  
4 race meeting, shall be turned over by the licensee to the  
5 commission within fifteen days after the expiration of such  
6 one-year period, and the licensee shall give such in-  
7 formation as the commission may require concerning  
8 such outstanding and unredeemed tickets. All such  
9 moneys shall be deposited by the commission with the  
10 treasurer of the state of West Virginia, to be kept by him  
11 in a special account to be known as “West Virginia Rac-  
12 ing Commission Special Account—Unredeemed Pari-  
13 mutuel Tickets.” The commission shall cause to be pub-  
14 lished one time, in some newspaper published of gen-  
15 eral circulation in the county in which such race meeting  
16 was held, a notice to the holders of such unredeemed tick-  
17 ets, notifying them to present such tickets for payment  
18 at the office of the commission in the city of Charleston  
19 within one year from the date of the publication of such  
20 notice.  
21

22 Any such tickets that shall not be presented for pay-  
23 ment within one year from the date of the publication  
24 of the notice shall thereafter be irredeemable, and the  
25 moneys theretofore held for the redemption of such  
26 tickets shall become the property of the state of West  
27 Virginia, and be deposited to the credit of the general  
28 fund of the state, and be expended in such manner as may  
29 be provided by law.

30 The costs for the publication of the notice provided for  
31 by this section shall be paid from the funds in the hands  
32 of the state treasurer collected from the license tax on  
33 pari-mutuel wagering, when not otherwise provided in  
34 the budget; but no such costs shall be paid unless an  
35 itemized account thereof, under oath, be first filed with  
36 the state auditor.

Sec. 7. *Only Pari-Mutuel System of Wagering Permitted; Minors; Supervisor.*—A person licensed by the commission shall permit only the pari-mutuel system of wagering within the enclosure at which horse racing is held, and the commission deducted by the licensee from the said pari-mutuel pools shall not exceed twelve per cent of the total pari-mutuel pools for the day, including the license fee of the gross amount handled hereinbefore provided for, and the breakage, which shall be made and calculated to the dime: *Provided, however,* That no holder of such license shall permit or allow any person under the age of twenty-one years to wager thereat, knowing or having reason to believe that such person is under the age of twenty-one years. Any violation of this proviso shall be punishable by revocation of license.

A supervisor of pari-mutuel pools shall be appointed by the commission and shall be compensated by said commission. Said supervisor shall have free access to the space or enclosure where the pari-mutuel pool system of wagering is conducted or calculated at any race meeting to which he shall be assigned for the purpose of ascertaining whether or not said licensee is retaining only the commission provided for in said section, and shall have general supervisory powers over the operation of the pari-mutuel pools. He shall also, for the same purposes only, have full and free access to all records and papers pertaining to such pari-mutuel pool system of wagering, and shall report to the commission in writing, under oath, whether or not the licensee has retained any commissions in excess of those permitted under this act.

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## CHAPTER 159

(Senate Bill No. 92—By Mr. McNeer, by request)

AN ACT to repeal section two-f, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter one hundred twenty,

acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to the tax on business of industrial loan companies.

[Passed March 8, 1947; in effect July 1, 1947. Approved by the Governor.]

**Section**

1. Repeal of tax on industrial loan companies.

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

- Section 1. *Repeal of Tax on Industrial Loan Companies.*
- 2 ies.—Section two-f, article thirteen, chapter eleven of the
  - 3 code of West Virginia, one thousand nine hundred thirty-
  - 4 one, as amended by chapter one hundred twenty, acts of
  - 5 the Legislature, regular session, one thousand nine hund-
  - 6 red thirty-nine, relating to the tax on the business of in-
  - 7 dustrial loan companies, be, and the same is, hereby re-
  - 8 pealed.

## CHAPTER 160

(Senate Bill No. 333—By Mr. Vickers, Mr. President).

AN ACT to amend and reenact section eight, article three, and all of article four, chapter eleven-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the collection and enforcement of property taxes, including the redemption of forfeited, and delinquent lands and the sale of forfeited, delinquent, escheated, and waste and unappropriated lands for the benefit of the school fund.

[Passed March 8, 1947; in effect from passage. Approved by the Governor.]

**Article**

3. Sale of Land for Taxes.
4. Sale of Lands for School Fund.

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

That section eight, article three, and all of 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:

### Article 3. Sale of Land for Taxes.

#### Section

8. Redemption from purchase by or forfeiture to the state; lands made irredeemable.

Section 8. *Redemption from Purchase by or Forfeiture to the State; Lands Made Irredeemable.*—The former owner of any real estate so purchased by the state, or any other person who was entitled to pay the taxes thereon, may redeem such real estate from the auditor at any time within eighteen months after the date of such purchase. Thereafter such real estate shall be irredeemable and subject to transfer or sale under the provisions of sections three and four, article thirteen of the constitution.

The former owner of any real estate forfeited to the state for nonentry, or any other person who was entitled to pay the taxes thereon, may redeem such real estate from the auditor at any time prior to its certification by the auditor for sale for the benefit of the school fund as provided in article four of this chapter, but such redemption shall be subject to any prior transfer under the provisions of section three, article thirteen of the constitution.

In order to redeem the person seeking redemption must pay to the auditor such of the following amounts as may be due: (1) The taxes, interest and charges for which the real estate was sold, with interest at the rate of twelve per cent per annum from the date of sale. (2) All taxes assessed thereon for the year in which the sale occurred, with interest at the rate of twelve per cent per annum from the date on which they became delinquent, except when such taxes are currently due and payable to the sheriff. (3) All taxes except those for the current year which would have been assessed thereon since the sale had the sale not occurred, or which, in the case of land forfeited for nonentry, would have been assessed thereon had the land been properly entered, with interest at the rate of twelve per cent per annum from the date

35 on which they would have become delinquent. (4) The  
36 fee provided by the following section for the issuance by  
37 the auditor of the certificate of redemption.

38 In computing the amount due under number three on  
39 real estate purchased by the state, the auditor shall use  
40 as the basis for computation the classification and valua-  
41 tion placed thereon by the assessor for each year since  
42 the sale. If such valuation and classification have not  
43 been made, he shall use the last valuation and classifica-  
44 tion appearing on the property books. In computing  
45 the amount due under number three on real estate for-  
46 feited for nonentry, the auditor shall use as the basis for  
47 computation such classification and valuation as may, at  
48 the request of the auditor or the person redeeming, be  
49 certified to the auditor by the assessor as the classifica-  
50 tion and valuation which in his opinion would be proper  
51 for each year of nonentry.

52 In the case of partial redemption, he must pay only  
53 that proportion of such taxes as are chargeable to the  
54 part or interest redeemed, but must pay all of the other  
55 charges and the fee required for redemption of the  
56 whole. However, redemption of an undivided interest  
57 included in a group assessment or of part of a tract or  
58 lot the whole of which was assessed in the name of a  
59 person other than the owner shall not be permitted until  
60 the applicable provisions of section nine or of section  
61 ten, article one of this chapter, have been complied with,  
62 except that instead of presenting the assessor's certificate  
63 to the sheriff as therein required, the person redeeming  
64 shall present it to the auditor, who, after making the  
65 necessary changes in the land book, and in the record of  
66 delinquent lands kept in his office, shall compute the  
67 taxes due on the part or interest redeemed.

#### **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; bond.
6. Land record in auditor's office.
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; lands heretofore certified made irredeemable and subject to transfer or sale.
10. Suit for sale of lands.
11. Parties defendant; right to intervene.
12. Summons; service; publication.
13. Averments and prayer of bill.
14. Procedure.
15. Certified list made exhibit and part of bill.
16. Separate order book to be kept by clerk.
17. Compensation of deputy commissioner; court costs.
18. Application for permission to redeem.
19. Application for dismissal of suit.
20. Procedure upon application for dismissal; order of reference.
21. Execution of reference; report.
22. Decree of sale.
23. Notice of sale.
24. Sale by deputy commissioner; receipt for purchase price; report to circuit court.
25. Return of purchase money.
26. Co-owner free to purchase at sale.
27. Purchase by former owner or by deputy commissioner and other officers prohibited.
28. Right of former owner to surplus proceeds.
29. Right of creditor of former owner of escheated land.
30. Application to set aside sale.
31. Confirmation of sale.
32. Deed to purchaser; record.
33. Title acquired; effect of irregularity.
34. Redemption by persons under disability.
35. Annual report of deputy commissioner to auditor.
36. Sheriff to keep proceeds in separate accounts; disposition.
37. Disposition of pending suits; former sales confirmed.
38. Liability of officer failing to perform duty; penalty.
39. Release of taxes and interest.
40. Separability.

Section 1. *Declaration of Legislative Purpose.*—In furtherance of the policy declared in section one, article three of this chapter, it is the intent and purpose of the Legislature to 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 the owner of land to have his land entered for taxation on the land books of the appropriate county,

4 have himself charged with the taxes due thereon, and  
5 pay the same. Land which for any five successive years  
6 shall not have been so entered and charged shall by operation  
7 of law, without any proceedings therefor, be forfeited  
8 to the state as provided in section six, article  
9 thirteen of the constitution, and shall thereafter be subject  
10 to transfer or sale under the provisions of sections  
11 three and four of such article.

Sec. 3. *Lands Subject to Sale Under This Article.*—

2 All lands purchased by the state for nonpayment of taxes  
3 and become irredeemable, or forfeited for nonentry, or  
4 escheated, or waste and unappropriated, title to which  
5 remains in the state, are subject to sale as provided in  
6 this article.

Sec. 4. *State Commissioner of Forfeited and Delin-*

2 *quent Lands.*—The state auditor shall ex officio be state  
3 commissioner of forfeited and delinquent lands. The  
4 term “auditor”, whenever used in this chapter in connection  
5 with the subject of forfeited, delinquent, escheated,  
6 or waste and unappropriated lands, shall be construed to  
7 refer to the auditor in his capacity as state commissioner  
8 of forfeited and delinquent lands.

9 The auditor is empowered, and it shall be his duty,  
10 through the land department in his office, to administer  
11 and carry into execution the laws with reference to such  
12 lands. The auditor on behalf of the state shall have  
13 power to hold and manage such lands, and to exercise all  
14 other powers incident to the general ownership of land.

Sec. 5. *Deputy Commissioners of Forfeited and Delin-*

2 *quent Lands; Bond.*—There shall be for each county in  
3 the state a deputy commissioner of forfeited and delin-  
4 quent lands. The auditor shall appoint such deputies as  
5 soon as may be after this act takes effect, and shall make  
6 new appointments from time to time thereafter whenever  
7 vacancies occur, or when in his judgment it is deemed  
8 advisable. The auditor may make rules respecting the  
9 tenure of deputy commissioners. In the absence of such  
10 rules, the deputy for each county shall, so long as he  
11 satisfies the requirements of this section in respect to  
12 professional qualifications and bonding, continue to act

13 without reappointment until the auditor designates his  
14 successor.

15 Appointments shall be limited to persons duly licensed  
16 to practice law in the state, and so far as possible shall be  
17 made for each county from among attorneys residing and  
18 practicing law therein. If, however, there is in the  
19 opinion of the auditor no qualified lawyer in a county  
20 available for appointment, he shall appoint a member of  
21 the bar of another county, preferably in the same judicial  
22 circuit.

23 Whenever in respect to any land the deputy commis-  
24 sioner, in his own judgment or in the opinion of the  
25 auditor, is disqualified because of his personal interest,  
26 or because of his representation of clients in matters  
27 affecting such land, the auditor may appoint a special  
28 deputy to deal with that land. All provisions of this  
29 article in respect to the rights, duties, liabilities and  
30 qualifications of the deputy commissioner shall be appli-  
31 cable to the special deputy.

32 The deputy commissioner shall be subject to the orders  
33 and control of the auditor, shall be accountable to him,  
34 and shall serve as his local agent within the county. It  
35 shall be his duty to do whatever is required of him by  
36 the auditor or by the provisions of this article. The  
37 deputy commissioner before entering upon his duties  
38 shall give a bond, with satisfactory corporate surety,  
39 conditioned upon the faithful performance of his duties  
40 and the payment of any forfeitures incurred. The  
41 penalty of such bond shall be not less than two thousand  
42 dollars nor more than ten thousand dollars, as the auditor  
43 may direct. The premium therefor, shall be paid by the  
44 auditor out of the operating fund for the land depart-  
45 ment in his office.

Sec. 6. *Land Record in Auditor's Office.*—The auditor  
2 shall prepare and keep in his office a permanent record of  
3 all forfeited, delinquent, escheated, and waste and un-  
4 appropriated lands. The record shall as to every tract  
5 or lot listed set forth the information available as to  
6 quantity, local description, and, except in the case of  
7 waste and unappropriated lands, the name of the former  
8 owner and the respective dates of nonentry and forfei-

9 ture, or delinquency and sale to the state, or escheat, as  
10 the case may be. The record shall be prima facie evi-  
11 dence of all matters required by this section to be set  
12 forth therein, including the correctness of the description  
13 of lands as forfeited, delinquent, escheated, or waste and  
14 unappropriated.

Sec. 7. *Operating Fund for Land Department in*  
2 *Auditor's Office.*—The auditor shall set up a special,  
3 operating fund for the land department in his office.  
4 He shall pay into such fund all redemption fees, all  
5 publication or other charges collected by him, if such  
6 charges were paid by or were payable to him, and all  
7 payments made to him by sheriffs under the provisions  
8 of section thirty-six of this article and by general  
9 receivers of the circuit court under the provisions of  
10 sections twenty-eight and twenty-nine of this article,  
11 except such part thereof as represents state taxes and  
12 interest and the surplus proceeds of the sale of any  
13 forfeited, escheated, or waste and unappropriated lands.  
14 All payments so excepted shall be credited by the auditor  
15 to the general school fund or other proper state fund.

16 The operating fund shall be used by the auditor to pay  
17 any balances due to deputy commissioners for services  
18 rendered under the provisions of this article, to pay fees  
19 due surveyors under the provisions of the following sec-  
20 tion, and to pay for the operation and maintenance of  
21 the land department in his office. The surplus over and  
22 above the amount of twenty-five thousand dollars, re-  
23 maining in the fund at the end of any fiscal year, shall be  
24 paid by the auditor into the general school fund.

Sec. 8. *Officers to Report Lands Subject to Sale.*—  
2 Whenever an assessor, or clerk of the county court, or  
3 county surveyor learns of the existence within the county  
4 of any forfeited land, he shall promptly report that fact  
5 to the auditor, together with his information relating  
6 thereto. The assessor, as escheator, shall likewise report  
7 all lands which escheat to the state.

8 Whenever the deputy commissioner learns of the exist-  
9 ence of any waste and unappropriated lands within his  
10 county, except lands lying under the bed of a navigable

11 stream, he shall direct the county surveyor, or some  
12 other competent surveyor, to make a survey, plat and  
13 report thereof, listing all discovered claims of title there-  
14 to. The deputy commissioner shall promptly transmit  
15 to the auditor a copy of the survey, plat and report. For  
16 his services in making the survey, plat and report, the  
17 surveyor shall be entitled to a fee of twenty-five dollars,  
18 and such additional compensation as the deputy commis-  
19 sioner may recommend and the auditor approve, to be  
20 paid out of the operating fund for the land department  
21 in the auditor's office.

Sec. 9. *Auditor to Certify List of Lands to Be Sold;*  
2 *Lands Heretofore Certified Made Irredeemable and Sub-*  
3 *ject to Transfer or Sale.*—On or after the first day of  
4 July and on or before the first day of December of each  
5 year, the auditor shall certify to the circuit court of each  
6 county a list of all lands in the county subject to sale  
7 under this article, except that forfeited, escheated, or  
8 waste and unappropriated lands may be certified by the  
9 auditor at any time after they are brought to his atten-  
10 tion. He shall note the fact of certification on the land  
11 record in his office. Upon completion of a list for certi-  
12 fication, a charge of one dollar shall be added to the  
13 taxes, interest and charges already due on each item  
14 listed, to cover the costs incurred by the auditor in the  
15 preparation of the list, and in the event of sale or redemp-  
16 tion, the same shall be collected and paid into the ope-  
17 rating fund provided for in this article.

18 Escheated lands and waste and unappropriated lands  
19 shall be listed separately. The list shall be arranged by  
20 districts and, except in the case of waste and unappro-  
21 priated lands, alphabetically by name of the former  
22 owner. The list shall state as to each item listed the  
23 information required by section six of this article to be  
24 set forth in the land record in the auditor's office, and  
25 shall specify as to each tract listed as forfeited or  
26 delinquent the amount of taxes and interest due or  
27 chargeable thereon on the date of certification, the publi-  
28 cation and other charges due, with interest, and the total  
29 currently due. The specification of taxes due or charge-  
30 able shall as to delinquent land commence with those for

31 nonpayment of which it was sold, and as to forfeited land  
32 with those properly chargeable to it for the first year of  
33 nonentry.

34 All items certified to each circuit court shall be num-  
35 bered consecutively, and all subsequent orders, entries,  
36 applications or proceedings under this article in respect  
37 to any item shall refer to its number and to the year of  
38 certification. All tracts, lots, or parcels sold to the state  
39 as a unit may be treated by the auditor as a single item  
40 for purposes of certification. Subject to the provisions  
41 of this section, the auditor shall prescribe a form for the  
42 list and shall provide in such form adequate space to  
43 show the subsequent history and final disposition of each  
44 item certified.

45 The list shall be made in quadruplicate. The auditor  
46 shall keep the original and shall send one copy to the  
47 clerk of the circuit court, one to the clerk of the county  
48 court, and one to the deputy commissioner. The clerk  
49 of the circuit court and the clerk of the county court  
50 shall each bind his copy in a permanent book to be  
51 labeled "Report of State Commissioner of Forfeited and  
52 Delinquent Lands", and the clerk of the county court  
53 shall note the fact of the certification of each item on his  
54 record of delinquent lands. Such copies shall become  
55 permanent records, and shall be preserved as such in the  
56 offices of the auditor, the county clerk and the circuit  
57 clerk.

58 All forfeited or delinquent lands heretofore certified  
59 by the auditor to the circuit courts under the provisions  
60 of former law may be redeemed at any time on or before  
61 the thirtieth day of June, one thousand nine hundred  
62 forty-seven, by paying to the sheriff upon order of the  
63 deputy commissioner the amount required for redemp-  
64 tion under the provisions of chapter one hundred forty,  
65 acts of the Legislature, regular session, one thousand  
66 nine hundred forty-five, and for this purpose and no  
67 other such provisions in respect to redemption shall re-  
68 main in full force and effect until the thirtieth day of  
69 June, one thousand nine hundred forty-seven. There-  
70 after, the deputy commissioner shall allow no further  
71 redemptions, and all such delinquent land shall on the

72 first day of July become irredeemable and subject to  
73 transfer or sale under the provisions of sections three  
74 and four, article thirteen of the constitution. Thereafter  
75 the deputy commissioner shall proceed as provided in  
76 this article to institute suits for the sale of lands here-  
77 tofore certified by the auditor which are subject to sale  
78 under the provisions hereof.

Sec. 10. *Suit for Sale of Lands.*—As soon as possible  
2 after receipt of the certified list, the deputy commis-  
3 sioner, shall institute in the circuit court of his county  
4 a suit or suits in chancery, in the name of the state of  
5 West Virginia, for the sale for benefit of the school fund  
6 of all the lands included in the list. Except as herein-  
7 after provided, not more than twenty-five items as certi-  
8 fied by the auditor shall be included in one suit, and  
9 whenever the deputy commissioner deems it advisable a  
10 suit may be instituted in respect to any number less than  
11 twenty-five. In the case of forfeited or delinquent un-  
12 divided interests in a single tract or lot, one suit may be  
13 brought for the sale of all such interests regardless of  
14 the number involved. In a suit for the sale of any  
15 escheated lands or of any waste and unappropriated  
16 lands, no lands of any other sort shall be included.

Sec. 11. *Parties Defendant; Right to Intervene.*—In  
2 a suit for the sale of any forfeited or delinquent land, the  
3 deputy commissioner shall name as a party defendant  
4 the former owner in whose name the land was forfeited,  
5 or was returned delinquent and sold, as the case may  
6 be.

7 In all such cases and in the case of escheated land or  
8 waste and unappropriated lands, the deputy commis-  
9 sioner shall make parties defendant all unknown claim-  
10 ants of any interest in such lands. He shall also name as a  
11 party defendant all other persons who, according to his  
12 knowledge however acquired, have or claim an interest  
13 in any of the land included in the suit.

14 Any person claiming an interest in any land included  
15 in a suit instituted under the provisions of the preceding  
16 section may intervene at any stage of the proceeding by

17 filing his petition in the suit stating what interest he  
 18 claims, and thereupon he shall become a party defendant  
 19 with the same rights as if he had originally been named  
 20 a defendant.

Sec. 12. *Summons; Service; Publication.* — The sum-  
 2 mons in such suits shall be in form and effect as follows:

3 SUMMONS IN CHANCERY

4 STATE OF WEST VIRGINIA:

5 To the Sheriff of \_\_\_\_\_ County, Greetings:

6 You are hereby commanded in the name of the state  
 7 of West Virginia to notify \_\_\_\_\_

8 (Here list all defendants in the suit.)

9 \_\_\_\_\_  
 10 \_\_\_\_\_ that the  
 11 state of West Virginia has instituted a suit for the sale,  
 12 for benefit of the school fund, of the lands listed in a  
 13 notice of the institution of such suit soon to be published  
 14 in one or more newspapers in the county pursuant to  
 15 an order of publication, and you are further commanded  
 16 to summon each of the persons named above, if he be  
 17 found in your bailiwick, to appear before the judge of  
 18 the circuit court of \_\_\_\_\_ County, at rules to  
 19 be held in the clerk's office of such court on the first Mon-  
 20 day in \_\_\_\_\_ next, to answer the bill in  
 21 chancery of the state of West Virginia, exhibited therein  
 22 against him, and show cause, if any there be, why a  
 23 decree should not be entered for the sale of such land or  
 24 lands in respect to which he claims any interest, and have  
 25 then and there this writ.

26 WITNESS: \_\_\_\_\_, Clerk of the  
 27 circuit court of \_\_\_\_\_ County, at the  
 28 courthouse thereof, on this the \_\_\_\_\_ day of  
 29 \_\_\_\_\_, 19\_\_\_\_, and in the \_\_\_\_\_  
 30 year of the state.

31 \_\_\_\_\_, Clerk  
 32 By \_\_\_\_\_, Deputy.

33 The summons shall be served on the named defendants  
 34 in the manner provided by law for the service of process  
 35 in other chancery suits. For serving the summons the  
 36 sheriff shall be paid the fee provided by law for service  
 37 of process in other chancery suits, and the costs thereof



38 shall be taxed to the state as part of its costs in the suit  
39 and paid as hereinafter provided.

40 The clerk of the circuit court shall at the same time  
41 that he issues such summons enter an order of publica-  
42 tion, without the filing of any affidavit by the deputy  
43 commissioner as required in other cases. Such order of  
44 publication shall give the style of the suit, as, State of  
45 West Virginia v. A. B., *et al.*; shall state that the object  
46 of the suit is to obtain a decree of the circuit court order-  
47 ing the sale for the benefit of the school fund of all lands  
48 included in the suit; shall list all such lands, setting forth  
49 as to each item its local description, the former owner in  
50 whose name the land was forfeited, or was returned  
51 delinquent and sold, or escheated, as the case may be,  
52 and the names of such other defendants as may be inter-  
53 ested therein; and shall require all the named defendants,  
54 and all unknown parties who are or may be interested  
55 in any of the lands included in the suit to appear within  
56 one month after the date of the first publication thereof  
57 and do what is necessary to protect their interests.

58 The order shall be published once a week for three  
59 successive weeks in two newspapers of opposite politics  
60 published in the county, if such there be; otherwise, this  
61 requirement shall be satisfied by such publication in any  
62 one newspaper published in the county, and if no news-  
63 paper is published in the county, or if none therein will  
64 publish the order at the legal rate or for the time re-  
65 quired, then in such newspaper of general circulation in  
66 the county as the clerk of the court in which the cause is  
67 pending may direct. The costs of such publication shall be  
68 at the rate provided for in section thirty-four, article one,  
69 chapter fifty-nine of this code, shall be charged ratably to  
70 each item listed in the suit, and shall be taxed to the state  
71 as part of its costs in the suit and paid as hereinafter  
72 provided.

73 In view of the fact that the state has absolute title to  
74 all forfeited land, to all land sold to the state for non-  
75 payment of taxes and become irredeemable, to all  
76 escheated land, and to all waste and unappropriated land,  
77 and must under the constitution have such an absolute  
78 title before the land may be sold for the benefit of the

79 school fund; and in view of the fact that the former  
80 owner of any such land, or any person claiming under  
81 him, has no further interest therein nor rights in respect  
82 thereto except such privilege of redemption as may be  
83 extended to him by the Legislature as an act of grace;  
84 and in view of the further fact that all parties known  
85 and unknown who may claim an interest in any of the  
86 lands included in the suit are given notice thereof by the  
87 order of publication provided for above; therefore, the  
88 Legislature deems it both expedient and necessary to  
89 provide that failure to name any such person as a defend-  
90 ant, or failure to serve the summons on any named de-  
91 fendant, shall in no wise affect the validity of any of the  
92 proceedings in the suit for the sale of the state's title to  
93 such land.

Sec. 13. *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 all land included in the suit is, as certified to the court by  
5 the auditor, subject to sale for the benefit of the school  
6 fund. The bill shall also contain a list of the lands in-  
7 cluded in the suit, setting forth as to each item certified  
8 the total amount due and indicating whether the land is  
9 forfeited, delinquent, escheated, or waste and unappro-  
10 priated, its certification number, location and descrip-  
11 tion, the name of the former owner, if any, and in the  
12 case of forfeited or delinquent land, the year of forfei-  
13 ture or sale to the state. Whenever possible the bill  
14 shall state as to each item, by reference to the former  
15 owner's source of title, that the particular land is the  
16 same land described, by reference or otherwise, in the  
17 deed or other writing dated \_\_\_\_\_,  
18 and recorded on page \_\_\_\_\_, volume \_\_\_\_\_, of the  
19 records in the county clerk's office. The bill shall also  
20 state that there may be unknown parties who have or  
21 claim an interest in the lands included in the suit and  
22 shall in respect to such unknown parties pray that all  
23 right, title and interest of such of them as fail to appear  
24 and defend be forever foreclosed and held for nought.

25 If the deputy commissioner learns that any land in-  
26 cluded in the suit is not subject to sale, the bill shall state

27 that fact and the reasons for the deputy commissioner's  
28 conclusion. In such case, the prayer of the bill shall be  
29 that the court enter an order dismissing the suit in  
30 respect to such land. In respect to all other land listed  
31 in the bill, the prayer shall be that the court enter a  
32 decree ordering the sale thereof for benefit of the school  
33 fund, as required by the constitution.

Sec. 14. *Procedure.*—Except as otherwise specifically  
2 provided in this article, all suits instituted under the  
3 provisions thereof shall in all respects be commenced,  
4 proceeded in, heard and determined in like manner as  
5 other suits in chancery.

Sec. 15. *Certified List Made Exhibit and Part of Bill.*—  
2 The list of lands certified to the circuit court by the audi-  
3 tor shall be considered to be an exhibit, and a part of the  
4 bill, in every suit for the sale of any lands included there-  
5 in. Such list shall be prima facie evidence of everything  
6 required by section nine of this article to be stated con-  
7 cerning each item, including the correctness of the  
8 description of any land as forfeited, delinquent,  
9 escheated, or waste and unappropriated.

Sec. 16. *Separate Order Book to Be Kept by Clerk.*—  
2 All orders or decrees made by the court in respect to  
3 proceedings for the sale of lands under this article shall  
4 be entered by the clerk of the court in a separate  
5 chancery order book, to be labeled "Chancery Order  
6 Book for Sales of Lands for School Fund". Every order  
7 shall specify the certification number of each item to  
8 which the order is applicable. The clerk of the court  
9 shall index the order book by the certification number of  
10 each item and by the name of the former owner.

Sec. 17. *Compensation of Deputy Commissioner;*  
2 *Court Costs.*—As compensation for his services, the  
3 deputy commissioner shall be entitled to an attorney's  
4 fee of ten dollars for each item included in the suit and  
5 in addition thereto a commission of ten per cent of all  
6 moneys paid for the redemption or purchase of any lands  
7 included in the suit. Such compensation, together with  
8 a charge of one dollar payable to the clerk of the circuit

9 court for each item included in the suit, shall be taxed to  
10 the state as part of its costs in the suit and shall be paid  
11 as hereinafter provided. Except as otherwise provided  
12 in this article, no other court costs shall be taxed.

Sec. 18. *Application for Permission to Redeem.*—The  
2 former owner of any forfeited or delinquent land, or any  
3 other person who was entitled to redeem such land under  
4 the provisions of section eight, article three of this  
5 chapter, may file his petition in such suit with the circuit  
6 court at any time before confirmation of sale thereof re-  
7 questing permission to redeem such land to the extent  
8 that title thereto remains in the state. The court may, by  
9 proper decree, permit the petitioner to redeem the land  
10 upon payment to the sheriff of the total amount of taxes,  
11 interest and charges properly due or chargeable thereon  
12 on the date of redemption and all court costs taxable in  
13 respect thereto under the provisions of this article, which  
14 amount shall be fixed by the court in its order.

15 Upon payment being made, the court shall enter a  
16 decree declaring the redemption of such land by the  
17 petitioner, so far only as the title thereto remains in the  
18 state, and dismissing the suit in respect thereto. If  
19 redemption was allowed after sale, the decree shall also  
20 direct the sheriff to return the purchase money to the  
21 purchaser. Such decree shall operate as a release of all  
22 the right, title and interest of the state in and to such  
23 land, but shall in no wise affect or impair any right, title  
24 or interest which any other person may have therein.

Sec. 19. *Application for Dismissal of Suit.* — Any  
2 person substantially interested may apply to the circuit  
3 court at any time before the sale for an order dismissing  
4 the suit for the sale of any land as to which he makes one  
5 or more of the following claims: (1) That all taxes  
6 due thereon were paid before sale to the state. (2)  
7 That the land was redeemed after sale to the state. (3)  
8 That the land has not escheated. (4) That the land  
9 has not been forfeited for nonentry. (5) That the  
10 land was sold to him at a former circuit court sale for the  
11 benefit of the school fund and has not thereafter been  
12 sold to the state for nonpayment of taxes nor forfeited

13 for nonentry. (6) That he has acquired title to the  
14 land by transfer under the provisions of section three,  
15 article thirteen of the constitution. The application  
16 shall state briefly the facts on which the claim is based.  
17 The deputy commissioner may also apply for such an  
18 order whenever on any of these grounds, or because the  
19 land is nonexistent or the subject of a duplicate assess-  
20 ment, he is satisfied that the land should not be sold.

Sec. 20. *Procedure upon Application for Dismissal;  
2 Order of Reference.*—Whenever application is made by  
3 the deputy commissioner for an order dismissing the suit  
4 as to any lands, he shall state briefly the reasons for his  
5 application, and the court, if satisfied therewith, shall  
6 enter the order applied for. No order of reference shall  
7 be made in respect to applications by the deputy com-  
8 missioner.

9 Whenever such an application is made by a person  
10 substantially interested, the court shall make a decree of  
11 reference as to the land involved, directing a commis-  
12 sioner in chancery to ascertain the facts and report to  
13 the court concerning the matter in dispute, unless the  
14 court by reason of the fact that the right claimed by the  
15 applicant is clearly established, or for some other reason,  
16 is of the opinion that an order of reference need not be  
17 made as to such land. The costs in connection with an  
18 application by an interested party and those in connec-  
19 tion with the reference to a commissioner in chancery,  
20 if a reference is made, shall be taxed to the applicant.

Sec. 21. *Execution of Reference; Report.* — Before  
2 proceeding to discharge his duties under the order of  
3 reference, the commissioner in chancery shall give at  
4 least ten days' notice in writing to all parties of record  
5 who have appeared in the suit and are interested in any  
6 of the lands included in the reference, of the time and  
7 place at which he will so proceed. Like notice shall be  
8 given to the deputy commissioner.

9 As soon after the hearing as may be practicable, the  
10 commissioner in chancery shall prepare and file his  
11 report with the court, and may do so as to one or more of  
12 the items included in the reference, without waiting to  
13 complete his report as to all of them.

14 Whenever, on the basis of the report of the commis-  
15 sioner in chancery, or otherwise, the court shall find that  
16 the applicant has established the claim made by him in  
17 respect to any land, the court shall enter an order dis-  
18 missing the suit as to such land. If the ground for  
19 entering the order was that the land was nonexistent or  
20 the subject of a duplicate assessment, the order shall  
21 also direct the assessor to drop the erroneous entry of  
22 such lands from the land books.

Sec. 22. *Decree of Sale.* — Whenever, in respect to  
2 any land included in the suit, the court shall find as  
3 alleged in the bill that the land is subject to sale for the  
4 benefit of the school fund, it shall enter a decree ordering  
5 that such land be sold by the deputy commissioner at  
6 public auction to the highest bidder. In every such  
7 decree the court shall fix the time and place of the sale.  
8 The court may order the sale of any one or more of the  
9 items included in the suit without waiting for the termi-  
10 nation of the suit as to other items included therein. It  
11 may also order that lands included in several suits be  
12 sold at the same sale.

Sec. 23. *Notice of Sale.* — In order to encourage  
2 attendance and bidding at the sale, the deputy commis-  
3 sioner shall, beginning at least fifteen days before the  
4 day on which the court has ordered that any lands be  
5 sold, publish once a week for two successive weeks a list  
6 of all such lands in two newspapers of opposite politics,  
7 if such there be in the county. At the head of the list  
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  
11 following described tracts or lots of land, or undivided  
12 interests therein, will unless sooner redeemed be sold  
13 for cash to the highest bidder. Such sale will be held at  
14

15 (here insert place of sale fixed by the court)  
16 beginning at ten o'clock in the morning on the.....  
17 day of....., 19.....

18 The list shall set forth as to each item its quantity,  
19 local description and, except in the case of waste and  
20 unappropriated lands, the name of the former owner.

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. 24. *Sale by Deputy Commissioner; Receipt for*  
2 *Purchase Price; Report to Circuit Court.*—On the day  
3 fixed by order of the court the deputy commissioner shall  
4 sell, in the manner specified in the notice of sale, each  
5 unredeemed item included in the published list of lands  
6 to be sold. If the sale is not completed on that day, it  
7 shall be continued from day to day until all the land has  
8 been offered for sale. If in respect to any land no bid is  
9 made, the deputy commissioner shall report that fact to  
10 the court, and the court may order that such land be  
11 sold at a 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 sales conducted by the deputy commissioner in  
15 his county. The sheriff or deputy shall issue to the  
16 purchaser a receipt for the purchase money. The  
17 auditor may prescribe the form of the receipt.

18 The deputy commissioner shall prepare a report for  
19 the circuit court which shall show what was done with  
20 respect to all lands ordered to be sold. The report shall  
21 state as to each item whether it was redeemed before sale  
22 or was sold, and the name of the purchaser and the  
23 amount of his bid. The report shall, within ten days  
24 after the sale, be filed with the clerk of the circuit court.

Sec. 25. *Return of Purchase Money.* — Whenever,  
2 after sale and before confirmation thereof, it is dis-  
3 covered that the land sold was nonexistent, or that it  
4 had been the subject of a duplicate or improper assess-  
5 ment, or was transferred to others under the provisions  
6 of section three, article thirteen of the constitution, 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 no  
13 costs shall be taxed in connection with such an applica-

14 tion. If the ground for entering the order was that the  
15 land was nonexistent or the subject of a duplicate assess-  
16 ment, the order shall also direct the assessor to drop the  
17 erroneous entry of such lands from the land books.

Sec. 26. *Co-owner Free to Purchase at Sale.* — Any  
2 co-owner, except a coparcener, in the absence of satis-  
3 factory proof of a fiduciary relationship, shall be entitled  
4 to purchase at the sale for his own account the interest  
5 of any, or all, of his co-owners in any real estate, without  
6 being required to hold such interest or interests under a  
7 constructive trust. There shall be a prima facie pre-  
8 sumption against the existence of any such constructive  
9 trust.

Sec. 27. *Purchase by Former Owner or by Deputy  
2 Commissioner and Other Officers Prohibited.* — It shall  
3 be illegal for a former owner, in whose name any real  
4 estate was forfeited or was sold to the state, his heirs or  
5 assigns, or his or their agent, to purchase such real estate  
6 at the sale. No deputy commissioner, sheriff, clerk of  
7 the county or circuit court, assessor, nor deputy of either  
8 shall directly or indirectly become the purchaser, or be  
9 interested in the purchase of any real estate at the sale.  
10 Any such person or officer so purchasing shall for each  
11 offense forfeit one hundred dollars, to be collected as  
12 other forfeitures are collected. The sale of any real  
13 estate to one of the persons or officers named in this sec-  
14 tion shall be voidable at the instance of any person hav-  
15 ing the right to redeem until such real estate reaches the  
16 hands of a bona fide purchaser.

Sec. 28. *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 including all court costs in the suit in which  
5 such land was sold, the sheriff shall pay such surplus to  
6 the general receiver of the circuit court. The former  
7 owner of such land, his heirs or assigns, shall be entitled  
8 to the surplus upon application to the circuit court, if  
9 application is made within two years after the sale. If  
10 no application is made within two years, the general



11 receiver shall pay such surplus to the auditor for credit  
12 to the general school fund.

Sec. 29. *Right of Creditor of Former Owner of  
2 Escheated Land.*—Any surplus proceeds arising from the  
3 sale of escheated land, after payment of all court costs in  
4 the suit in which such land was sold, shall be paid by the  
5 sheriff to the general receiver of the circuit court. Upon  
6 application to the court within a year after the sale, such  
7 surplus may be applied to the satisfaction of the claims  
8 of creditors of the decedent who had a lien on the land at  
9 the time of his death, or who, being general creditors,  
10 have properly proved their claims against his estate and  
11 have been unable to obtain payment out of the personalty.  
12 In the disposition of any such surplus, due preference  
13 shall be given to lien creditors over general creditors.  
14 Any part of such surplus thereafter remaining shall be  
15 paid to the auditor by the general receiver for credit to  
16 the general school fund.

Sec. 30. *Application to Set Aside Sale.*—Any person  
2 entitled under the provisions of section nineteen of this  
3 article to apply for an order dismissing the suit for the  
4 sale of any land, but who did not learn of the suit in time  
5 to protect himself by making such application, may, at  
6 any time after the sale and before confirmation thereof,  
7 apply to the court for an order setting aside the sale.  
8 Notice in writing of such application shall be given to  
9 the purchaser, his heirs or assigns. The notice shall  
10 state the facts which are the basis of the claimed right  
11 to have the sale set aside, shall require the person served  
12 to appear before the circuit court on a day to be named  
13 in the notice and protect whatever rights were acquired  
14 at the sale, and shall be served at least ten days before  
15 the day on which it is returnable. Until a decision on  
16 such application has been made, the sale may not be  
17 confirmed.

18 If the decision be in favor of the claimant, the court  
19 shall enter an order setting aside the sale, and directing  
20 the sheriff to return the purchase money to the pur-  
21 chaser, his heirs or assigns.

Sec. 31. *Confirmation of Sale.*—As soon as possible

2 after the report of the sale has been filed with the clerk  
3 of the circuit court, the deputy commissioner shall apply  
4 to the court for an order confirming the sale of each  
5 item sold. If satisfied that the purchase price was as  
6 high as might reasonably be expected, the court shall  
7 enter an order confirming the sale and directing the  
8 deputy commissioner to execute and deliver to the pur-  
9 chaser, or to his heirs or assigns, a deed as provided in  
10 the following section. If, however, the court shall be of  
11 the opinion that the purchase price was too low, it may  
12 refuse to confirm the sale and shall enter an order  
13 directing the deputy commissioner to sell the land again  
14 at his next sale and directing the sheriff to return the  
15 purchase money to the purchaser, his heirs or assigns.  
16 After the court has acted, the clerk shall promptly  
17 mark on his certified list whether the sale was confirmed  
18 or disaffirmed, giving the date of the order, and if the  
19 sale was confirmed, the date of the deed to the purchaser.

Sec. 32. *Deed to Purchaser; Record.* — Whenever  
2 ordered to do so as provided in the preceding section, the  
3 deputy commissioner shall make and deliver to the  
4 person entitled thereto a deed in form or effect as  
5 follows:

6 This deed made this.....day of.....,  
7 19....., by and between....., deputy  
8 commissioner of forfeited and delinquent lands for  
9 .....County, West Virginia, acting for  
10 and on behalf of the State of West Virginia, grantor, and  
11 .....purchaser, (or.....,  
12 heir, devisee or assignee of.....,  
13 purchaser,) grantee, witnesseth that

14 Whereas, In pursuance of and in accordance with the  
15 statutes in such case made and provided, the above  
16 named deputy commissioner did, by order of the Circuit  
17 Court of.....County, in the month of  
18 ....., in the year 19....., sell the real  
19 estate, hereinafter mentioned and described, for the  
20 benefit of the school fund, and.....,  
21 (here insert name of purchaser) for the sum of \$.....,  
22 that being the amount of purchase money paid, did be-  
23 come the purchaser of such real estate (or of an undivid-

24 ed.....interest in such real estate) which was  
25 sold to the state for nonpayment of taxes in the name of  
26 .....; (or which was forfeited to the state for  
27 nonentry in the name of.....; or which  
28 escheated to the state in the name of.....;  
29 or which was waste and unappropriated land belonging  
30 to the state;) and

31 Whereas, By an order entered on the.....day  
32 of....., 19....., in the case of State  
33 of West Virginia v. (A. B., et al.), the Circuit Court of  
34 ..... County has confirmed the sale  
35 and has ordered that this deed be executed.

36 Now, therefore, the grantor, for and in consideration  
37 of the premises and in pursuance of the statute, doth  
38 grant and convey unto ....., grantee,  
39 his heirs and assigns forever, the real estate so pur-  
40 chased, situate in the county of....., bounded  
41 and described as follows:.....  
42 .....

43 Witness the following signature:

44 .....

45 Deputy Commissioner of Forfeited and  
46 Delinquent Lands for.....County

47 After execution and acknowledgment of the deed, the  
48 deputy commissioner shall ascertain from the clerk of  
49 the county court the total amount of the transfer fee, the  
50 fee for recording the deed, and if the grantee was an  
51 assignee of the purchaser, the fee for recording the  
52 assignment, and shall notify the grantee to pay such  
53 amount to the clerk of the county court. Upon such  
54 payment and upon payment by the grantee to the deputy  
55 commissioner of a fee of five dollars as his compensation  
56 for preparing and executing the deed, the deputy com-  
57 missioner shall have the deed and the assignment, if any,  
58 recorded by the clerk of the county court before delivery  
59 of the deed to the grantee. The purchaser shall have the  
60 right to examine the deed before it is recorded.

61 The clerk of the county court shall index the deed in  
62 the grantor's index under the name of the former owner  
63 mentioned in the deed as well as under the name "State  
64 of West Virginia."

Sec. 33. *Title Acquired; Effect of Irregularity.* —

2 Whenever, under the provisions of this article, a pur-  
3 chaser, his heirs or assigns; shall have obtained a deed  
4 for any real estate from the deputy commissioner, he or  
5 they shall thereby acquire all such right, title and interest  
6 in and to the real estate as was, at the time of the execu-  
7 tion and delivery of the deed, vested in or held by the  
8 state or by any person who was entitled to redeem,  
9 unless such person is one who, being required by law to  
10 have his interest separately assessed and taxed, has done  
11 so and has paid all the taxes due thereon, or unless the  
12 rights of such person are expressly saved by the provi-  
13 sions of sections twenty-seven or thirty-four of this  
14 article. The deed shall be conclusive evidence of the  
15 acquisition of such title. The title so acquired shall  
16 relate back to the date of the sale.

17 Except as otherwise provided in this section, no irregu-  
18 larity, error or mistake in respect to any step in the  
19 procedure leading up to and including confirmation of the  
20 sale or delivery of the deed shall invalidate the title  
21 thereby acquired.

Sec. 34. *Redemption by Persons Under Disability.*—

2 In addition to and notwithstanding any other provisions  
3 of this article, any infant or insane person, the former  
4 owner of any forfeited or delinquent land which during  
5 such disability was sold as provided in this article, may  
6 redeem such land from the purchaser, his heirs or  
7 assigns, at any time before the expiration of one year  
8 after removal of the disability but in no event more than  
9 twenty years after the sale was confirmed, by paying  
10 such an amount as is required for redemption under the  
11 provisions of section thirty-five, article three of this  
12 chapter.

13 As an alternative to the right of redemption provided  
14 by this section, such infant or insane person may elect  
15 to redeem forfeited land as provided in section six,  
16 article thirteen of the constitution.

Sec. 35. *Annual Report of Deputy Commissioner to*

2 *Auditor.*—In December of each year the deputy commis-  
3 sioner shall prepare a report, on forms to be furnished  
4 by the auditor, of all lands previously certified to the

5 circuit court of his county, which have been redeemed,  
6 sold, held not liable for sale, or otherwise finally disposed  
7 of since his last annual report. The report shall as to  
8 each item show the year it was certified and its certifica-  
9 tion number.

10 Such report shall be prepared in quintuplet. On or  
11 before the last day of December the original shall be sent  
12 to the auditor, one copy to the clerk of the county court,  
13 and one copy to the clerk of the circuit court, each of  
14 whom shall make the necessary notations on his certified  
15 list. The fourth copy shall be sent to the assessor, who  
16 shall make the necessary changes in his land books, and  
17 the fifth copy shall be retained by the deputy commis-  
18 sioner. For failure to make the report required by this  
19 section, the deputy commissioner shall forfeit one  
20 hundred dollars.

Sec. 36. *Sheriff to Keep Proceeds in Separate*  
2 *Accounts; Disposition.*—The sheriff shall keep in a sepa-  
3 rate fund the proceeds of all redemptions and sales paid  
4 to him under the provisions of this article, and shall  
5 keep a separate account of the proceeds of the sales and  
6 redemptions of all lands included in each suit. Out of  
7 the total proceeds of each suit he shall in the order of  
8 priority stated below credit the following amounts, for  
9 payment as hereinafter provided: (1) To the clerk  
10 of the circuit court, such part of the court costs taxed in  
11 the suit as represents the publication charges incurred  
12 under the provisions of sections twelve and twenty-three  
13 of this article, and the charge of one dollar per item  
14 provided for in section seventeen of this article. (2)  
15 To the sheriff, such part of the court costs taxed in the  
16 suit as represents the fees due him under the provisions  
17 of section twelve of this article. (3) To the deputy  
18 commissioner, such part of the court costs as represents  
19 compensation due him under the provisions of section  
20 seventeen of this article. (4) To the auditor, such  
21 part as represents any charges which were paid by or  
22 which are payable to him. (5) To the general county  
23 fund, such part as represents costs paid out of such fund  
24 for publishing the sheriff's delinquent and sales list.  
25 (6) To the auditor for credit to the general school

26 fund, such part as represents all taxes and interest  
27 chargeable in respect to any forfeited lands, and all  
28 surplus proceeds of the sale of any waste and unappro-  
29 priated lands.

30 The balance, if any, of the proceeds of the lands in-  
31 cluded in each suit shall be prorated among the various  
32 taxing units on the basis of the total amount of taxes due  
33 them in respect to the lands that were sold or redeemed.  
34 The amounts so determined shall be credited as follows,  
35 for payment as hereinafter provided: (1) To the  
36 auditor, such part as represents state taxes and interest.  
37 (2) To the fund kept by the sheriff for each local taxing  
38 unit, such part as represents taxes and interest payable  
39 to such unit.

40 All amounts which under the provisions of this section  
41 were so credited by the sheriff to the clerk of the circuit  
42 court, to the sheriff, and to the deputy commissioner shall  
43 be paid to them quarterly; those credited to the auditor  
44 shall be paid to him semiannually; and those credited to  
45 the various local taxing units shall be transferred semi-  
46 annually by the sheriff to the fund kept by him for each  
47 such taxing unit.

48 The tax commissioner, in cooperation with the land  
49 department in the auditor's office, shall prescribe the  
50 form of the records to be kept by the sheriff for the  
51 purposes of this section, and the method to be used by  
52 him in making the necessary pro rata distributions.

Sec. 37. *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.  
5 Any circuit court in which such a suit is pending shall  
6 make all necessary orders for such discontinuance and  
7 dismissal.

8 All sales, conveyances, and orders or decrees adjudi-  
9 cating title made in any former circuit court suits for  
10 the sale of lands for the benefit of the school fund are  
11 hereby confirmed. Whatever right, title or interest the  
12 state had in any such lands shall be deemed to have  
13 vested in the purchaser, grantee or transferee thereof.  
14 Notwithstanding any irregularity, error or mistake in

15 such suit or in the tax enforcement proceedings prior  
16 thereto, such title shall not hereafter be subject to  
17 attack. This paragraph is enacted in furtherance of  
18 the purpose and policy set forth in section one, article  
19 three of this chapter.

Sec. 38. *Liability of Officer Failing to Perform Duty;*  
2 *Penalty.* — If the deputy commissioner or any other  
3 officer mentioned in this article shall refuse to perform  
4 any duty required of him, he shall forfeit not less than  
5 twenty-five nor more than one hundred dollars for each  
6 such failure or refusal, unless a different penalty is  
7 imposed by the provisions of this article.

Sec. 39. *Release of Taxes and Interest.* — In view of  
2 the great uncertainty and confusion existing in the  
3 auditor's records of delinquent lands for the years prior  
4 to one thousand nine hundred thirty-six, due to the in-  
5 sufficient and inadequate reports by former school land  
6 commissioners and the doubtful status of delinquent or  
7 forfeited undivided interests, the Legislature finds that  
8 it will be impossible to provide a speedy method for dis-  
9 posing of delinquent and forfeited lands and for convey-  
10 ing to the purchasers of such lands a secure title, unless  
11 some action is taken to prevent the certification and sale  
12 of lands which were formerly redeemed from or were  
13 sold by such commissioners, but which appear on the  
14 auditor's records, as unsold and unredeemed. Where-  
15 fore, it is the purpose and intent of the Legislature to  
16 release all taxes, interest and charges that may be due  
17 on any real estate in this state for the assessment year  
18 one thousand nine hundred thirty-five and for all years  
19 prior thereto, and all such taxes, interest and charges  
20 are hereby declared to be fully paid. If all the taxes due  
21 on any land for the assessment year one thousand nine  
22 hundred thirty-six and for all years subsequent thereto  
23 have been paid, all title to any such land theretofore  
24 acquired by the state 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 certi-  
28 fication to the circuit court as provided in section nine of  
29 this article, shall use the assessment year one thousand

30 nine hundred thirty-six as the initial year for which  
31 taxes are to be charged. He shall specify the year in  
32 which the state acquired title, but if such year was prior  
33 to one thousand nine hundred thirty-six, shall charge no  
34 taxes for any year prior thereto, nor shall he charge any  
35 interest, fees, penalties or costs for any years prior to  
36 the year one thousand nine hundred thirty-six, but all  
37 interest, fees, penalties and costs provided by law shall  
38 be charged for all years subsequent to the year one  
39 thousand nine hundred thirty-five.

40 Nothing contained in this section shall be held or  
41 construed to affect in any way the right of a person  
42 claiming title to any land by transfer, as provided in  
43 section three, article thirteen of the constitution.

Sec. 40. *Separability.*—If part of this article is de-  
2 clared unconstitutional, such declaration shall in no way  
3 affect any other part thereof.

## CHAPTER 161

(Senate Bill No. 324—By Mr. Jackson)

AN ACT authorizing the department of unemployment com-  
pensation to refund an erroneous payment made by D. W.  
Lacy.

[Passed March 8, 1947; in effect ninety days from passage. Became a law without  
the approval of the Governor.]

### Section

1. Department of unemployment compensation authorized to refund  
erroneous payment.

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

Section 1. *Department of Unemployment Compensation Authorized to Refund Erroneous Payment.*—The de-  
2 partment of unemployment compensation is hereby au-  
3 thorized if it finds it proper to make a refund to D. W. Lacy  
4 of nine hundred eight dollars and forty-four cents, the net  
5 proceeds of the amount erroneously paid by him in April,  
6 one thousand nine hundred forty-five, in satisfaction of an  
7



8 execution issued on two judgments in favor of the depart-  
9 ment against the Peytona Lumber company, incorporated,  
10 and applied by the department on the delinquent account  
11 of the Peytona Lumber company, incorporated; such pay-  
12 ment having been made by said D. W. Lacy under the  
13 mistaken belief that payment of these judgments was  
14 necessary in order to protect his rights in certain personal  
15 property purchased by him from a trustee under a deed  
16 of trust on such property, whereas in fact the property so  
17 purchased was not subject to any lien on account of such  
18 judgments, the Legislature finding that this refund is  
19 necessary to discharge a moral obligation of the state.

## CHAPTER 162

(Senate Bill No. 270—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact section three, article one; section six-a, article two; sections five and six, article four; sections seven, ten and ten-b, article five; sections four and ten, article six; sections eight, nine, ten and fifteen, article seven; and sections eleven and seventeen, article ten, 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 of West Virginia, second extraordinary session, one thousand nine hundred thirty-six, as amended, relating to unemployment compensation.

[Passed March 8, 1947; in effect April 1, 1947. Approved by the Governor.]

### Article

1. Department of Unemployment Compensation.
2. The Director of Unemployment Compensation.
4. Board of Review.
5. Employer Coverage and Responsibility.
6. Employee Eligibility; Benefits.
7. Claim Procedure.
10. General Provisions.

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

That section three, article one; section six-a, article two; sections five and six, article four; sections seven, ten and ten-b,

article five; sections four and ten, article six; sections eight, nine, ten and fifteen, article seven; and sections eleven and seventeen, article ten, 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 a twelve month period ending with June thirty of any calendar year.

“Average annual payroll” means the average of the last three annual payrolls of an employer.

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.

“Base period employer” means any employer who in the base period for any benefit year paid wages to an individual who filed claim for unemployment compensation within such benefit year.

“Base period wages” means wages paid to an individual during the base period by all his base period employers.

“Benefit year” with respect to an individual means the one year period beginning with the day on which he filed a valid claim for benefits, and thereafter the one year period beginning with the day on which such individual

30 next files a valid claim for benefits after the termination  
31 of his last preceding benefit year. An initial claim for  
32 benefits filed in accordance with the provisions of this  
33 chapter shall be deemed to be a valid claim within the  
34 purposes of this definition if the individual has been paid  
35 wages in his base period sufficient to make him eligible  
36 for benefits under the provisions of this chapter.

37 "Benefits" means the money payable to an individual  
38 with respect to his unemployment.

39 "Board" means board of review.

40 "Calendar quarter" means the period of three con-  
41 secutive calendar months ending on March thirty-one,  
42 June thirty, September thirty, or December thirty-one,  
43 or the equivalent thereof as the director may by regula-  
44 tion prescribe.

45 "Computation date" means June thirty of the year im-  
46 mediately preceding the January one on which an em-  
47 ployer's contribution rate becomes effective.

48 "Director" means the unemployment compensation  
49 director.

50 "Employing unit" means an individual, or type of or-  
51 ganization, including any partnership, association, trust,  
52 estate, joint stock company, insurance company, corpora-  
53 tion (domestic or foreign), or the receiver, trustee in  
54 bankruptcy, trustee or successor thereof, or the legal  
55 representative of a deceased person, which has on Janu-  
56 ary first, one thousand nine hundred thirty-five, or sub-  
57 sequent thereto, had in its employ one or more individ-  
58 uals performing service within this state.

59 "Employer" means an employing unit which for some  
60 portion of a day, not necessarily simultaneously, in each  
61 of twenty different calendar weeks, which weeks need not  
62 be consecutive, within either the current calendar year,  
63 or the preceding calendar year, has had in employment  
64 eight or more individuals irrespective of whether the  
65 same individuals were or were not employed on each of  
66 such days, or who or which is or becomes a liable em-  
67 ployer under any federal unemployment tax act.

68 "Employment", subject to the other provisions of this  
69 section, means:

70 (1) Service, including service in interstate commerce,  
71 performed for wages or under any contract of hire, writ-  
72 ten or oral, express or implied.

73 (2) The term "employment" shall include an individ-  
74 ual's entire service, performed within or both within and  
75 without this state if: (a) The service is localized in this  
76 state; or (b) the service is not localized in any state but  
77 some of the service is performed in this state and (i) the  
78 base of operations, or, if there is no base of operations,  
79 then the place from which such service is directed or con-  
80 trolled, is in this state; or (ii) the base of operations or  
81 place from which such service is directed or controlled is  
82 not in any state in which some part of the service is per-  
83 formed but the individual's residence is in this state.

84 (3) Service not covered under paragraph two of this  
85 subsection and performed entirely without this state,  
86 with respect to no part of which contributions are re-  
87 quired and paid under an unemployment compensation  
88 law of any other state or of the federal government, shall  
89 be deemed to be employment subject to this chapter if  
90 the individual performing such services is a resident of  
91 this state and the director approves the election of the  
92 employing unit for whom such services are performed  
93 that the entire service of such individual shall be deemed  
94 to be employment subject to this chapter.

95 (4) Service shall be deemed to be localized within a  
96 state, if: (a) The service is performed entirely within  
97 such state; or (b) the service is performed both within  
98 and without such state, but the service performed  
99 without such state is incidental to the individual's  
100 service within this state. For example, is temporary  
101 or transitory in nature or consists of isolated trans-  
102 actions.

103 (5) Services performed by an individual for wages  
104 shall be deemed to be employment subject to this chapter  
105 unless and until it is shown to the satisfaction of the di-  
106 rector that: (a) Such individual has been and will con-  
107 tinue to be free from control or direction over the per-  
108 formance of such services, both under his contract of  
109 service and in fact; and (b) such service is either outside

110 the usual course of the business for which such service  
111 is performed or that such service is performed outside  
112 of all the places of business of the enterprise for which  
113 such service is performed; and (c) such individual is  
114 customarily engaged in an independently established  
115 trade, occupation, profession or business.

116 (6) All service performed by an officer or member  
117 of the crew of an American vessel (as defined in section  
118 three hundred five of an act of Congress entitled "Social  
119 Security Act Amendment of 1946," approved August  
120 tenth, one thousand nine hundred forty-six) on or in  
121 connection with such vessel, provided that the operating  
122 office, from which the operations of such vessel operat-  
123 ing on navigable waters within or within and without  
124 the United States is ordinarily and regularly super-  
125 vised, managed, directed and controlled, is within this  
126 state.

127 The term "employment" shall not include:

128 (1) Services performed in the employ of this  
129 state or any political subdivision thereof, or any  
130 instrumentality of this state or its subdivi-  
131 sions.

132 (2) Service performed directly in the employ of an-  
133 other state, or its political subdivisions.

134 (3) Service performed in the employ of the United  
135 States or an instrumentality of the United States exempt  
136 under the constitution of the United States from the  
137 payments imposed by this law, except that to the extent  
138 that the Congress of the United States shall permit states  
139 to require any instrumentalities of the United States to  
140 make payments into an unemployment fund under a  
141 state unemployment compensation law, all of the provi-  
142 sions of this law shall be applicable to such instrumen-  
143 talities, and to service performed for such instrumentali-  
144 ties, in the same manner, to the same extent and on the  
145 same terms as to all other employers, employing units,  
146 individuals, and services: *Provided*, That if this state  
147 shall not be certified for any year by the social security  
148 administration under section one thousand six hundred  
149 three (c) of the federal internal revenue code, the pay-

150 ments required of such instrumentalities with respect to  
151 such year shall be refunded by the director from the  
152 fund in the same manner and within the same period  
153 as is provided in section nineteen of article five of this  
154 chapter with respect to payments erroneously collected.

155 (4) Service performed after June thirty, one thousand  
156 nine hundred thirty-nine, with respect to which unem-  
157 ployment compensation is payable under the railroad  
158 unemployment insurance act (fifty-two stat. one thou-  
159 sand ninety-four), and service with respect to which  
160 unemployment benefits are payable under an unemploy-  
161 ment compensation system for maritime employees estab-  
162 lished by an act of Congress. The director may enter  
163 into agreements with the proper agency established un-  
164 der such an act of Congress to provide reciprocal treatment  
165 to individuals who, after acquiring potential rights to  
166 unemployment compensation under an act of Congress,  
167 or who have, after acquiring potential rights to unem-  
168 ployment compensation under an act of Congress, ac-  
169 quired rights to benefits under this chapter. Such agree-  
170 ments shall become effective ten days after such publica-  
171 tion as complies with the general rules of the department.

172 (5) Agricultural labor.

173 (6) Domestic service in a private home.

174 (7) Service performed by an individual in the employ  
175 of his son, daughter, or spouse.

176 (8) Service performed by a child under the age of  
177 twenty-one years in the employ of his father or mother.

178 (9) Service performed in the employ of an employing  
179 unit organized and operated exclusively for religious,  
180 charitable, scientific, literary, or educational purposes or  
181 for prevention of cruelty to children or animals, no part  
182 of the net earnings of which inure to the benefit of any  
183 private shareholder or individual.

184 (10) Service as an officer or member of a crew of an  
185 American vessel performed on or in connection with such  
186 vessel, if the operating office, from which the operations  
187 of the vessel operating on navigable waters within or  
188 without the United States are ordinarily and regularly

189 supervised, managed, directed and controlled, is without  
190 this state.

191 Notwithstanding the foregoing exclusions from the defi-  
192 nition of "employment", services, except agricultural  
193 labor and domestic service in a private home, shall be  
194 deemed to be in employment if with respect to such  
195 services a tax is required to be paid under any federal  
196 law imposing a tax against which credit may be taken  
197 for contributions required to be paid into a state unem-  
198 ployment compensation fund.

199 "Employment office" means a free employment office  
200 or branch thereof, operated by this state, or any free  
201 public employment office maintained as a part of a state-  
202 controlled system of public employment offices in any  
203 other state.

204 "Fund" means the unemployment compensation fund  
205 established by this chapter.

206 "Payments" means the money required to be paid into  
207 the state unemployment compensation fund as provided  
208 by article five of this chapter.

209 "State" includes, in addition to the states of the United  
210 States, Alaska, Hawaii, and the District of Columbia.

211 "Total and partial unemployment":

212 (1) An individual shall be deemed totally unemployed  
213 in any week in which such individual is separated from  
214 employment for an employing unit and during which he  
215 performs no services and with respect to which no wages  
216 are payable to him.

217 (2) An individual who has not been separated from  
218 work shall be deemed to be partially unemployed in any  
219 week in which he performs no services and with respect  
220 to which no wages are payable to him, or in any week  
221 in which due to lack of full time work wages payable to  
222 him are less than his weekly benefit amount plus three  
223 dollars.

224 "Wages" means all remuneration for personal service,  
225 including commissions and bonuses and the cash value  
226 of all remuneration in any medium other than cash: *Pro-*  
227 *vided*, That the term "wages" shall not include:

228       (1) That part of the remuneration which, after remun-  
229 eration equal to three thousand dollars has been paid to  
230 an individual by an employer with respect to employ-  
231 ment during any calendar year, is paid after December  
232 thirty-one, one thousand nine hundred thirty-nine, and  
233 prior to January one, one thousand nine hundred forty-  
234 seven, to such individual by such employer with respect  
235 to employment during such calendar year; or that part of  
236 the remuneration which, after remuneration equal to  
237 three thousand dollars with respect to employment after  
238 one thousand nine hundred thirty-eight has been paid  
239 to an individual by an employer during any calendar  
240 year after one thousand nine hundred forty-six, is paid  
241 to such individual by such employer during such calen-  
242 dar year, except that for the purposes of sections one,  
243 ten, eleven and thirteen of article six of this chapter,  
244 all remuneration earned by an individual in employment  
245 shall be credited to the individual and included in his  
246 computation of base period wages: *Provided*, That  
247 the remuneration paid to an individual by an employer  
248 with respect to employment in another state or other  
249 states upon which contributions were required of and  
250 paid by such employer under an unemployment com-  
251 pensation law of such other state or states shall be in-  
252 cluded as a part of remuneration equal to three thousand  
253 dollars herein referred to.

254       (2) The amount of any payment made to, or on be-  
255 half of, an individual in its employ (without deduction  
256 from the remuneration of the individual in its employ).  
257 under a plan or system established by an employer  
258 which makes provision for individuals in its employ gen-  
259 erally or for a class or classes of such individuals (in-  
260 cluding any amount paid by an employer for insurance  
261 or annuities, or into a fund, to provide for any such pay-  
262 ment), on account of (A) retirement or (B) sickness or  
263 accident disability, or (C) medical and hospitalization  
264 expenses in connection with sickness or accident disa-  
265 bility, or (D) death: *Provided*, That the individual in  
266 its employ (i) has not the option to receive, instead of  
267 provision for such death benefit, any part of such pay-



268 ment or, if such death benefit is insured, any part of  
269 the premiums (or contributions to premiums) paid by  
270 his employer, and (ii) has not the right, under the pro-  
271 visions of the plan or system or policy of insurance pro-  
272 viding for such death benefit, to assign such benefit, or  
273 to receive such consideration in lieu of such benefit,  
274 either upon his withdrawal from the plan or sys-  
275 tem providing for such benefit or upon termina-  
276 tion of such plan or system or policy or of insurance  
277 of his services with such employer.

278 (3) The payment by an employer (without de-  
279 duction from the remuneration of the individual  
280 in its employ) of the tax imposed upon an in-  
281 dividual in its employ under section one thousand  
282 four hundred of the federal internal revenue  
283 code; or

284 (4) Payments, not required under any contract of hire,  
285 made to an individual with respect to his period of  
286 training or service in the armed forces of the United  
287 States by any employer by which such individual was  
288 formerly employed.

289 Gratuities customarily received by an individual in  
290 the course of his employment from persons other than  
291 his employing unit shall be treated as wages paid by his  
292 employing unit, if accounted for and reported to such  
293 employing unit.

294 The reasonable cash value of remuneration in any  
295 medium other than cash shall be estimated and deter-  
296 mined in accordance with rules prescribed by the di-  
297 rector.

298 "Week" means a calendar week, ending at midnight  
299 Saturday, or the equivalent thereof, as determined in  
300 accordance with the regulations prescribed by the di-  
301 rector.

302 "Weekly benefit rate" means the maximum amount of  
303 benefit an eligible individual will receive for one week  
304 of total unemployment.

305 "Year" means a calendar year or the equivalent there-  
306 of, as determined by the director.

**Article 2. The Director of Unemployment Compensation.****Section****6-a. Reciprocal agreements.**

Section 6-a. *Reciprocal Agreements.*—(1) The director  
2 may enter into reciprocal arrangements with appropriate  
3 and duly authorized agencies of other states or the fed-  
4 eral government, or both, whereby:

5 (a) Services performed by an individual for a single  
6 employing unit for which services are customarily per-  
7 formed by such individual in more than one state shall  
8 be deemed to be services performed entirely within any  
9 one of the states (i) in which any part of such individ-  
10 ual's service is performed or (ii) in which such indi-  
11 vidual has his residence or (iii) in which the employing  
12 unit maintains a place of business, provided there is in  
13 effect, as to such services, an election by an employing  
14 unit, and approved by the agency charged with the ad-  
15 ministration of such state's unemployment compensation  
16 law pursuant to which services performed by such indi-  
17 vidual for such employing unit are deemed to be per-  
18 formed entirely within such state;

19 (b) Potential rights to benefits accumulated under the  
20 unemployment compensation laws of one or more states  
21 or under one or more such laws of the federal govern-  
22 ment, or both, may constitute the basis for the payment  
23 of benefits through a single appropriate agency under  
24 terms which the director finds will be fair and reason-  
25 able as to all affected interests and will not result in any  
26 substantial loss to the fund;

27 (c) Wages or services, upon the basis of which an in-  
28 dividual may become entitled to benefits under an unem-  
29 ployment compensation law of another state or of the  
30 federal government, shall be deemed to be wages for  
31 insured work for the purpose of determining his rights  
32 to benefits under this chapter, and wages for insured  
33 work, on the basis of which an individual may become  
34 entitled to benefits under this chapter and shall be  
35 deemed to be wages or services on the basis of which  
36 unemployment compensation under such law of another  
37 state or of the federal government is payable, but no

38 such arrangement shall be entered into unless it con-  
39 tains provisions for reimbursements to the fund for such  
40 of the benefits paid under this chapter upon the basis  
41 of such wages or services, and provisions for reimburse-  
42 ments from the fund for such of the compensation paid  
43 under such other law upon the basis of wages for in-  
44 sured work, as the director finds will be fair and reason-  
45 able as to all affected interests; and

46 (d) Contributions due under this chapter with respect  
47 to wages for insured work shall for the purposes of this  
48 chapter be deemed to have been paid to the fund as of  
49 the date payment was made as contributions therefor un-  
50 der another state or federal unemployment compensation  
51 law, but no such arrangement shall be entered into unless  
52 it contains provisions for such reimbursement to the fund  
53 of such contributions as the director finds will be fair  
54 and reasonable as to all affected interests.

55 (2) Reimbursements paid from the fund pursuant to  
56 paragraph (c) of subsection one of this section shall be  
57 deemed to be benefits for the purpose of this chapter. The  
58 director is authorized to make to other state or federal  
59 agencies and to receive from such other state or federal  
60 agencies, reimbursements from or to the fund, in accord-  
61 ance with arrangements entered into pursuant to sub-  
62 section one of this section.

63 (3) To the extent permissible under the laws and  
64 constitution of the United States, the director is author-  
65 ized to enter into or cooperate in arrangements whereby  
66 facilities and services provided under this chapter and  
67 facilities and services provided under the unemploy-  
68 ment compensation law of any foreign government, may  
69 be utilized for the taking of claims and the payment of  
70 benefits under the employment security law of this state  
71 or under a similar law of such government.

#### Article 4. Board of Review.

##### Section

##### 5. Compensation.

Section 5. *Compensation.*—Each member of the board  
2 shall receive an annual salary of five thousand dollars

3 and the necessary traveling expenses incurred in the per-  
4 formance of his duties.

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

9 The salaries and the expenses of the members shall be  
10 paid from the administration fund.

Sec. 6. *Meetings.*—The offices and meeting place of  
2 the board shall be at the capitol; but the board may sit  
3 at such other places as the prompt and efficient hearing  
4 of claims may require. The board shall sit for hearing  
5 of appeals at least every ten days.

#### Article 5. Employer Coverage and Responsibility.

##### Section

- 7. Separate accounts.
- 10. Experience ratings; decreased rates.
- 10-b. Transfer of business.

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 chapter shall be  
5 construed to grant any employer or individual in his  
6 service prior claims or rights to the amounts paid by him  
7 into the fund, either on his own behalf or on behalf of  
8 such individuals. The account of any employer which  
9 has been inactive for a period of four consecutive calen-  
10 dar years 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 employ-  
13 ers. The amount of benefits so chargeable against each  
14 base period employer's account shall bear the same ratio  
15 to the total benefits paid to an individual as the base  
16 period wages paid to such individual by such employer  
17 bear to the total amount of base period wages paid to such  
18 individual by all his base period employers: *Provided,*  
19 *however,* That benefits paid to an individual for partial  
20 unemployment shall be charged to the account of his last  
21 covered employer: *And provided further,* That benefits  
22 paid for partial unemployment resulting solely from odd

23 job and/or subsidiary work shall be charged in the same  
24 manner as benefits for total unemployment.

25 (3) The director shall, for the year one thousand nine  
26 hundred forty-eight and for each calendar year there-  
27 after, classify employers in accordance with their actual  
28 experience in the payment of contributions on their own  
29 behalf and with respect to benefits charged against their  
30 accounts, with a view of fixing such contribution rates  
31 as will reflect such experience. For the purpose of fixing  
32 such contribution rates for each calendar year, the books  
33 of the department shall be closed on July thirty-one of  
34 the preceding calendar year, and any contributions there-  
35 after paid, as well as benefits thereafter paid with respect  
36 to compensable weeks ending on or before June thirty  
37 of the preceding calendar year, shall not be taken into  
38 account until the next annual date for fixing contribu-  
39 tion rates: *Provided, however,* That if an employer has  
40 failed to furnish to the director on or before July thirty-  
41 one of such preceding calendar year the wage informa-  
42 tion for all past periods necessary for the computation  
43 of the contribution rate such employer's rate shall be two  
44 and seven-tenths per cent: *Provided further,* That any  
45 payment made or any information necessary for the com-  
46 putation of a reduced rate furnished on or before the  
47 termination of an extension of time for such payment or  
48 reporting of such information granted pursuant to a reg-  
49 ulation of the director authorizing such extension, shall  
50 be taken into account for the purposes of fixing contribu-  
51 tion rates: *Provided further,* That whenever through mis-  
52 take or inadvertence erroneous credits or charges are  
53 found to have been made to or against the reserve account  
54 of any employer, the rate shall be adjusted as of January  
55 one of the calendar year in which such mistake or inad-  
56 vertence is discovered; but payments made under any  
57 rate assigned prior to January one of such year shall not  
58 be deemed to be erroneously collected.

2     Sec. 10. *Experience Ratings; Decreased Rates.* — On  
3 and after January one, one thousand nine hundred forty-  
4 eight, after the requirements of section nine have been  
5 complied with, an employer's payment shall remain two

5 and seven-tenths per cent, until: (1) There have elapsed  
6 thirty-six consecutive months immediately preceding the  
7 computation date throughout which an employer's ac-  
8 count 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 of his  
12 average annual pay roll, in which case his rate shall be  
13 two and four-tenths per cent.

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 of his  
17 average annual pay roll, in which case his rate shall be  
18 two and one-tenth per cent.

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 of  
22 his average annual pay roll, in which case his rate shall  
23 be one and eight-tenths per cent.

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 of  
27 his average annual pay roll, in which case his rate shall  
28 be one and four-tenths per cent.

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 of his average  
32 annual pay roll, in which case his rate shall be one and  
33 two-tenths per cent.

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 of his average an-  
37 nual pay roll, in which case his rate shall be nine-tenths  
38 of one per cent.

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 of his average  
42 annual pay roll, in which case his rate shall be seven-  
43 tenths of one per cent.

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 of his average  
47 annual pay roll, in which case his rate shall be five-tenths  
48 of one per cent.

49 (10) His payments credited to his account for all past  
50 years exceed the benefits charged to his account by an  
51 amount equal to at least thirteen per cent of his average  
52 annual pay roll, in which case his rate shall be three-  
53 tenths of one per cent.

54 (11) His payments credited to his account for all past  
55 years exceed the benefits charged to his account by an  
56 amount equal to at least thirteen and five-tenths per cent  
57 of his average annual pay roll, in which case his rate  
58 shall be one-tenth of one per cent.

59 (12) His payments credited to his account for all past  
60 years exceed the benefits charged to his account by an  
61 amount equal to at least fourteen per cent of his average  
62 annual pay roll, in which case his rate shall be zero.

63 The director shall determine an employer's compli-  
64 ance with these requirements.

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 rec-  
5 ords and the benefit experience records of the transferring  
6 and acquiring employers. The acquiring employer's con-  
7 tribution rate for the remainder of the calendar year shall  
8 not be affected by the transfer but such rate shall apply  
9 to the whole of his business, including the portion ac-  
10 quired by the transfer, through the following December  
11 thirty-first. If a subject employer shall make such trans-  
12 fer to an employing unit which is not an employer on  
13 the date of the transfer, such subject employer's rate shall  
14 continue as the rate of the acquiring employing unit until  
15 the next effective rate date: *Provided, however,* That in  
16 case the transferring employer is delinquent in the pay-  
17 ment of contributions or interest thereon the acquiring  
18 employer shall not be entitled to any benefit of the con-  
19 tribution record of the transferring employer unless pay-  
20 ment of such delinquent contributions and interest there-

21 on is assumed by the acquiring employer. The director  
22 shall upon joint request of the transferor and transferee,  
23 before the transfer, furnish the transferee a statement of  
24 the amount of any contribution and interest due and  
25 unpaid by the transferor, and shall, upon such transfer,  
26 furnish such statement to the transferee upon the trans-  
27 feree's request. A statement so furnished shall be con-  
28 trolling for the purposes of the foregoing proviso.

## **Article 6. Employee Eligibility; Benefits.**

### **Section**

- 4. Disqualification for benefits.
- 10. Benefit rate; total unemployment.

Section 4. *Disqualification for Benefits.*—Upon the  
2 determination of the facts by the director, an individual  
3 shall be disqualified for benefits:

4 (1) For the week in which he left his most recent  
5 work voluntarily without good cause involving fault on  
6 the part of the employer and the six weeks immediately  
7 following such week. Such disqualification shall carry a  
8 reduction in the maximum benefit amount equal to six  
9 times the individual's weekly benefit rate. However, if  
10 the claimant returns to work in covered employment  
11 during his benefit year the maximum benefit amount  
12 shall be increased by the amount of the decrease imposed  
13 under the disqualification.

14 (2) For the week in which he was discharged by his  
15 last employing unit for misconduct and the six weeks  
16 immediately following such week. Such disqualification  
17 shall carry a reduction in the maximum benefit amount  
18 equal to six times the individual's weekly benefit rate.  
19 However, if the claimant returns to work in covered em-  
20 ployment during his benefit year the maximum benefit  
21 amount shall be increased by the amount of the decrease  
22 imposed under the disqualification.

23 (3) For the week in which he failed without good  
24 cause, to apply for available suitable work, accept suit-  
25 able work when offered, or return to his customary self-  
26 employment when directed to do so by the director, and  
27 for the four weeks which immediately follow and for  
28 such additional period as any offer of suitable work shall



29 continue open for his acceptance, and his maximum  
30 benefit amount shall be reduced by an amount equal to  
31 his weekly benefit rate times the number of weeks of dis-  
32 qualification. However, if the claimant returns to work  
33 in covered employment during his benefit year the max-  
34 imum benefit amount shall be increased by the amount  
35 of the decrease imposed under the disqualification.

36 (4) For a week in which his total or partial unem-  
37 ployment is due to a stoppage of work which exists be-  
38 cause of a labor dispute at the factory, establishment, or  
39 other premises at which he was last employed, unless  
40 the director is satisfied that he was not (one) participat-  
41 ing, financing, or directly interested in such dispute, and  
42 (two) did not belong to a grade or class of workers who  
43 were participating, financing, or directly interested in  
44 the labor dispute which resulted in the stoppage of work.  
45 No disqualification under this subsection shall be imposed  
46 if the employees are required to accept wages, hours or  
47 conditions of employment substantially less favorable  
48 than those prevailing for similar work in the locality, or  
49 if employees are denied the right of collective bargain-  
50 ing under generally prevailing conditions, or if an em-  
51 ployer shuts down his plant or operation or dismisses his  
52 employees in order to force wage reduction, changes in  
53 hours or working conditions.

54 (5) For a week with respect to which he is receiving  
55 or has received:

56 (a) Wages in lieu of notice or payments under any  
57 form of a separation wage plan.

58 (b) Compensation for temporary partial disability un-  
59 der the workmen's compensation law of any state or  
60 under a similar law of the United States.

61 (c) Remuneration in the form of a primary insurance  
62 benefit under title two of the social security act, as  
63 amended, or similar payments under any act of Congress.

64 (d) Unemployment compensation benefits under the  
65 laws of the United States or any other state.

66 (6) For the week in which an individual is not em-  
67 ployed because of pregnancy, or has voluntarily quit  
68 employment to marry or to perform any marital, paren-

69 tal, or family duty, or to attend to his or her personal  
70 business or affairs, and until the individual returns to  
71 covered employment and has been employed in covered  
72 employment at least thirty working days.

73 (7) For each week in which an individual is unem-  
74 ployed because, having voluntarily left employment to  
75 attend a school, college, university, or other educational  
76 institution, he is attending such school, college, univer-  
77 sity, or other educational institution, or is awaiting en-  
78 trance thereto or is awaiting the starting of a new term  
79 or session thereof.

80 (8) For the purposes of this section an employer's  
81 account shall not be charged under any of the following  
82 conditions: (1) When benefits are paid without any dis-  
83 qualification to an individual who has left his most recent  
84 work for good cause not involving fault on the part of  
85 the employer. (2) When benefits are paid for unemploy-  
86 ment immediately after the expiration of a period of  
87 disqualification for (a) leaving work voluntarily with-  
88 out good cause involving fault on the part of the em-  
89 ployer, (b) discharge for misconduct, (c) failing without  
90 good cause to apply for available suitable work, accept  
91 suitable work when offered, or return to his customary  
92 self-employment when directed to do so by the director.

Sec. 10. *Benefit Rate; Total Unemployment.*— Each  
2 eligible individual who is totally unemployed in any  
3 week shall be paid benefits with respect to that week at  
4 the weekly rate appearing in column (C) in table A in  
5 this paragraph, on the line on which in column (A) there  
6 is indicated the employee's wage class, except as other-  
7 wise provided under the term "total and partial unem-  
8 ployment" in section three, article one of this chapter.  
9 The employee's wage class shall be determined by his  
10 base period wages as shown in column (B) in table A.  
11 The right of an employee to receive benefits shall not be  
12 prejudiced nor the amount thereof be diminished by rea-  
13 son of failure by an employer to pay either the wages  
14 earned by the employee or the contribution due on such  
15 wages. An individual who is totally unemployed but earns

16 in excess of three dollars as a result of odd job or subsidi-  
 17 ary work in any benefit week shall be paid benefits for  
 18 such week in accordance with the provisions of this chap-  
 19 ter pertaining to benefits for partial unemployment.

TABLE A

	Wage Class (Col. A)	Wages in Base Period (Col. B)	Weekly Benefit Rate (Col. C)	Maximum Bene- fit in Benefit Year for Total and/or Partial Unemployment (Col. D)
20		Under - \$ 300.00	Ineligible	Amount
21	1	\$ 300.00 - \$ 399.99	\$ 8.00	\$168.00
22	2	400.00 - 499.99	9.00	189.00
23	3	500.00 - 599.99	10.00	210.00
24	4	600.00 - 699.99	11.00	231.00
25	5	700.00 - 799.99	12.00	252.00
26	6	800.00 - 899.99	13.00	273.00
27	7	900.00 - 999.99	14.00	294.00
28	8	1000.00 - 1099.99	15.00	315.00
29	9	1100.00 - 1199.99	16.00	336.00
30	10	1200.00 - 1299.99	17.00	357.00
31	11	1300.00 - 1399.99	17.50	367.50
32	12	1400.00 - 1499.99	18.00	378.00
33	13	1500.00 - 1599.99	18.50	388.50
34	14	1600.00 - 1699.99	19.00	399.00
35	15	1700.00 - 1799.99	19.50	409.50
36	16	1800.00 and over	20.00	420.00

## Article 7. Claim Procedure.

### Section

8. Appeal from deputy's decision.
9. Finality of examiner's decision.
10. Board of review.
15. Report of decision.

Section 8. *Appeal from Deputy's Decision.*—A claimant,  
 2 last employer or any base period employer of a claimant,  
 3 or other interested party, may file an appeal from the  
 4 decision of the deputy within eight calendar days after  
 5 notice of the decision has been delivered or mailed by  
 6 registered mail to the claimant and last employer as  
 7 provided in section four of this article. The period with-  
 8 in which an appeal from the decision of the deputy may  
 9 be filed shall be stated in such notice. The decision of

10 the deputy shall be final and benefits shall be paid or  
11 denied in accordance therewith unless an appeal is filed  
12 within such time.

13 Upon appeal from the determination of a deputy, an  
14 individual shall be entitled to a fair hearing and reason-  
15 able opportunity to be heard before an appeal tribunal  
16 as provided in section seven of this article.

17 Within eight days after receipt by the board of notice  
18 of appeal from the decision of a deputy, the board shall  
19 fix the time and place for hearing such appeal, and notify  
20 the claimant, last employer, the director, and any base  
21 period employer upon his request, ten days in advance  
22 of the date set for hearing.

23 Upon consideration of all evidence the appeal tribunal  
24 shall make a decision within twenty-one days after the  
25 date of the hearing, and shall notify the claimant, last em-  
26 ployer, the director, and any base period employer upon  
27 his request, of its findings and decision.

Sec. 9. *Finality of Examiner's Decision.*—A claimant,  
2 last employer or any base period employer of a claimant,  
3 or other interested party may file an appeal to the board  
4 from the decision of an appeal tribunal within eight cal-  
5 endar days after notice of the decision has been delivered  
6 or mailed to the claimant and last employer as provided  
7 in section eight of this article. The director shall of  
8 necessity be deemed an interested party. The decision of  
9 the appeal tribunal shall be final and benefits shall be  
10 paid or denied in accordance therewith unless an appeal  
11 is filed within such time.

Sec. 10. *Board of Review.*—The board may, after no-  
2 tice to the claimant, last employer, the director, and any  
3 base period employer, upon his request, eight days in  
4 advance of the date set for hearing:

5 (1) On its own motion affirm, modify, or set aside a  
6 decision of an appeal tribunal;

7 (2) Direct the taking of additional evidence in a dis-  
8 puted claim;

9 (3) Permit parties to the decision of an appeal tribunal  
10 to initiate further appeals before it.

11 (4) Where it deems necessary in the interest of any  
12 party that additional testimony be taken, refer a case on  
13 its own motion or at the request of any party to a trial  
14 examiner for the expeditious taking of such additional  
15 testimony; but no such referral shall be made at the re-  
16 quest of any party except for good cause shown: *Pro-*  
17 *vided further*, That where all parties are present at the  
18 hearing such additional testimony may be taken before  
19 the board.

Sec. 15. *Report of Decision.*—The board shall, within  
2 fifteen days after the conclusion of the hearing, notify  
3 the claimant, last employer, the director, and any base  
4 period employer upon his request, of its findings and de-  
5 cision on an appeal.

#### Article 10. General Provisions.

##### Section

- 11. Information.
- 17. Savings clause; application of certain provisions.

Section 11. *Information.*—The director may require an  
2 employing unit to provide sworn or unsworn reports con-  
3 cerning:

- 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. However, a claim-  
12 ant of benefit or any other interested party shall, upon  
13 request, be supplied with information from such records  
14 to the extent necessary for the proper presentation or de-  
15 fense of a claim. Such information may be made avail-  
16 able to any agency of this or any other state, or any fed-  
17 eral agency, charged with the administration of an un-  
18 employment compensation law or the maintenance of  
19 a system of public employment offices.

20 A person who violates the provisions of this section  
21 shall be guilty of a misdemeanor, and upon conviction

22 shall be fined not less than twenty dollars nor more than  
23 two hundred dollars, or imprisoned not longer than ninety  
24 days, or both.

25 No action for slander or libel, either criminal or civil,  
26 shall be predicated upon information furnished by any  
27 employer or any employee to the director in connection  
28 with the administration of any of the provisions of this  
29 chapter.

Sec. 17. *Savings Clause; Application of Certain Pro-*  
2 *visions.*—The Legislature reserves the right to amend or  
3 repeal all or any part of this chapter and no private  
4 rights shall vest against any legislative amendment or  
5 change or repeal. All rights, privileges, or immunities  
6 conferred by this chapter or by acts done pursuant there-  
7 to shall exist subject to the power of the Legislature to  
8 amend or repeal this chapter at any time.

9 The provisions of this chapter relating to article one,  
10 section three, definitions of “annual payroll”, “average  
11 annual payroll”, and “computation date”, and to article  
12 five, sections seven, ten, and ten-b, shall apply for the  
13 rate year one thousand nine hundred forty-eight and for  
14 all rate years thereafter; for rate years prior to one thou-  
15 sand nine hundred forty-eight the provisions then in ef-  
16 fect shall apply.

## CHAPTER 163

(Com. Sub. for Senate Bill No. 172—Originating in the Senate Committee on  
the Judiciary)

AN ACT to amend chapter forty-seven 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 nine-a, relating to voluntary associations and business trusts; prescribing the form of execution and acknowledgment of deeds and other writings executed by such associations and trusts; authorizing the adoption and use of trade-names and the recordation of declarations of trust or agreements; validating deeds and other writ-

ings heretofore executed by such associations and trusts and providing the method by which such associations and trusts may become authorized and qualified to do business in this state.

[Passed March 7, 1947; in effect from passage. Approved by the Governor.]

## Article 9-a. Voluntary Associations and Business Trusts.

### Section

1. Execution of deeds and other writings.
2. Adoption and use of trade-names; use of seal.
3. Recordation of declaration of trust or agreement of association; acknowledgment of deeds and other writings.
4. Validation of deeds and other writings heretofore executed.
5. Authorization and qualification to do business.
6. Repeal of conflicting acts; separability.

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

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

### Section 1. *Execution of Deeds and Other Writings.*—

- 2 Any persons who are now or who have heretofore been
- 3 voluntarily associated together for the transaction or
- 4 doing of business under and pursuant to the terms and
- 5 provisions of a declaration of trust or articles or agree-
- 6 ment of association, commonly designated as a Massa-
- 7 chusetts trust or business trust, or any other lawful
- 8 voluntary association by whatever name known, may
- 9 purchase, acquire, hold, deal in, sell, lease, convey, ex-
- 10 change, pledge, mortgage and encumber any real estate
- 11 or personal property or interest therein within this state,
- 12 and may execute all deeds, leases, contracts, or other
- 13 instruments in writing with respect to real estate or per-
- 14 sonal property or interest therein as may be necessary
- 15 or required, either in the name or names of the trustees
- 16 for the time being designated in such declaration, articles
- 17 or agreement, or their successors, or in the name or names
- 18 of another person or persons designated in such decla-
- 19 ration, articles or agreement, or by a descriptive, assumed

20 or trade-name, when signed by a duly authorized officer  
21 or officers thereof, all as may be provided for and stated  
22 in such declaration, articles or agreement: *Provided, how-*  
23 *ever,* That such association or trust shall have qualified  
24 to do business in West Virginia, as hereinafter provided  
25 for in section five of this article.

Sec. 2. *Adoption and Use of Trade-Names; Use of Seal.*

2 —Any such association or trust may adopt and use a  
3 descriptive, assumed or trade-name, subject to all ap-  
4 plicable laws of the state relating to registration thereof  
5 and may adopt and use a common seal.

Sec. 3. *Recordation of Declaration of Trust or Agree-*  
2 *ment of Association; Acknowledgment of Deeds and*  
3 *Other Writings.*—Every such association or trust shall  
4 cause a copy of any such declaration, articles or agree-  
5 ment, duly authenticated, to be filed and recorded in the  
6 office of the clerk of the county court of the county in  
7 which any such association, trust or trustees shall pur-  
8 chase, acquire, hold, deal in, sell, lease, convey, exchange,  
9 pledge, mortgage and encumber or otherwise dispose of  
10 or execute any instruments with respect to real estate  
11 or personal property or interest therein and such dec-  
12 laration, articles or agreements providing for the use of  
13 such descriptive, assumed or trade-name shall authorize  
14 and designate or contain provisions for the authorization  
15 or designation of persons by whom deeds, leases, con-  
16 tracts and other instruments in writing shall be executed.  
17 All such deeds, leases, contracts and other instruments  
18 in writing shall be deemed to be properly acknowledged  
19 for the purposes of recordation if acknowledged in the  
20 form provided by statute for acknowledgments by cor-  
21 porations, or, if executed by trustees or other persons.  
22 then in the form provided by statute therefor.

Sec. 4. *Validation of Deeds and Other Writings Here-*  
2 *tofore Executed.*—All deeds, leases, contracts and other  
3 instruments in writing with respect to real estate or per-  
4 sonal property or interest therein within this state here-  
5 tofore made and delivered by any such association, trust  
6 or trustees, which comply with the requirements of this



7 article shall be and each of them hereby is expressly  
8 validated.

Sec. 5. *Authorization and Qualification to do Business.*—Any such association or trust shall file with the secretary of state a copy of its declaration, articles or agreement and a writing, duly executed, agreeing to be governed by the laws of this state with respect to corporations, including license fees and all other taxes. The secretary of state shall thereupon issue to such association or trust a certificate showing such association or trust to be duly authorized and qualified to do business in this state, which certificate, together with a copy of its declaration, articles or agreement shall be recorded in the office of the clerk of the county court of the county, or counties, in which its business is to be conducted. Such association or trust shall thereupon be and become subject to all of the statutes of this state relating to corporations generally.

Sec. 6. *Repeal of Conflicting Acts; Separability.*—All acts or parts of acts in conflict with this article are hereby repealed.

The provisions of this article shall be construed to be severable and if any are held unconstitutional or otherwise invalid, such invalidity or unconstitutionality shall not affect the operation of the remaining provisions.

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## CHAPTER 164

(House Bill No. 322—By Mr. Hansbarger)

AN ACT to amend and reenact sections five and nine, article two, and section one, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to workmen's compensation and its administration.

[Passed March 7, 1947; in effect July 1, 1947. Approved by the Governor.]

**Article**

2. **Employer and Employees Subject to Chapter; Premiums.**
4. **Disability and Death Benefits.**

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

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

**Article 2. Employers and Employees Subject to Chapter; Premiums.**

**Section**

5. Premiums; failure to pay; reinstatement; deposit to insure payment; refund of deposit; notices to employees.
9. Election of employer to provide own system of compensation.

Section 5. *Premiums; Failure to Pay; Reinstatement; Deposit to Insure Payment; Refund of Deposit; Notices to Employees.*—For the purpose of creating a workmen's compensation fund each employer subject to this chapter shall pay the premiums of liability based upon and being such a percentage of the payroll of such employer as may have been determined by the commissioner and be then in effect. The premiums shall be paid quarterly on or before the twentieth day of the next succeeding month for the preceding quarter, and shall be the prescribed percentage of the total earnings of all employees within the meaning of this chapter, for such preceding quarter. The minimum premium to be paid by any employer for any quarter shall be one dollar and fifty cents. The premiums and deposits provided for in this chapter shall be paid by the employers to the state compensation commissioner, who shall issue receipts for all sums so received, mailing the original to the person, firm or corporation paying the same, transmitting a copy thereof to the state treasurer and state auditor, and retaining a copy for his own records. All sums received by the state compensation commissioner as herein provided shall be deposited in the state treasury to the credit of the workmen's compensation fund in the manner now prescribed by law for depositing money in the state treasury.

26 Each employer shall make a payroll report to the com-  
27 missioner for each quarter as heretofore specified, and  
28 such report shall be on the form or forms prescribed  
29 by the commissioner, and furnish all information re-  
30 quired by him.

31 Failure to pay premiums as herein provided or to make  
32 the quarterly payroll reports required by the commis-  
33 sioner shall deprive the employer so delinquent of the  
34 benefits and protection afforded by this chapter, and shall  
35 automatically terminate the election of such employer  
36 to pay into the workmen's compensation fund as herein  
37 provided, and such employer shall be liable to his em-  
38 ployees as provided in section eight of this article; and  
39 the commissioner shall not be required to notify the  
40 delinquent employer of such termination, but he shall  
41 notify the employees of such employer by written notice  
42 posted as hereinafter provided for in this section. The  
43 termination of election of such delinquent employer shall  
44 date from twelve o'clock p.m., of the last day of the month  
45 in which he fails to pay the premiums or make payroll  
46 reports, as above provided, for the preceding quarter.

47 The employer so delinquent may be reinstated upon  
48 application under such terms as are prescribed by this  
49 chapter and by the commissioner hereunder, after the  
50 payment into the workmen's compensation fund of all  
51 unpaid premiums, penalties and charges. Such rein-  
52 statement shall be in effect from and after the date that  
53 the new application is accepted by the commissioner:  
54 *Provided, however,* That such delinquent employer shall  
55 be entitled to the benefits and protection of this chapter  
56 until twelve o'clock p.m. of the last day of the month im-  
57 mediately succeeding the month in which his election is  
58 terminated, and his employees shall be entitled to com-  
59 pensation for injuries received during such period, but  
60 not thereafter unless such delinquent employer becomes  
61 reinstated as herein provided.

62 Any employer hereafter electing to avail himself of the  
63 benefits of this chapter shall at the time of making appli-  
64 cation to the commissioner deposit in the workmen's com-  
65 pensation fund an amount estimated to be equal to the

66 amount of the premium which shall be paid by him for the  
67 next succeeding quarter. Any employer whose deposit is  
68 less than the amount of his premium for the last quarter  
69 shall, upon written request from the commissioner mailed  
70 to his address as carried upon the books of the commis-  
71 sioner by twelve o'clock p.m. of the twentieth of the  
72 month in which request is mailed, pay to the commis-  
73 sioner a sum sufficient to make his deposit at least equal to the  
74 amount of his premium for the last preceding quarter, and  
75 failure of any employer to comply with such written re-  
76 quest within the time specified shall deprive him of the  
77 benefits and protection afforded by this chapter, and shall  
78 automatically terminate his election to pay into the work-  
79 men's compensation fund as herein provided, and such  
80 employer shall be liable to his employees as provided in  
81 section eight of this article; and the commissioner shall  
82 not be required to notify the delinquent employer of such  
83 termination, but he shall notify the employees of such  
84 employer by written notice posted as hereafter provided  
85 for in this section. The termination of election of such  
86 employer shall date from twelve o'clock p.m. of the last  
87 day of the month in which he is notified by the commis-  
88 sioner that his deposit is not equal to the sum of his pre-  
89 mium for the last preceding quarter. Such employer may  
90 be reinstated upon application under such terms as are  
91 prescribed by this chapter and the rules of the commis-  
92 sioner. The deposit hereinbefore described shall be cred-  
93 ited to the employer's account on the books of the com-  
94 missioner and used to pay premiums and any other sums  
95 due the fund when such employer becomes delinquent  
96 in the payment of the same.

97 Upon withdrawal from the fund or termination of  
98 election of any employer, he shall be refunded the bal-  
99 ance due him of his deposit, after deducting all amounts  
100 owed by him to the workmen's compensation fund, and  
101 the commissioner shall notify the employees of such em-  
102 ployer of said termination in such manner as he may  
103 deem best and sufficient.

104 Notices to employees in this section provided for shall  
105 be given by posting written notice that the employer is

106 delinquent under the compensation law of West Virginia,  
107 and that neither the employer nor the employees of such  
108 employer are protected by said law as to any accidents  
109 happening after the date specified in said notice. Such  
110 notice shall be in the form prescribed by the commis-  
111 sioner and shall be posted in a conspicuous place at the  
112 chief works of the employer, as the same appear in rec-  
113 ords of the commissioner. If the said chief works of the  
114 employer cannot be found or identified, then said notices  
115 shall be posted at the front door of the court house  
116 of the county in which said chief works are located, ac-  
117 cording to the records in the commissioner's office. Any  
118 person who shall, prior to the reinstatement of the said  
119 employer, as hereinbefore provided for, or prior to sixty  
120 days after the posting of said notice, whichever shall  
121 first occur, remove, deface or render illegible the said  
122 notice, shall be guilty of a misdemeanor, and upon con-  
123 viction thereof shall be fined not to exceed five hundred  
124 dollars, and the said notice shall state this provision upon  
125 its face. The commissioner may require any sheriff, dep-  
126 uty sheriff, constable, or other official of the state of  
127 West Virginia, who may be authorized to serve civil  
128 process, to post such notice and to make return thereof  
129 of the fact of such posting to the commissioner, and any  
130 failure of such officer to post any notice within ten days  
131 after he shall have received the same from the com-  
132 missioner, without just cause or excuse, shall constitute  
133 a wilful failure or refusal to perform a duty required  
134 of him by law within the meaning of section twenty-  
135 eight, article five, chapter sixty-one of the code of West  
136 Virginia. Any person actually injured by reason of such  
137 failure shall have an action against said official, and upon  
138 any official bond he may have given, for such damages  
139 as such person may actually have incurred, but not to  
140 exceed, in the case of any surety upon said bond, the  
141 amount of the penalty of said bond. Any official posting  
142 said notice as herein required shall be entitled to the  
143 same fee as is now or may hereafter be provided for the  
144 service of process in suits instituted in courts of record  
145 in the state of West Virginia, which fee shall be paid by

146 the commissioner out of any funds at his disposal, but  
147 shall be charged by him against the account of the em-  
148 ployer to whose delinquency such notice relates.

Sec. 9. *Election of Employer to Provide Own System of*  
2 *Compensation.*—Notwithstanding anything contained in  
3 this chapter, employers subject to this chapter who are  
4 of sufficient financial responsibility to insure the pay-  
5 ment of compensation to injured employees and the  
6 dependents of fatally injured employees, whether in the  
7 form of pecuniary compensation or medical attention,  
8 funeral expenses or otherwise as herein provided, of  
9 the value at least equal to the compensation provided  
10 in this chapter, or employers of such financial responsi-  
11 bility who maintain their own benefit funds, or system  
12 of compensation, to which their employees are not re-  
13 quired or permitted to contribute, or such employers as  
14 shall furnish bond or other security to insure such pay-  
15 ments, may, upon a finding of such facts by the com-  
16 pensation commissioner, elect to pay individually and  
17 directly, or from such benefit funds, department or  
18 association, such compensation and expenses to injured  
19 employees or fatally injured employees' dependents. The  
20 compensation commissioner shall require security or  
21 bond from such employer, to be approved by him, and of  
22 such amount as is by him considered adequate and suffi-  
23 cient to compel or secure to such employees, or their  
24 dependents, payment of the compensation and expenses  
25 herein provided for, which shall in no event be less than  
26 the compensation paid or furnished out of the state work-  
27 men's compensation fund in similar cases to injured em-  
28 ployees or the dependents of fatally injured employees  
29 whose employers contribute to such fund. Any employer  
30 electing under this section shall on or before the twen-  
31 tieth day of the first month of each quarter, for the  
32 preceding quarter, file with the commissioner a sworn  
33 statement of the total earnings of all his employees sub-  
34 ject to this chapter for such preceding quarter, and shall  
35 pay into the workmen's compensation fund a sum suffi-  
36 cient to pay his proper proportion of the expenses of the  
37 administration of this chapter, as may be determined

38 by the commissioner. The commissioner shall make and  
39 publish rules and regulations governing the mode and  
40 manner of making application, and the nature and extent  
41 of the proof required to justify the finding of facts by  
42 the commissioner, to consider and pass upon such election  
43 by employers subject to this chapter, which rules and  
44 regulations shall be general in their application. Any  
45 employer subject to this chapter who shall elect to carry  
46 his own risk and who has complied with the requirements  
47 of this section and the rules of the compensation commis-  
48 sioner shall not be liable to respond in damages at com-  
49 mon law or by statute for the injury or death of any  
50 employee, however occurring, after such election and  
51 during the period that he is allowed by the commissioner  
52 to carry his own risk; provided the injured employee  
53 has remained in his service with notice given, as pro-  
54 vided for in section seven of this article, that his em-  
55 ployer has elected to carry his own risk as herein pro-  
56 vided. The continuation in the service of such employer  
57 with such notice shall be deemed a waiver by the em-  
58 ployee and by the parents of any minor employee of the  
59 right of action, as aforesaid, which the employee or his  
60 or her parents would otherwise have.

61 Any employer whose record upon the books of the  
62 compensation commissioner shows a liability against the  
63 workmen's compensation fund incurred on account of in-  
64 jury to or death of any of his employees, in excess of  
65 premiums paid by such employer, shall not be granted  
66 the right, individually and directly or from such benefit  
67 funds, department or association, to compensate his in-  
68 jured employees and the dependents of his fatally injured  
69 employees until he has paid into the workmen's com-  
70 pensation fund the amount of such excess of liability  
71 over premiums paid, including his proper proportion of  
72 the liability incurred on account of explosions, catastro-  
73 phes or second injuries as defined in section one, article  
74 three of this chapter, occurring within the state and  
75 charged against such fund.

76 All employers who have heretofore elected, or shall  
77 hereafter elect, to pay compensation and expenses direct-

78 ly as provided in this section, shall, unless they give the  
79 catastrophe and second injury security or bond herein-  
80 after provided for, pay into the surplus fund referred to  
81 in section one, article three of this chapter upon the same  
82 basis and in the same percentages, subject to the limita-  
83 tions herein set forth, as funds are set aside for the main-  
84 tenance of the surplus fund out of payments made by  
85 premium-paying subscribers, such payments to be made  
86 at the same time as hereinbefore provided with respect  
87 to payment of proportion of expenses of administration.  
88 In case there be a catastrophe or second injury, as defined  
89 in section one, article three of this chapter, to the em-  
90 ployees of any employer making such payments, the  
91 employer shall not be liable to pay compensation or ex-  
92 penses arising from or necessitated by the catastrophe  
93 or second injury, and such compensation and expenses  
94 shall not be charged against such employer, but such  
95 compensation and expenses shall be paid from the sur-  
96 plus fund in the same manner and to the same extent as  
97 in the case of premium-paying subscribers.

98 If an employer elect to make payments into the surplus  
99 fund as aforesaid, then the bond or other security re-  
100 quired by this section shall be of such amount as the  
101 commissioner considers adequate and sufficient to compel  
102 or secure to the employees or their dependents payment  
103 of compensation and expenses, except any compensation  
104 and expenses that may arise from, or be necessitated by,  
105 any catastrophe or second injury, as defined in section  
106 one, article three of this chapter, which last are secured  
107 by and shall be paid from the surplus fund as herein-  
108 before provided.

109 If any employer elect not to make payments into the  
110 surplus fund, as hereinbefore provided, then, in addition  
111 to bond or security in the amount hereinbefore set forth,  
112 such employer shall furnish catastrophe and second in-  
113 jury security or bond, approved by the commissioner,  
114 in such additional amount as the commissioner shall con-  
115 sider adequate and sufficient to compel or secure pay-  
116 ment of all compensation and expenses arising from, or



117 necessitated by, any catastrophe or second injury that  
118 might thereafter ensue.

119 All employers hereafter making application to carry  
120 their own risk under the provisions of this section, shall  
121 with such application, make a written statement as to  
122 whether such employer elects to make payments as afore-  
123 said into the surplus fund, or not to make such payments  
124 and to give catastrophe and second injury security or  
125 bond hereinbefore in such case provided for.

126 All employers who have heretofore elected to carry  
127 their own risk under the provisions of this section shall  
128 be deemed to have elected to make payments into the  
129 surplus fund unless, within thirty days after the effective  
130 date of this act, they notify the commissioner in writing  
131 to the contrary: *Provided, however,* That such employers,  
132 as have heretofore elected, under the rules heretofore  
133 promulgated by the commissioner, not to make payments  
134 into the surplus fund, shall be deemed to have elected  
135 to give the catastrophe and second injury security or  
136 bond hereinbefore provided for and not to make pay-  
137 ments into the surplus fund. Any catastrophe and second  
138 injury security or bond heretofore given under rules and  
139 regulations promulgated by the commissioner and ap-  
140 proved by him shall be valid under this section, and any  
141 election heretofore made under rules and regulations of  
142 the commissioner to make payments into the surplus  
143 fund shall be valid and protective to the person so elect-  
144 ing from and after the date of such election.

145 In any case under the provisions of this section that  
146 shall require the payment of compensation or benefits  
147 by an employer in periodical payments, and the nature  
148 of the case makes it possible to compute the present  
149 value of all future payments, the commissioner may, in  
150 his discretion, at any time compute and permit or re-  
151 quire to be paid into the workmen's compensation fund  
152 an amount equal to the present value of all unpaid com-  
153 pensation for which liability exists, in trust; and there-  
154 upon such employer shall be discharged from any further  
155 liability upon such award, and payment of the same shall  
156 be assumed by the workmen's compensation fund.

**Article 4. Disability and Death Benefits.****Section**

1. To whom compensation fund disbursed; silicosis included in "injury" and "personal injury"; definition of silicosis.

Section 1. *To Whom Compensation Fund Disbursed; Silicosis Included in "Injury" and "Personal Injury"; Definition of Silicosis.*—Subject to the provisions and limitations elsewhere in this chapter set forth, the commissioner shall disburse the workmen's compensation fund to the employees of such employers as are not delinquent in the payment of premiums for the quarter in which the injury occurs, and in case of catastrophe, in addition to the employees next above described, to the employees of employers who have elected, under section nine, article two of this chapter to make payments into the surplus fund as provided in that section, and which employees shall have received personal injuries in the course of and resulting from their employment in this state, or in temporary employment without the state as provided in section one, article two of this chapter, or to the dependents, if any, of such employees in case death has ensued, according to the provisions hereinafter made; and also for the expenses of the administration of this chapter, as provided in section two, article one of this chapter.

For the purpose of this chapter the terms "injury" and "personal injury" shall be extended to include silicosis, and the commissioner shall likewise disburse the workmen's compensation fund to the employees of such employers as are not delinquent in the payment of premiums for the last quarter in which such employees have been exposed to silicon dioxide dust in harmful quantities, and which employees shall have contracted silicosis in this state in the course of and resulting from their employment, or to the dependents, if any, of such employees, in case death has ensued, according to the provisions hereinafter made: *Provided, however,* That compensation shall not be payable for the disease of silicosis, or death resulting therefrom, unless the employee has been exposed to the inhalation of silicon dioxide dust in harm-

37 ful quantities over a period of not less than two years  
38 in the state of West Virginia. An application for benefits  
39 on account of silicosis shall set forth the name of the  
40 employer or employers and the time worked for each,  
41 and the commissioner may allocate to and divide any  
42 charges on account of such claim among the employers  
43 for whom the claimant was employed during a period  
44 of two years immediately preceding the filing of the ap-  
45 plication. The allocation shall be based upon the time  
46 and degree of exposure with each employer.

47 For the purpose of this chapter silicosis is defined as an  
48 insidious fibrotic disease of the lung or lungs due to the  
49 prolonged inhalation and accumulation, sustained in the  
50 course of and resulting from his employment, of minute  
51 particles of dust containing silicon dioxide ( $\text{SiO}_2$ ) over  
52 such a period of time and in such amounts as result in  
53 the substitution of fibrous tissues for normal lung tissues;  
54 and the term "silicosis" as used herein shall also include  
55 silicosis accompanied by tuberculosis of the lungs.

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## CHAPTER 165

(Senate Bill No. 302—By Mr. Vickers, Mr. President)

AN ACT to repeal section nine-a, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact section nine, article two, section one, article three, and section nine-b, article four, of such chapter, relating to workmen's compensation and its administration.

[Passed March 8, 1947; in effect ninety days from passage. Approved by the Governor.]

### Article

2. Employers and Employees Subject to Chapter; Premiums.
3. Workmen's Compensation Fund.
4. Disability and Death Benefits.

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

That section nine-a, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that section nine, article two, section one, article three, and section nine-b, article four, of such chapter, be amended and reenacted to read as follows:

**Article 2. Employers and Employees Subject to Chapter; Premiums.**

**Section**

9. Election of employer to provide own system of compensation.

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

30 this section shall on or before the twentieth day of the first  
31 month of each quarter, for the preceding quarter, file with  
32 the commissioner a sworn statement of the total earnings  
33 of all his employees subject to this chapter for such preced-  
34 ing quarter, and shall pay into the workmen's compensa-  
35 tion fund a sum sufficient to pay his proper proportion of  
36 the expenses of the administration of this chapter, as may  
37 be determined by the commissioner. The commissioner  
38 shall make and publish rules and regulations governing  
39 the mode and manner of making application, and the na-  
40 ture and extent of the proof required to justify the finding  
41 of facts by the commissioner, to consider and pass upon  
42 such election by employers subject to this chapter, which  
43 rules and regulations shall be general in their applica-  
44 tion. Any employer subject to this chapter who shall  
45 elect to carry his own risk and who has complied with  
46 the requirements of this section and the rules of the com-  
47 pensation commissioner shall not be liable to respond in  
48 damages at common law or by statute for the injury or  
49 death of any employee, however occurring, after such  
50 election and during the period that he is allowed by the  
51 commissioner to carry his own risk; provided the injured  
52 employee has remained in his service with notice given,  
53 as provided for in section seven of this article, that his  
54 employer has elected to carry his own risk as herein pro-  
55 vided. The continuation in the service of such employer  
56 with such notice shall be deemed a waiver by the em-  
57 ployee and by the parents of any minor employee of the  
58 right of action, as aforesaid, which the employee or his  
59 or her parents would otherwise have.

60 Any employer whose record upon the books of the  
61 compensation commissioner shows a liability against the  
62 workmen's compensation fund, incurred on account of  
63 injury to or death of any of his employees, in excess of  
64 premiums paid by such employer shall not be granted  
65 the right, individually and directly or from such benefit  
66 funds, department or association, to compensate his in-  
67 jured employees and the dependents of his fatally in-  
68 jured employees until he has paid into the workmen's  
69 compensation fund the amount of such excess of liability

70 over premiums paid, including his proper proportion of  
71 the liability incurred on account of explosions, catas-  
72 trophes or second injuries, as defined in section one,  
73 article three of this chapter, occurring within the state  
74 and charged against such fund.

75 All employers who have heretofore elected, or shall  
76 hereafter elect, to pay compensation and expenses di-  
77 rectly, as provided in this section, shall, unless they give  
78 the catastrophe and second injury security or bond here-  
79 inafter provided for, pay into the surplus fund referred  
80 to in section one, article three of this chapter upon the  
81 same basis and in the same percentages, subject to the  
82 limitations herein set forth, as funds are set aside for the  
83 maintenance of the surplus fund out of payments made  
84 by premium-paying subscribers, such payments to be  
85 made at the same time as hereinbefore provided with  
86 respect to payment of proportion of expenses of admin-  
87 istration. In case there be a catastrophe or second injury,  
88 as defined in section one, article three of this chapter,  
89 to the employees of any employer making such pay-  
90 ments, the employer shall not be liable to pay compen-  
91 sation or expenses arising from or necessitated by the  
92 catastrophe or second injury, and such compensation and  
93 expenses shall not be charged against such employer,  
94 but such compensation and expenses shall be paid from  
95 the surplus fund in the same manner and to the same  
96 extent as in the case of premium-paying subscribers.

97 If an employer elect to make payments into the sur-  
98 plus fund as aforesaid, then the bond or other security  
99 required by this section shall be of such amount as the  
100 commissioner considers adequate and sufficient to compel  
101 or secure to the employees or their dependents payment  
102 of compensation and expenses, except any compensation  
103 and expenses that may arise from, or be necessitated  
104 by, any catastrophe or second injury, as defined in sec-  
105 tion one, article three of this chapter, which last are  
106 secured by and shall be paid from the surplus fund, as  
107 hereinbefore provided.

108 If any employer elect not to make payments into the  
109 surplus fund, as hereinbefore provided, then, in addition

110 to bond or security in the amount hereinbefore set forth,  
111 such employer shall furnish catastrophe and second in-  
112 jury security or bond, approved by the commissioner,  
113 in such additional amount as the commissioner shall  
114 consider adequate and sufficient to compel or secure  
115 payment of all compensation and expenses arising from,  
116 or necessitated by, any catastrophe or second injury that  
117 might thereafter ensue.

118 All employers hereafter making application to carry  
119 their own risk under the provisions of this section, shall  
120 with such application, make a written statement as to  
121 whether such employer elects to make payments as  
122 aforesaid into the surplus fund, or not to make such  
123 payments and to give catastrophe and second injury  
124 security or bond hereinbefore in such case provided  
125 for.

126 All employers who have heretofore elected to carry  
127 their own risk under the provisions of this section shall  
128 be deemed to have elected to make payments into the  
129 surplus fund unless, within thirty days after the effec-  
130 tive date of this act, they notify the commissioner in  
131 writing to the contrary: *Provided, however,* That such  
132 employers, as have heretofore elected, under the rules  
133 heretofore promulgated by the commissioner, not to make  
134 payments into the surplus fund, shall be deemed to have  
135 elected to give the catastrophe and second injury security  
136 or bond hereinbefore provided for and not to make  
137 payments into the surplus fund. Any catastrophe and  
138 second injury security or bond heretofore given under  
139 rules and regulations promulgated by the com-  
140 missioner and approved by him shall be valid under this  
141 section, and any election heretofore made under rules  
142 and regulations of the commissioner to make payments  
143 into the surplus fund shall be valid and protective to  
144 the person so electing from and after the date of such  
145 election.

146 In any case under the provisions of this section that  
147 shall require the payment of compensation or benefits  
148 by an employer in periodical payments, and the nature  
149 of the case makes it possible to compute the present value

150 of all future payments, the commissioner may, in his  
151 discretion, at any time compute and permit or require  
152 to be paid into the workmen's compensation fund an  
153 amount equal to the present value of all unpaid compen-  
154 sation for which liability exists, in trust; and thereupon  
155 such employer shall be discharged from any further lia-  
156 bility upon such awards, and payment of the same shall be  
157 assumed by the workmen's compensation fund.

### Article 3. Workmen's Compensation Fund.

#### Section

1. Compensation fund; surplus fund; catastrophe and catastrophe payment defined; second injury and second injury reserve; compensation by employers.

Section 1. *Compensation Fund; Surplus Fund; Catastrophe and Catastrophe Payment Defined; Second Injury and Second Injury Reserve; 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 premiums applicable to such employers and have otherwise complied fully with the provisions of section five, article two of this chapter, and for the benefit, to the extent elsewhere in this chapter set out, of employees of employers who have elected, under section nine, article two of this chapter, to make payments into the surplus fund hereinafter provided for, and for the benefit of the dependents of all such employees, and for the payment of the administration expenses of this chapter and shall adopt rules and regulations with respect to the collection, maintenance and disbursement of such fund not in conflict with the provisions of this chapter.

Ten per cent of all that shall hereafter be paid into the workmen's compensation fund by subscribers not electing to carry their own risk under section nine, article two of this chapter shall be set aside for the creation of a surplus fund until such surplus shall amount to the sum of five hundred thousand dollars, after which time the sum of five per cent of all the money paid into such fund shall be credited to such surplus fund, until



28 such time as in the judgment of the commissioner, such  
29 surplus fund shall be sufficiently large to cover the catas-  
30 trophe hazard, the second injury hazard, and all losses  
31 not otherwise specifically provided for in this chapter.

32 A catastrophe is hereby defined as an accident in  
33 which three or more employees are killed or receive in-  
34 juries, which, in the case of each individual, consists of:  
35 Loss of both eyes or the sight thereof; or loss of both  
36 hands or the use thereof; or loss of both feet or the use  
37 thereof; or loss of one hand and one foot or the use  
38 thereof. The aggregate of all medical and hospital bills  
39 and other costs, and all benefits payable on account of a  
40 catastrophe is hereby defined as "catastrophe payment."  
41 In case of a catastrophe to the employees of an employer  
42 who is an ordinary premium-paying subscriber to the  
43 fund, or to the employees of an employer who, having  
44 elected to carry his own risk under section nine, article  
45 two of this chapter, has heretofore elected, or may here-  
46 after elect, to pay into the surplus fund under the provi-  
47 sions of that section, then the catastrophe payment aris-  
48 ing from such catastrophe shall not be charged against,  
49 or paid by, such employer but shall be paid from the  
50 surplus fund.

51 If an employee who has a definitely ascertainable phy-  
52 sical impairment, caused by a previous injury, irrespec-  
53 tive of its compensability, becomes permanently and to-  
54 tally disabled through the combined effect of such  
55 previous injury and a second injury received in the  
56 course of and as a result of his employment, the employer  
57 shall be chargeable only for the compensation payable  
58 for such second injury: *Provided, however,* That in addi-  
59 tion to such compensation, and after the completion of  
60 the payments therefor, the employee shall be paid the  
61 remainder of the compensation that would be due for  
62 permanent total disability out of a special reserve of the  
63 surplus fund known as the second injury reserve, created  
64 in the manner hereinbefore set forth.

65 If an employee of an employer, who having elected to  
66 carry his own risk under section nine of article two of  
67 this chapter, and who has not elected to pay into the

68 surplus fund under the provisions of that section, who  
69 has a definitely ascertainable physical impairment caused  
70 by a previous injury, irrespective of its compensability,  
71 and becomes permanently and totally disabled from the  
72 combined effect of such previous injury and a second  
73 injury received in the course of and as a result of his  
74 employment, the employee shall be granted an award  
75 of total permanent disability and his employer shall,  
76 upon order of the commissioner, compensate the said  
77 employee in the same manner as if the total permanent  
78 disability of the employee had resulted from a single  
79 injury while in the employ of such employer.

80 Employers electing, as herein provided, to compensate  
81 individually and directly their injured employees and  
82 their fatally injured employees' dependents shall do so in  
83 the manner prescribed by the commissioner, and shall  
84 make all reports and execute all blanks, forms and papers  
85 as directed by the commissioner, and as provided in this  
86 chapter.

#### Article 4. Disability and Death Benefits.

##### Section

9-b. Effect of pre-existing physical impairment; limited compensation.

Sec. 9-b. *Effect of Pre-existing Physical Impairment; Limited Compensation.*—Where an employee has a definitely ascertainable physical impairment originating as hereafter set forth in this section, then in the event that such employee shall thereafter receive an injury in the course of and resulting from his employment, unless such injury results in total permanent disability within the meaning of section one, article three of this chapter, such physical impairment, and the effect thereof, and an aggravation thereof, shall not be taken into consideration in fixing the amount of compensation allowed by reason of such injury, and such compensation shall be awarded only in the amount that would have been allowable had such employee not had such pre-existing physical impairment. This section shall only apply to definitely ascertainable physical impairments, either:

(a) Originating either before or after October first, one thousand nine hundred thirteen, otherwise than

19 from an injury received in the course of and resulting  
20 from employment, or

21 (b) Originating prior to October first, one thousand  
22 nine hundred thirteen, from an injury in the course  
23 of and resulting from employment, or

24 (c) Originating after October first, one thousand, nine  
25 hundred thirteen, from an injury in the course of and  
26 resulting from employment by an employer, who at  
27 the time of such injury had not elected to comply with,  
28 or was not in good standing, under the workmen's com-  
29 pensation law of West Virginia, or

30 (d) Originating in any injury of whatsoever origin  
31 whenever received, occurring without the state of West  
32 Virginia, except injuries received after October first, one  
33 thousand, nine hundred thirteen, in the employ of a  
34 subscriber in good standing under the compensation fund  
35 of West Virginia in the course of and resulting from  
36 temporary employment without the state as defined and  
37 limited by section one, article two of this chapter.

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## CHAPTER 166

(House Bill No. 413—By Mr. Gentry and Mr. Casey)

AN ACT to amend and reenact sections three, four and five, chapter one hundred fifty-seven, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to the establishment of a general hospital in Cabell county.

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[Passed March 5, 1947; in effect from passage. Approved by the Governor.]

### Cabell County General Hospital.

#### Section

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; terms of office; vacancies.

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

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

Section 3. *Construction, etc., to Be Under Control of Board of Trustees.*—The said court and city, or said court alone, as the case may be, shall appoint a board of trustees, consisting of fourteen persons, of whom two shall be licensed physicians who are members in good standing of the Cabell county medical society, and one each shall be a member of the following organizations, viz: Huntington ministerial association, Cabell county bar association, the chamber of commerce of Huntington, the junior chamber of commerce of Huntington, council of social agencies and community chest, east Huntington civic club, west Huntington commercial club, Cabell county farm bureau, Cabell county farm women's council, woman's club of Huntington, American federation of labor and the congress of industrial organizations.

The president of the Cabell county court, and the mayor of the city of Huntington, if said city shall elect to participate in the construction, acquisition, equipment, operation and maintenance of said hospital, shall be ex officio members of said board of trustees. Said board shall be increased by the addition of four members to be designated by such organizations or individuals as shall collectively contribute five hundred thousand dollars or more to the construction, acquisition, operation and maintenance of said hospital. Said board is hereby authorized and empowered to construct, acquire, equip, operate and maintain said Cabell county general hospital, and the term "board" when hereafter used in this article shall be construed to mean the board of trustees of the Cabell county general hospital.

Sec. 4. *Officers and Members of Board to Serve Without Compensation; Committees.*—No officer or member of the board shall receive any compensation for his services

4 as a member thereof; and no person who holds any other  
5 public office or public employment, except the president  
6 of the county court of Cabell county and the mayor of the  
7 city of Huntington, shall be eligible to membership on the  
8 board. The officers of the board shall be a president, vice-  
9 president, secretary and treasurer, and such other officers  
10 as may be appropriate or necessary. Except as herein  
11 otherwise provided, the board shall have the power to  
12 establish by-laws, rules and regulations for its own gov-  
13 ernment and respecting the construction, maintenance  
14 and operation of said hospital, and it may by appropriate  
15 resolution or resolutions designate one or more commit-  
16 tees consisting of two or more members of the board to  
17 have and exercise the powers of the board in the manage-  
18 ment, control and operation of the hospital to the extent  
19 provided for in any such resolution.

Sec. 5. *Qualifications of Members of Board; Terms of*  
2 *Office; Vacancies.*—All members of the board shall be cit-  
3 izens of West Virginia and residents of Cabell county, and  
4 no more than two of such members shall be engaged in  
5 the practice of medicine or surgery. The term of office of  
6 the members of the board shall be three years, except that  
7 the court and city, or the court alone, as the case may be,  
8 shall divide those originally appointed into three classes;  
9 the term of office of those of the first class consisting of  
10 five members shall expire on March one, one thousand  
11 nine hundred forty-eight; of the second class consisting  
12 of five members on March one, one thousand nine hun-  
13 dred forty-nine; and of the third class consisting of four  
14 members on March one, one thousand nine hundred fifty;  
15 at every third annual appointment after such classifica-  
16 tion only four members shall be chosen for a full term of  
17 three years to succeed those whose terms expire, and at  
18 other annual appointments five members shall be chosen  
19 for a full term of three years to succeed those whose  
20 terms expire. Each of the organizations mentioned in sec-  
21 tion three shall, on or before thirty days from the first day  
22 of March in each year, certify the name of one of its mem-  
23 bers as its choice for appointment as a member of said

24 board of trustees, and the person whose name is so cer-  
25 tified shall be appointed by the said court and city, or said  
26 court alone, as the case may be, as a member of the board  
27 of trustees. The present members of the board of trustees  
28 shall continue in office until their successors are appoint-  
29 ed in accordance with the provisions of this section. All  
30 vacancies in the board shall be filled by the appointment  
31 of a successor member for the unexpired term by the  
32 court and city, or the court alone, as the case may be, and  
33 in every occasion appointment shall be made and the  
34 terms of office shall continue until successors have been  
35 appointed and qualified. Every appointee to fill a vacancy,  
36 or upon the expiration of a term on the board, shall be a  
37 member of the same organization as the predecessor. The  
38 members of the board shall be chosen with regard to their  
39 business and professional experience and their standing  
40 as citizens in the community and without regard to their  
41 religious or political affiliations. Members of the board  
42 may be removed for such cause as other public officers  
43 may be removed from office.

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## CHAPTER 167

(House Bill No. 440—By Mr. Adkins)

AN ACT authorizing the common council of the municipality of Ceredo to transfer the unexpended balance in the sum of six hundred twenty-seven dollars and ninety-seven cents of a municipal bond fund issued to cooperate with Works Progress Administration for paving, to the general fund of said municipality.

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[Passed March 6, 1947; In effect July 1, 1947. Approved by the Governor.]

### Section

1. Authorizing Ceredo council to transfer unexpended funds from its works progress administration bond fund to its general fund.

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

- Section 1. *Authorizing Ceredo Council to Transfer Un-*  
2 *expended Funds from Its Works Progress Administration*  
3 *Bond Fund to Its General Fund.*—The common council  
4 of the municipality of Ceredo in Wayne county is hereby  
5 authorized and empowered to transfer the unexpended  
6 balance in the sum of six hundred twenty-seven dollars  
7 and ninety-seven cents of a municipal bond fund issued  
8 to cooperate with Works Progress Administration for  
9 paving, to the general fund of said municipality.

## CHAPTER 168

(House Bill No. 444—By Mr. Adkins)

AN ACT authorizing the creation of the Ceredo-Kenova flood wall board for the custody of and the control of the administration, operation and maintenance of flood walls within or surrounding the municipalities of the town of Ceredo and the city of Kenova, prescribing the qualifications of the members of said board, the manner of their appointment, their powers and duties, and providing for raising, collecting, custody and expenditure of funds necessary for the functioning of said board and the performance of their duties as provided herein or which may be provided by ordinance or ordinances adopted by the common councils of said municipalities.

[Passed March 7, 1947; in effect April 1, 1947. Approved by the Governor.]

### Section

1. Ceredo-Kenova flood wall board.
2. Appointment of board; term; filling vacancies.
3. Board a corporate body.
4. Powers and authority of board.
5. Budget of board.
6. Acceptance of act by adoption of uniform ordinance.
7. Funds of board; zoning; levy; special assessments.
8. Collections by sheriff of Wayne county; bond.

9. Delinquent lists; publication; tax lien.
10. Expenditure of funds; bonds of president and secretary-treasurer.
11. Board subject to federal law and regulations; hay grown on walls.
12. Uniform ordinances.
13. Jurisdiction of Wayne county circuit court.
14. Provisions severable; inconsistent acts repealed.

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

Section 1. *Ceredo-Kenova Flood Wall Board.*—The  
2 common councils of the municipalities of the town of  
3 Ceredo and the city of Kenova in the county of Wayne  
4 and state of West Virginia are hereby authorized to cre-  
5 ate in the manner hereinafter provided a flood wall board  
6 to be known as the “Ceredo-Kenova Flood Wall Board”,  
7 which board shall have the custody of and control of the  
8 administration, operation and maintenance of all flood  
9 walls located within and surrounding the territorial boun-  
10 daries of said municipalities and including but not limited  
11 to, all instrumentalities necessary for the operation of  
12 said walls. The word “board”, when hereinafter used,  
13 shall be construed to mean the “Ceredo-Kenova Flood  
14 Wall Board”, and the word “municipalities”, when here-  
15 inafter used, shall mean the town of Ceredo and the city  
16 of Kenova.

Sec. 2. *Appointment of Board; Term; Filling Vacan-*  
2 *cies.*—The board shall consist of three members, two of  
3 whom shall be residents and voters of the city of Kenova  
4 and the other member shall be a resident and voter of  
5 the town of Ceredo. Two members of the board shall be  
6 appointed by the common council of the city of Kenova  
7 and one member of said board shall be appointed by the  
8 common council of the town of Ceredo. The first two  
9 members of said board appointed by the common coun-  
10 cil of the city of Kenova shall hold office for a term of  
11 two years and six years, respectively, and their terms  
12 shall be designated by the resolution appointing them;  
13 and the first member of the board appointed by the com-  
14 mon council of the town of Ceredo shall hold office for  
15 the term of four years. Thereafter the members of said  
16 board shall be appointed for a term of six years. The



17 members of the board shall be chosen without regard to  
18 their political affiliations. Any appointment to fill a va-  
19 cancy arising from any cause shall be for the remainder  
20 of the unexpired term. Any member of such board may  
21 be removed for cause at any time by a majority of the  
22 common council appointing such members. Such removal  
23 shall be upon written charges and before being removed  
24 such member shall have the right to a public hearing.

Sec. 3. *Board a Corporate Body.*—The board provided  
2 for herein shall be a body corporate, may sue and be  
3 sued, shall have a common seal, shall keep records of its  
4 proceedings in a book provided for that purpose, and  
5 shall designate a presiding officer, a secretary-treasurer  
6 and such other officers as the board may desire.

Sec. 4. *Powers and Authority of Board.*—The board  
2 shall have the power and authority to establish by-laws,  
3 rules and regulations for its own government and for the  
4 operation, maintenance and control of the flood walls  
5 under its jurisdiction and all instrumentalities used in  
6 connection therewith. Such by-laws, rules and regula-  
7 tions shall not be in conflict with the provisions of this  
8 act, general law and the ordinances passed from time to  
9 time by the common councils of the municipalities, and  
10 said board shall have such additional powers and duties  
11 as the municipalities may by ordinance lawfully confer  
12 on it.

Sec. 5. *Budget of Board.*—The board shall once each  
2 year on or before the thirty-first day of May, prepare and  
3 present to the common councils of the municipalities a  
4 budget of the anticipated financial requirements neces-  
5 sary for the performance of the duties imposed by this  
6 act and ordinances passed in pursuance thereof.

Sec. 6. *Acceptance of Act by Adoption of Uniform*  
2 *Ordinance.*—The common councils of said municipalities  
3 in their discretion and pursuant to the authority vested  
4 in them by this act may adopt a uniform ordinance recit-  
5 ing therein their purpose to accept the provisions of this  
6 act to create the flood wall board herein provided for,

7 and thereby confer on said board the supervision and  
8 control of the custody of, administration, operation and  
9 maintenance of the flood walls and all instrumentalities  
10 necessary for their operation, surrounding and within the  
11 territorial limits of said municipalities, and may confer  
12 on said board such other powers as may be proper and  
13 necessary for the performance of their duties under this  
14 act and any ordinance passed in pursuance thereof.

Sec. 7. *Funds of Board; Zoning; Levy; Special Assess-*  
2 *ments.*—If the ordinance provided in section six hereof  
3 shall be passed by the municipalities, they shall provide  
4 in said ordinance for adequate funds to meet the financial  
5 requirements as hereinbefore provided. Said funds may  
6 be provided by a general levy on all real and personal  
7 property situated within the municipalities; or the com-  
8 mon councils of said municipalities may, in their discre-  
9 tion, by ordinance zone said municipalities in a proper  
10 manner and levy special assessments on the basis of bene-  
11 fits accruing to property owners within the respective  
12 zones as designated by said ordinance; either of the al-  
13 ternative methods shall be taken to comply with the pro-  
14 visions of this act. If either method is adopted for raising  
15 the funds required herein, the provisions of the ordin-  
16 ance providing for such tax or special assessment shall  
17 be uniform as to persons and property throughout the  
18 town of Ceredo and the city of Kenova. The funds de-  
19 rived from either taxes or assessments shall not be ex-  
20 pended by the common councils of said municipalities  
21 for any purpose other than for the maintenance, opera-  
22 tion, and control of said flood walls and their instrumen-  
23 talities.

Sec. 8. *Collections by Sheriff of Wayne County; Bond.*  
2 —The sheriff of Wayne county shall collect all funds in  
3 accordance with the provisions of the ordinance to be  
4 adopted, and shall pay to the proper officer of the board  
5 on or before the fifth day of each month all funds there-  
6 tofore collected by him. The sheriff shall execute a bond  
7 to be approved by the board in a penalty to be fixed by  
8 the board not to exceed the amount of money which may

9 come into his hands within a period of two months. The  
10 premium for such bond shall be paid by the board. If  
11 the sheriff shall fail to make payment when due, he shall  
12 be charged with interest at the rate of twelve per cent  
13 per annum.

Sec. 9. *Delinquent Lists; Publication; Tax Lien.*—Said  
2 sheriff, after ascertaining that any tax or special assess-  
3 ment, as provided in the ordinance, is unpaid, shall on or  
4 before the first day of July next of the succeeding year  
5 for which the tax or special assessment was levied, pre-  
6 pare a separate delinquent list for each of the munici-  
7 palities and certify the same to said common councils.  
8 The common councils of said municipalities shall there-  
9 upon cause the lists of the municipality to which it per-  
10 tains to be published in the same manner that delinquent  
11 lists for state and county taxes are published, and the  
12 common councils of said municipalities are hereby given  
13 all remedies conferred by law on municipalities for the  
14 collection of other taxes or special assessments. Any tax  
15 or special assessments levied as herein provided shall be  
16 a lien upon the real estate owned by the person charged  
17 therewith from and after the recordation of said lien in  
18 the office of the clerk of the county court of Wayne  
19 county, West Virginia. Said lien shall be recorded in the  
20 same manner as a judgment lien.

Sec. 10. *Expenditure of Funds; Bonds of President and  
2 Secretary-Treasurer.*—All moneys expended by the board  
3 shall be by order or check drawn on the funds at the dis-  
4 posal of the board, which check or order shall be signed  
5 by the presiding officer of the board and countersigned  
6 by the secretary-treasurer thereof. The president and  
7 secretary-treasurer shall give bond for the faithful per-  
8 formance of their duties and to account for and pay over  
9 all funds in their custody, which bond shall be in a pen-  
10 alty to be fixed by the board, but shall not exceed the  
11 sum of ten thousand dollars for each. The accounts of  
12 the board, its president and secretary-treasurer shall be  
13 audited in the same manner as the accounts of the munic-  
14 ipalities creating it are audited.

Sec. 11. *Board Subject to Federal Law and Regulations; Hay Grown on Walls.*—The board created hereby shall be subject to all laws of the United States and regulations of the war department of the United States of America. Said board shall have charge of all hay, growing in and on said flood walls, or any portion thereof.

Sec. 12. *Uniform Ordinances.*—The ordinances adopted by the common councils of the municipalities hereunder shall be uniform in each municipality and shall be a counter-part of each other.

Sec. 13. *Jurisdiction of Wayne County Circuit Court.*—An appeal shall be to the circuit court of Wayne county, West Virginia, from any action by the common councils of the municipalities and by the board or either of them.

Sec. 14. *Provisions Severable; Inconsistent Acts Repealed.*—If any section of this act shall be held unconstitutional, such decision shall not affect the validity of any remaining section. All acts and parts of acts inconsistent herewith are hereby repealed.

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## CHAPTER 169

(House Bill No. 139—By Mrs. Walker)

AN ACT to authorize the county court of Fayette county to transfer funds from the building and improvement fund to the general county fund, from time to time, as may appear necessary and advisable to such court.

[Passed February 19, 1947; in effect from passage. Approved by the Governor.]

### Section

1. Transfer of fund by Fayette county court.

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

- Section 1. *Transfer of Fund by Fayette County Court.*
- 2 —The county court of Fayette county is hereby author-

3 ized and empowered to transfer, from time to time as  
4 may appear necessary and advisable, any part or all of  
5 the building and improvement fund of said county to  
6 the general county fund to be used and expended as a  
7 part of said general county fund.

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## CHAPTER 170

(Com. Sub. for House Bill No. 465—Originating in the House Committee on  
Counties, Districts and Municipalities)

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AN ACT authorizing the board of education of Gilmer county,  
West Virginia, to submit to the voters of Glenville district,  
Gilmer county, West Virginia, the question of the issuance  
and sale of bonds to construct a high school therein.

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[Passed March 8, 1947; in effect ninety days from passage. Approved by the  
Governor.]

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### Section

1. Gilmer county board of education to submit question of issuance of high school bonds to voters.
  2. Amount of bonds to be issued.
  3. Submission, calling and conducting election.
  4. Advisory committee to board of education.
- 

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

Section 1. *Gilmer County Board of Education to Submit Question of Issuance of High School Bonds to Voters.*  
3 —The board of education of Gilmer county, West Vir-  
4 ginia, may cause to be submitted to vote of the quali-  
5 fied electors of Glenville district of said county as pro-  
6 vided by the general laws of the state, the question of  
7 issuance and sale of bonds to build a high school building  
8 and to furnish and equip the same when requested so to  
9 do by a petition in writing, praying that bonds be issued  
10 and stating the purpose and the amount thereof, signed by  
11 the legal voters of Glenville magisterial district of said  
12 county, equal to twenty per cent of the votes cast in said  
13 magisterial district for governor in the last preceding  
14 general election.

Sec. 2. *Amount of Bonds to be Issued.*—The bonds to  
2 be provided for hereunder shall not exceed in amount  
3 five per cent of the value of the taxable property therein,  
4 as shown by the last assessment thereof, for state and  
5 county purposes, next prior to the issuance of said bonds.

Sec. 3. *Submission, Calling and Conducting Election.*  
2 —The order of submission, the calling of and conducting  
3 said election, declaring the results thereof, shall be in  
4 conformity to and with sections four, seven, eight, nine,  
5 ten, eleven, twelve, thirteen, fourteen, fifteen and six-  
6 teen of article one, chapter thirteen, of the code of West  
7 Virginia, one thousand nine hundred thirty-one, as  
8 amended.

Sec. 4. *Advisory Committee to Board of Education.*—  
2 The board of education of Gilmer county shall name five  
3 citizens of said district to serve in an advisory capacity  
4 to said board of education in the conduct of said election,  
5 issuance and sale of the bonds and in the construction of  
6 said high school from a list of names submitted to said  
7 board of education by the parent-teachers association of  
8 said district.

## CHAPTER 171

(House Bill No. 66—By Mr. Speaker, Mr. Amos and Mr. Davis)

AN ACT to amend and reenact chapter one hundred sixty-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-five, 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 14, 1947; 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 chapter one hundred sixty-eight, acts of the Legislature, regular session, one thousand nine hundred forty-five, 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 to 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 less than four thousand two hundred dollars nor more than five thousand dollars per year, to be fixed by the county court, 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 172

(Senate Bill No. 189—By Mr. Love)

AN ACT to create and establish in Kanawha county a court to be known and designated as the Domestic Relations Court of Kanawha county.

[Passed March 7, 1947; in effect ninety days from passage. Approved by the Governor.]

### Domestic Relations Court of Kanawha County.

#### Section

1. Court created and established.
2. Jurisdiction.
3. Judge; qualification, term, appointment and election.
4. Salary.

5. Clerk; his powers, duties and compensation.
6. Power and duties of sheriff.
7. Transfer of pending causes.
8. Terms of court; maturity of causes; procedure.
9. Supplies; finances; seal; court rooms.
10. Contempt.
11. Appeals; limitations thereon.
12. Separability; repeal.

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

That a domestic relations court of Kanawha county be created and established as hereinafter provided.

Section 1. *Court Created and Established.*—There is hereby created and established in and for Kanawha county, with authority and jurisdiction coextensive with the county, a court of limited jurisdiction to be known and designated as the domestic relations court of Kanawha county. Wherever and whenever the word "court" is hereinafter in this act used, it shall be taken to mean and refer to the domestic relations court of Kanawha county, unless the context clearly indicates otherwise.

Sec. 2. *Jurisdiction.*—The court shall have jurisdiction, within Kanawha county, concurrent with the circuit court of said county, of actions, suits, causes and proceedings relating to annulment of marriages, separate maintenance, divorces, alimony, the adoption of adults and children, the care and disposition of delinquent, defective, neglected and dependent children, juvenile offenders, desertion and non-support of wives and children, child labor, truancy under the school laws of the state, and any and all other matters arising under the laws of the state of West Virginia, common or statutory, incidental to the foregoing, including, but not limited to, the disposition of property and property interests involved in any such causes and matters and, as well, the adjudication of any and all rights, titles and interests therein necessary or incidental to a full determination of all such causes and matters pending in said court.

The court shall have general equity jurisdiction in any causes or proceedings before it, with full power to grant injunctions in matters involving the care, preser-



21 vation and protection of persons or property in such  
22 causes or proceedings.

23 The manner and modes of procedure, power and juris-  
24 diction conferred by law upon the circuit court of Ka-  
25 nawha county in any and all of the foregoing matters  
26 and causes are hereby conferred upon and shall be exer-  
27 cised by the domestic relations court of Kanawha county.

28 It shall not be necessary in any such causes or pro-  
29 ceedings to set forth upon the record the facts author-  
30 izing the court to take jurisdiction thereof, but jurisdic-  
31 tion shall be presumed unless the contrary plainly ap-  
32 pears from the record.

Sec. 3. *Judge; Qualification, Term, Appointment and*  
2 *Election.*—The principal presiding officer of the court  
3 shall be a judge whose qualifications, term, appointment,  
4 election and tenure shall be as follows. The person elect-  
5 ed or appointed to said office of judge shall be a member  
6 of the West Virginia state bar and a resident member in  
7 good standing of the organized bar of Kanawha county.  
8 At the general election to be held on the Tuesday after  
9 the first Monday in November, one thousand nine hun-  
10 dred forty-eight, and at the general election to be held  
11 at intervals of eight years thereafter, some attorney, qual-  
12 ified as aforesaid, shall be elected, in the manner pro-  
13 vided by law for the election of circuit judges, to be  
14 judge of said court for the next ensuing term of eight  
15 years, beginning on January first next following such  
16 election. Candidates for the office of judge of the court  
17 shall be nominated in the same manner as are candidates  
18 for the office of judge of the circuit court. The judge of  
19 the court may be removed from office for the same rea-  
20 sons and in the same manner as a judge of the circuit  
21 court. If from any cause the office of judge of the court  
22 shall become vacant, the vacancy shall be filled in the  
23 same manner as in the case of a vacancy in the office of  
24 the judge of the circuit court. Any judge so elected or  
25 appointed shall continue in said office until his successor  
26 is elected and qualified.

Sec. 4. *Salary.*—The judge of the domestic relations

2 court of Kanawha county shall for his services receive  
3 the sum of eight thousand five hundred dollars per an-  
4 num, to be paid in monthly installments out of the county  
5 treasury of Kanawha county. The county court of Ka-  
6 nawha county shall annually make provisions by appro-  
7 priate levy and appropriation for the payment of said  
8 salary.

Sec. 5. *Clerk; His Powers, Duties and Compensation.*—

2 The clerk of the circuit court of Kanawha county shall,  
3 ex officio, be, act as and perform the duties of clerk of the  
4 domestic relations court of Kanawha county and shall  
5 exercise the same power and duties arising within the  
6 jurisdiction of the court as are performed by him as clerk  
7 of the circuit court. All processes, rules and orders of the  
8 court, in the exercise of its jurisdiction, shall be signed  
9 by the clerk thereof to be directed to the sheriffs of the  
10 proper counties wherein the same are to be executed  
11 in like manner and with the same effect as processes is-  
12 suing from the circuit court of Kanawha county. For his  
13 services under and pursuant to this act, the clerk shall  
14 receive, in addition to his annual salary as provided by  
15 general statute, additional compensation not to exceed  
16 two thousand dollars annually, payable in monthly in-  
17 stallments out of the county treasury of Kanawha county,  
18 beginning contemporaneously with salary payments  
19 hereunder to the judge of the court, and the county court  
20 of Kanawha county shall annually make provision by  
21 levy and appropriation for the payment of said additional  
22 compensation.

Sec. 6. *Power and Duties of Sheriff.*—The sheriff of  
2 Kanawha county and the sheriffs of the several counties  
3 in the state shall by themselves or their deputies execute  
4 all processes of said court, issued by the clerk thereof,  
5 directed to them respectively, and all processes emanat-  
6 ing from said court shall be directed to and be executed  
7 by them in the same manner as is provided by law as to  
8 processes issuing from the circuit court by said clerk.  
9 The sheriff of Kanawha county shall perform the same  
10 duties and services for said court as he is now by law re-

11 quired to perform for the circuit court of Kanawha coun-  
12 ty. In the execution of processes, rules and orders of the  
13 court, the sheriff shall have the same powers and rights,  
14 be subject to the same liabilities, govern himself by the  
15 same rules and principles of law and the statutes of the  
16 state, as though said processes issued from the circuit  
17 court of Kanawha county.

Sec. 7. *Transfer of Pending Causes.*—The judges of  
2 the circuit court and of the court of common pleas of  
3 Kanawha county may, in their discretion, on and after  
4 the first day of January, one thousand nine hundred  
5 forty-nine, certify to the domestic relations court of Ka-  
6 nawha county any portion or all of the divorce proceed-  
7 ings, suits for annulment of marriage and any and all  
8 other matters pending in said courts and properly com-  
9 ing within the jurisdiction of this court as defined in  
10 section two hereof, and all such matters, suits, actions,  
11 petitions and proceedings so certified to the domestic re-  
12 lations court of Kanawha county shall be docketed and  
13 thereafter proceeded with therein according to law. The  
14 judges of the said circuit court and court of common  
15 pleas, in their discretion, may also direct the clerk of  
16 their respective courts to certify to and to docket all such  
17 matters, suits, actions, petitions and proceedings prop-  
18 erly within the jurisdiction of the domestic relations court  
19 of Kanawha county as may be instituted on and after the  
20 first day of January, one thousand nine hundred forty-  
21 nine, in either of their said courts, in the domestic re-  
22 lations court of Kanawha county. In the event of the ab-  
23 sence or disqualification of the judge of either the circuit  
24 court or court of common pleas, any matter coming within  
25 the purview of this act, pending in either of said courts,  
26 may be certified to the domestic relations court of Ka-  
27 nawha county, docketed therein and proceeded with ac-  
28 cording to law.

Sec. 8. *Terms of Court; Maturity of Causes; Procedure.*  
2 —For the purpose of maturing, docketing, hearing and  
3 determining all matters, suits, petitions and other pro-  
4 ceedings properly determinable in the domestic relations

5 court of Kanawha county there shall be regularly con-  
6 tinued and held four terms of court each year, beginning  
7 on the second Monday in February, May, August and  
8 November. Special terms of said court may be called and  
9 held whenever, in the discretion of the judge of the  
10 court, public interest requires such special terms. The  
11 judge of the court shall have like jurisdiction and au-  
12 thority, in vacation of the court, to make and enter such  
13 proper orders in any matter, suit, action, petition or pro-  
14 ceeding pending in the court as the judges of the circuit  
15 courts have under the laws of the state. All matters aris-  
16 ing under the jurisdiction of the court, other than suits  
17 for divorce, separation and annulment of marriages, may  
18 be heard and determined either in term time or in va-  
19 cation: *Provided, however,* That proper notice of any such  
20 proceedings be given as provided by law for the particular  
21 case.

22 The mode of procedure in causes instituted in this court  
23 shall be the same as that prescribed for the circuit court  
24 in similar causes. The court is authorized and empowered  
25 to appoint such additional officers, divorce commission-  
26 ers, commissioners in chancery, special commissioners,  
27 jury commissioners and probation officers, and such med-  
28 ical, clerical and secretarial assistance as shall enable the  
29 court to discharge all of the duties required of it under  
30 the provisions of this act and the general laws of the state.  
31 The judge shall maintain a political balance between the  
32 two major political parties of Kanawha county in his  
33 appointments of divorce commissioners, commissioners in  
34 chancery and special commissioners, so that at no time  
35 will the number of either divorce commissioners or com-  
36 missioners in chancery or of special commissioners of one  
37 political affiliation exceed by more than one the number  
38 of such commissioners affiliated with the other major  
39 political party of the county. The court shall make pro-  
40 vision for reference of such divorce and other matters  
41 as may be proper from time to time to said commission-  
42 ers in rotation so as to effect, in so far as practicable, an  
43 equitable distribution of work between and among them.  
44 The judge of the court shall have power to make and

45 promulgate such rules for the transaction of the business  
46 of the court as may be necessary, provided that all such  
47 rules shall be in conformity with the laws of the state  
48 of West Virginia and with any rules promulgated by the  
49 supreme court of appeals of this state.

Sec. 9. *Supplies; Finances; Seal; Court Rooms.*—It shall  
2 be the duty of the county court of Kanawha county to pro-  
3 vide all record and other books and stationery that may be  
4 necessary for the court. Likewise a seal for the court shall  
5 be provided, but full faith and credit shall be given to the  
6 records of the court and certificates of its judge or clerk,  
7 whether the seal of the court be affixed thereto or not,  
8 in like manner and with the same effect as if the same  
9 were records of the circuit court similarly authenticated.  
10 The county court of Kanawha county shall likewise fur-  
11 nish such rooms, furniture and equipment for the proper  
12 conduct and administration of the court and shall,  
13 through annual levy and appropriations, make provi-  
14 sion for the payment for all such rooms, supplies and  
15 equipment and as well for such clerical, secretarial and  
16 other official help and expenses as may be required by  
17 the court.

Sec. 10. *Contempt.*—The court shall have the same  
2 powers to punish for contempt as are conferred upon  
3 the circuit court by law.

Sec. 11. *Appeals; Limitations Thereon.*—Appeals may  
2 be allowed and writs of error and supersedeas awarded  
3 to judgments, decrees, rulings and orders of the court,  
4 or the judge thereof, by the circuit court of Kanawha  
5 county, or the judge thereof, in all matters arising within  
6 the jurisdiction of this court for which matters appeals  
7 may be allowed and writs of error and supersedeas  
8 awarded by the supreme court of appeals if such matters  
9 had originally arisen in the circuit court of Kanawha  
10 county. In the event the circuit court of Kanawha county  
11 or the judge thereof refuses an application for writ of  
12 error and supersedeas or an appeal, application therefor  
13 may be made direct to the supreme court of appeals of  
14 the state or to any judge thereof. In all such cases such

15 application shall be made within four months next fol-  
16 lowing the date of the entry of the final order, judgment,  
17 or decree of this court or the circuit court as the case may  
18 be.

Sec. 12. *Separability; Repeal.*—The provisions of this  
2 act shall be construed as separable and severable and,  
3 should any provision or part hereof be held unconstitu-  
4 tional or for any reason invalid, the remaining provisions  
5 or parts shall not be thereby affected.

6 All acts or parts of acts in conflict herewith are hereby  
7 repealed.

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## CHAPTER 173

(House Bill No. 349—By Mr. Hall)

AN ACT to authorize the board of education of Marion county,  
West Virginia, to grant and convey to the Marion County  
Four-H Camp Association a tract of eight and a fraction  
acres, situate in Lincoln district of said Marion county.

[Passed March 5, 1947; in effect from passage. Approved by the Governor.]

### Section

1. Marion county board of education authorized to convey land.
2. President of board empowered to execute deed.

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

Section 1. *Marion County Board of Education Author-*  
2 *ized to Convey Land.*—The board of education of Marion  
3 county, West Virginia, is hereby authorized to grant and  
4 convey a tract of land containing eight and thirty-one  
5 hundredths acres, more or less, situated in Lincoln dis-  
6 trict of said Marion county, to the Marion County Four-H  
7 Camp Association, for a nominal consideration, the same  
8 being the real estate heretofore conveyed to the said board  
9 of education by the Marion county court under deed of  
10 April twentieth, one thousand nine hundred forty, and

11 of record in the office of the clerk of the county court of  
12 Marion county, West Virginia, in deed book number three  
13 hundred fifty-eight, at page two hundred twenty.

Sec. 2. *President of Board Empowered to Execute*  
2 *Deed.*—The President of the board of education of Marion  
3 county is hereby authorized and empowered to execute  
4 a deed granting and conveying the real estate hereto-  
5 fore described on behalf of said board of education of  
6 Marion county.

## CHAPTER 174

(House Bill No. 207—By Mr. Ross)

AN ACT to amend and reenact section four, chapter eighteen, acts of the Legislature of West Virginia, one thousand eight hundred ninety-three, as last amended and reenacted by chapter one hundred seventy-one, acts of the Legislature, regular session, one thousand nine hundred forty-five, relating to the salary of the judge of the criminal court of Mercer county, West Virginia.

[Passed February 17, 1947; in effect ninety days 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 last amended and reenacted by chapter one hundred seventy-one, acts of the Legislature, regular session, one thousand nine hundred forty-five, be amended and reenacted to read as follows:

Section 4. *Salary of the Judge of the Criminal Court*  
2 *of Mercer County.*—On and after January first, one thou-  
3 sand nine hundred forty-nine, the judge of said court shall  
4 for his services receive six thousand five hundred dollars

5 per annum, payable out of the county treasury of said  
6 county, as provided by chapter fourteen, section one, acts  
7 of the extraordinary session of the Legislature of West  
8 Virginia, one thousand nine hundred four.

## CHAPTER 175

(Senate Bill No. 46—By Mr. Taylor)

AN ACT to amend article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to airports and aviation, by adding thereto a new section designated as number fifteen, permitting Mingo county and any city, town or village therein to expend public funds for an airport or landing field in the state of Kentucky.

[Passed March 7, 1947; in effect from passage. Became a law without the approval of the Governor.]

### Section

15. Mingo county and any city, town or village therein authorized to acquire property, establish and operate an airport or landing field in the state of Kentucky.

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

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

Section 15. *Mingo County and any City, Town or Village Therein Authorized to Acquire Property, Establish and Operate an Airport or Landing Field in the State of Kentucky.*—Mingo county and any city, town or village in said county may acquire in the state of Kentucky real property necessary for an airport or landing field by purchase or lease, and may establish, construct, equip, maintain and operate on such real property such airport or landing field for use of aeroplanes and other aircraft.  
10 The purchase or lease price for any real property so



11 acquired and the cost of establishing, constructing, equip-  
12 ping, maintaining and operating any such airport or land-  
13 ing field may be paid for by appropriation of moneys  
14 available therefor or wholly or partly from the proceeds  
15 of the sale of bonds of such county, city, town or village,  
16 or the bonds of the county, and any one or more of the  
17 cities, towns and villages in said county, as the county  
18 court or legislative body shall determine, subject, how-  
19 ever, to the provisions of general law for the issuance and  
20 sale of bonds of counties and municipalities for public  
21 purposes generally.

## CHAPTER 176

(Senate Bill No. 256—By Mr. Eddy)

AN ACT to amend and reenact chapter seventy-one, acts of the Legislature of West Virginia, one thousand nine hundred twenty-seven, relating to the erection of a high school building on the grounds of West Virginia University in Morgantown, by changing the name of such school from "University Rural High School" to a name to be selected as hereinafter provided and providing for its control and maintenance.

[Passed March 8, 1947; in effect July 1, 1947. Approved by the Governor.]

### Section

1. Definition of high school.
2. Selection of name.
3. Control and supervision.
4. Advisory committee.
5. Use of high school.
6. Admission and selection of pupils.
7. Payment for maintenance and instruction.
8. Levy for buildings.
9. Gifts, bequests or federal funds.

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

That chapter seventy-one, acts of the Legislature of West Virginia, one thousand nine hundred twenty-seven, be amended and reenacted to read as follows:

Section 1. *Definition of High School.*—For the purpose  
2 of this act a high school shall be defined as a school con-  
3 sisting of all grades above the sixth to the completion of  
4 secondary education.

Sec. 2. *Selection of Name.*—The name of the said high  
2 school shall be selected jointly by the board of governors  
3 of the West Virginia university and the board of educa-  
4 tion of the county of Monongalia.

Sec. 3. *Control and Supervision.*—The university board  
2 of governors and any other controlling authorities of the  
3 university, as provided by law, shall have general con-  
4 trol and supervision of the said high school as a part of  
5 West Virginia university.

Sec. 4. *Advisory Committee.*—The board of education  
2 of the county of Monongalia and the superintendent of  
3 schools of Monongalia county shall constitute an advisory  
4 committee to confer with the authorized agents of West  
5 Virginia university on questions affecting the policy of  
6 the said high school.

Sec. 5. *Use of High School.*—The said high school may  
2 be used for observation, demonstration, directed teach-  
3 ing, practice supervision, and educational laboratory  
4 work of the college of education of the West Virginia  
5 university.

Sec. 6. *Admission and Selection of Pupils.*—The author-  
2 ities of West Virginia university and the advisory com-  
3 mittee of Monongalia county as provided for in section  
4 four, shall from year to year determine the number of  
5 pupils to be admitted and the basis of pupil selection.

Sec. 7. *Payment for Maintenance and Instruction.*—  
2 The board of education of the county of Monongalia shall  
3 pay for maintenance and instruction of pupils enrolled  
4 in the said high school a tuition fee of one-half of the  
5 average per capita cost for instruction and maintenance,  
6 exclusive of transportation costs, in high schools of West  
7 Virginia, as determined by the last preceding report of  
8 the state superintendent of schools of West Virginia. The

9 university board of governors and any other authorities  
10 of the university, as provided by law, shall provide the  
11 remainder of the cost of maintenance and instruction.

Sec. 8. *Levy for Buildings.*—With the approval of the  
2 university board of governors and any other authorities  
3 provided by law, the board of education of the county of  
4 Monongalia shall have the right to lay a levy for the  
5 erection of such additions and buildings as may be deemed  
6 necessary by all parties concerned to provide adequate  
7 facilities for said high school.

Sec. 9. *Gifts, Bequests or Federal Funds.*—In the event  
2 that any gifts, bequests or federal funds are made avail-  
3 able to the board of education of the county of Monon-  
4 galia, for the benefit of said high school, said board is  
5 hereby authorized to make said funds available to the  
6 proper authorities of the West Virginia university for the  
7 use designated.

8 All acts and parts of acts inconsistent with this act  
9 are hereby repealed.

## CHAPTER 177

(Com. Sub. for Senate Bill No. 231—Originating in the Senate Committee on  
Counties and Municipal Corporations)

AN ACT to amend and reenact chapter one hundred eleven,  
acts of the Legislature of West Virginia, one thousand  
nine hundred forty-three, relating to the authority of the  
county court of Monongalia county to use unexpended  
funds or surpluses in any fund of said county for the pur-  
pose of creating a special fund for the building of a new  
courthouse, or for enlarging, remodeling and improving  
the present courthouse, or to use said fund for the pur-  
chase of property from the federal government or any of  
its agencies, for erecting buildings to be used for county  
purposes and to expend for such purposes the fund al-  
ready so accumulated, or any additional or other fund so  
created.

[Passed February 21, 1947; in effect from passage. Approved by the Governor.]

**Section**

1. Monongalia county court authorized to create a special courthouse and buying and building fund and to expend said fund accumulated or to be accumulated in connection with a courthouse or to purchase property from the federal government or any of its agencies, or to erect buildings to be used for county purposes.

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

That chapter one hundred eleven, acts of the Legislature of West Virginia, one thousand nine hundred forty-three, be amended and reenacted to read as follows:

Section 1. *Monongalia County Court Authorized to Create a Special Courthouse and Buying and Building Fund and to Expend Said Fund Accumulated or to Be Accumulated in Connection With a Courthouse or to Purchase Property From the Federal Government or Any of its Agencies, or to Erect Buildings to Be Used for County Purposes.*—The county court of Monongalia 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 the building of a new courthouse, or for enlarging, remodeling and improving the present courthouse, or to use said fund for the purchase of property from the federal government or any of its agencies, for erecting buildings to be used for county purposes and to expend for such purposes the fund already so accumulated, and use for such purposes any additional or other funds so created.

## CHAPTER 178

(Senate Bill No. 222—By Mr. Beeler)

AN ACT to authorize and empower the county court of Morgan county to construct, repair, improve, acquire, equip and maintain a general hospital as a memorial in memory of and in recognition of the services and sacrifices of all per-

sons from Morgan county who served in the armed forces of the United States in the world wars; to provide revenue therefor; to provide a fund to erect new or additional structures or improvements including necessary equipment; to remodel existing buildings and facilities; to provide a maintenance fund; to provide a board of directors; to provide for the receipt of gifts; to provide for reasonable charges for the use of the facilities; and to use in connection therewith such existing facilities or property as may be available.

[Passed February 28, 1947; in effect from passage. Approved by the Governor.]

#### Section

1. War memorial hospital to the veterans of the world wars from Morgan county.
2. Board of directors.
3. Organization of board; duties; deposit of funds.
4. Appointment of superintendents; doctors; nurses; employees, etc.
5. Rules and regulations for management of hospital.
6. Board to keep books of account; method of making disbursements.
7. Bond of officers, agents and employees.
8. Deposit of funds; financial statement; reserve accounts.
9. Gifts; grants-in-aid.
10. Recognition of patron's organization.
11. Employees to be within workmen's compensation act; insurance.
12. Title to property.

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

Section 1. *War Memorial Hospital to the Veterans of the World Wars From Morgan County.*—The county court of Morgan county shall have the power, upon petition of twenty per cent of the voters of such county, based on the number of votes cast at the last general election, to acquire and establish at the county seat, by purchase, gift or otherwise, a general hospital and maintain the same as a memorial in memory of and in recognition of the services and sacrifices of the Morgan county veterans of the World Wars, and for the purpose of acquiring, establishing, improving, equipping and maintaining the same, the court may contribute toward the cost and expense thereof out of any available funds subject to the control of said court as are not otherwise appropriated, and said funds so contributed as aforesaid shall be kept

16 separate in a fund to be known as the "War Memorial  
17 Hospital Fund", to be expended for said purposes by the  
18 board of directors hereinafter provided for.

Sec. 2. *Board of Directors.*—Upon the establishment of  
2 said Morgan county war memorial hospital, the county  
3 court shall appoint a board of directors equal in number to  
4 the magisterial districts of the county and select one di-  
5 rector from each of such districts, from the citizens there-  
6 of, with reference to their fitness for such office. Such di-  
7 rectors shall hold office for four years from the first day of  
8 July following their appointment. No person shall be in-  
9 eligible to appointment by reason of sex, political or re-  
10 ligious affiliations. Vacancies in the board shall be re-  
11 ported to the county court and filled by appointment in  
12 like manner as original appointments for the unexpired  
13 term. The county court may remove any director for  
14 misconduct or neglect of duty. No compensation shall  
15 be paid or allowed any director.

Sec. 3. *Organization of Board; Duties; Deposit of Funds.*  
2 —The board of directors of the memorial hospital estab-  
3 lished under this section shall, immediately after their  
4 appointment, meet and organize by electing one of their  
5 number as president and one as vice president and one as  
6 secretary; a majority of all the members of the board  
7 shall constitute a quorum for the transaction of business.  
8 They shall make and adopt such by-laws, rules and regu-  
9 lations from time to time, for their own guidance and  
10 for the government and use of the hospital and its facil-  
11 ities, as may be expedient and not inconsistent with this  
12 section. Such board shall have authority to contract for  
13 necessary improvements, additions, alterations and re-  
14 pairs to said hospital, the purchase, repair and replace-  
15 ment of necessary equipment, and shall generally have  
16 the supervision and management of said hospital and  
17 the care and custody of the grounds, structures and facil-  
18 ities. All moneys belonging to said war memorial hos-  
19 pital fund shall be deposited in the treasury of Morgan  
20 county to the credit of the war memorial hospital fund  
21 and shall be drawn therefrom from time to time on ord-

22 ers issued by the said board of directors to be expended  
23 by said board for the purposes enumerated. Such orders  
24 shall not be drawn except upon requisition of the said  
25 board of directors attached to proper authenticated vouch-  
26 ers, and said funds shall then be deposited in the board's  
27 treasury and checks drawn thereon.

Sec. 4. *Appointment of Superintendent; Doctors; Nurses; Employees, etc.*—The board shall have the power to  
2 appoint a suitable superintendent, assistant superintend-  
3 ent, doctors, nurses, technicians and other qualified staff  
4 members and employees necessary for the efficient op-  
5 eration of the memorial hospital, prescribe rules for  
6 their conduct, fix their duties and compensations, and  
7 the board shall have power to remove such appointees  
8 and employees and, in general, to manage and control  
9 the operation and maintenance of said memorial hos-  
10 pital. All appointees and employees shall be chosen upon  
11 the basis of their administrative, technical or other par-  
12 ticular qualifications for the office or position for which  
13 they are employed and without regard to their religious  
14 or political opinions or affiliations.

Sec. 5. *Rules and Regulations for Management of Hos-  
2 pital.*—In addition to the other powers herein granted,  
3 the board shall make such rules and regulations in and  
4 concerning the management of the hospital as may seem  
5 necessary, needful or proper, and the adoption of such  
6 disciplinary measures as may appear expedient; and the  
7 board may delegate to the superintendent and to such  
8 other of the directing personnel, as it may from time to  
9 time determine, ample and plenary power to enforce its  
10 rules and regulations; the board shall formulate appro-  
11 priate rules and regulations relating to the use of the hos-  
12 pital and its facilities by members of the medical and sur-  
13 gical profession, and by the members of the medical  
14 staff, and shall fix and establish appropriate rates and  
15 charges for the use of the hospital and its facilities and  
16 services by any patients who may be admitted thereto  
17 for care, hospitalization or treatment. In general, the  
18 board shall have complete authority to conduct the af-

19    fairs of the Morgan county war memorial hospital with  
20    all its appropriate facilities and services, and the enum-  
21    eration of powers in this section shall not operate to ex-  
22    clude the exercise of other powers fairly incidental  
23    thereto and reasonably implied and within the purposes  
24    of this act.

      Sec. 6. *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 the  
5    approval of the board, and all checks shall be drawn in  
6    the name of the Morgan county war memorial hospital  
7    and signed by the treasurer and countersigned by the  
8    superintendent or by another officer or agent of the board  
9    designated so to do.

      Sec. 7. *Bonds of Officers, Agents and Employees.*—All  
2    officers, agents or employees of the hospital authorized  
3    to receive money for the hospital shall be required to  
4    give bond in such sum and with such surety as may be  
5    deemed sufficient by said board.

      Sec. 8. *Deposit of Funds; Financial Statement; Re-*  
2    *serve Accounts.*—All funds of the hospital, from what-  
3    ever source received, shall be deposited in such bank in  
4    Morgan county as the board may direct, and at least  
5    once each month the board shall render an itemized  
6    statement of the hospital's receipts and disbursements  
7    to the county court of Morgan county, and annually as  
8    of the first day of July in each year, the board shall also  
9    submit to the court a completely itemized statement of  
10   the hospital's financial condition. In said annual report  
11   to the court, the board shall state the condition of the  
12   property, the various sums received from the memorial  
13   fund and from all other sources, how much money was  
14   expended and for what purpose, and an itemized budget  
15   estimate of operating expenses for the ensuing year,  
16   with such other information and suggestions as the board  
17   may deem of general interest, or that may be required  
18   by the county court. The board may provide for such  
19   reserve accounts for operation, repair, replacement, in-



20 surance, depletion, depreciation and building as it may  
21 deem advisable.

Sec. 9. *Gifts; Grants-in-Aid.*—The board may receive  
2 gifts of money or property, and may take by bequest or  
3 devise any gift or legacy and use or hold the same for the  
4 benefit of said memorial hospital, and shall have the  
5 right to apply for and receive for said use and benefits  
6 grants-in-aid from federal and state governments and  
7 agencies thereof.

Sec. 10. *Recognition of Patron's Organization.*—The  
2 board of directors may recognize the organization of an  
3 active auxiliary or circle comprising patrons and friends  
4 of the hospital to be affiliated with the board's hospital  
5 management and maintenance policies.

Sec. 11. *Employees to be Within Workmen's Compensation Act, Insurance.*—The board of directors shall carry  
2 workmen's compensation on all employees of the hos-  
3 pital, eligible thereto, who are hereby declared to be  
4 within the provisions of the workmen's compensation act  
5 of West Virginia, and the premiums on such workmen's  
6 compensation shall be paid by the board from said hos-  
7 pital fund. Adequate insurance coverage against haz-  
8 ards shall at all times be carried in such amount as pru-  
9 dence and good management indicate.  
10

Sec. 12. *Title to Property.*—Title to all property con-  
2 stituting or belonging to the Morgan county war me-  
3 morial hospital shall be vested in the county court of Mor-  
4 gan county.

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## CHAPTER 179

(Senate Bill No. 262—By Mr. Hannig)

AN ACT to amend and reenact section nine, chapter eighty-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-seven, relating

to the salary of the judge of the intermediate court of Ohio county.

[Passed March 7, 1947; in effect ninety days from passage. Approved by the Governor.]

**Section**

9. Salary of the judge of the intermediate court.

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

That section nine, chapter eighty-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-seven, be amended and reenacted to read as follows:

*Section 9. Salary of the Judge of the Intermediate*

- 2 *Court.*—The said judge shall, from and after January first,  
3 one thousand nine hundred forty-nine, for his services re-  
4 ceive seven thousand dollars per annum, to be paid out  
5 of the county treasury of the said county of Ohio.

## CHAPTER 180

(House Bill No. 468—By Mr. Powell)

AN ACT to authorize the county court of Pleasants 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 a new community building, or for enlarging, remodeling and improving the present community building, for acquiring land, and to expend for such purposes the fund so created.

[Passed March 6, 1947; in effect from passage. Approved by the Governor.]

**Section**

1. Pleasants county court authorized to create a special fund for community building and acquiring of lands.

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

Section 1. *Pleasants County Court Authorized to Create a Special Fund for Community Building and Acquiring of Lands.*—The county court of Pleasants 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 the building of a new community building, or for enlarging, remodeling and improving the present community building, to acquire land, and to expend for such purposes the fund so created.

## CHAPTER 181

(House Bill No. 411—By Mr. Eagle, by request)

AN ACT to authorize and empower the county court of Summers 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 Summers county.

[Passed March 6, 1947; in effect from passage. Approved by the Governor.]

### Section

1. Summers 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. *Summers County Court Authorized to Transfer Funds to Be Used for Employment, Operation and Maintenance of a Dog Catcher.*—The county court of Summers county is hereby authorized and empowered to transfer any and all necessary money, from the fund realized from the assessment and collection of head taxes on dogs, to the general county fund to be used for the payment and satisfaction of all expense in connection with

9 the hiring, operation and maintenance of a dog catcher in  
10 Summers county, to be selected by and operated under  
11 the direction of the said county court.

12 All acts, or parts of acts, inconsistent herewith, are  
13 hereby repealed, in so far as they may apply to Summers  
14 county.

## CHAPTER 182

(House Bill No. 443—By Mr. Tucker and Mr. Adkins)

AN ACT authorizing the board of education of Wayne county, West Virginia, to submit to the voters of Westmoreland district, Wayne county, West Virginia, the question of the issuance and sale of bonds to construct a high school therein.

[Passed March 7, 1947; in effect from passage. Approved by the Governor.]

### Section

1. Wayne county board of education to submit question of issuance of high school bonds to voters of Westmoreland district.
2. Amount of bonds to be issued.
3. Submission; calling and conducting election.
4. Advisory committee to board of education.

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

Section 1. *Wayne County Board of Education to Submit Question of Issuance of High School Bonds to Voters of Westmoreland District.*—That the board of education of Wayne county, West Virginia, may cause to be submitted to vote of the qualified electors of said Westmoreland district as provided by the general laws of the state, the question of the issuance and sale of bonds to purchase grounds, build high school buildings and furnish and equip the same when requested so to do by a petition in writing, praying that bonds be issued and stating the purpose and the amount thereof, signed

12 by the legal voters of said Westmoreland magisterial dis-  
13 trict, equal to twenty per cent of the votes cast in said  
14 magisterial district for governor in the last preceding gen-  
15 eral election.

Sec. 2. *Amount of Bonds to Be Issued.*—The bonds  
2 to be provided for hereunder shall not exceed in amount  
3 five per cent of the value of the taxable property therein,  
4 as shown by the last assessment thereof, for state and  
5 county purposes, next prior to the issuance of said bonds.

Sec. 3. *Submission; Calling and Conducting Election.*  
2 —The order of submission, the calling of and conducting  
3 said election, declaring the results thereof, shall be in  
4 conformity to and with sections four, seven, eight, nine,  
5 ten, eleven, twelve, thirteen, fourteen, fifteen and sixteen,  
6 article one, chapter thirteen of the code of West Virginia,  
7 one thousand nine hundred thirty-one.

Sec. 4. *Advisory Committee to Board of Education.*  
2 —The board of education of Wayne county shall name  
3 five citizens of Westmoreland district to serve in an ad-  
4 visory capacity to said board of education in the conduct  
5 of said election, issuance and sale of the bonds and in  
6 the construction of said high school from a list of names  
7 submitted to said board of education by the parent-  
8 teachers association of Westmoreland.

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## CHAPTER 183

(Senate Bill No. 322—By Mr. Allen and Mr. McKinley)

AN ACT to authorize the county court of Webster county to transfer any surplus of moneys unexpended at the end of any fiscal year to the Webster county board of education to be used only in its building and maintenance fund.

[Passed March 7, 1947; in effect from passage. Approved by the Governor.]

**Section**

1. Webster county court authorized to transfer surpluses to board of education.

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

- Section 1. *Webster County Court Authorized to Transfer Surpluses to Board of Education.*—The Webster county court is authorized to transfer any surplus moneys unexpended at the end of any fiscal year to the Webster county board of education to be used only in its building and maintenance fund.

# RESOLUTIONS

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## HOUSE CONCURRENT RESOLUTION NO. 1

(By Mr. Flannery)

[Adopted January 8, 1947.]

Providing for a joint assembly to hear the biennial message of the Governor.

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 2:50 o'clock P. M., this day, to hear the biennial message of His Excellency, Governor Clarence W. Meadows.

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## HOUSE CONCURRENT RESOLUTION NO. 2

(By Mr. Gentry)

[Adopted January 8, 1947.]

Providing for a recess of the Legislature.

*Resolved by the House of Delegates, the Senate concurring therein:*

That when adjournment is taken by the respective Houses of the Legislature at the close of this day's session, such adjournment shall be until Tuesday, January 14, 1947, at 2:00 o'clock P. M.

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## HOUSE CONCURRENT RESOLUTION NO. 4

(By Mr. Knight)

[Adopted January 22, 1947.]

Creating a special committee of the Legislature for the purpose of studying and making recommendations concern-

ing the abolishment of the fee system of compensating sheriffs for the feeding of prisoners in county jails.

WHEREAS, The Governor in his recent message to the Legislature, after calling attention to the evils connected with our system of compensating sheriffs on a fee basis for the feeding of prisoners in county jails, recommended that this system be abolished; and

WHEREAS, There seems to be substantial sentiment both in and outside the Legislature in support of this recommendation; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That a special committee of the Legislature, consisting of five members of the House of Delegates and five members of the Senate, be appointed by the presiding officers of the respective legislative bodies to study the problem of abolishing the fee system of compensating sheriffs for the feeding of prisoners in county jails, together with a consideration of the salary adjustments for sheriffs which might justifiably be made necessary by reason of the elimination of the fee system, and that the committee hereby be instructed to report to the Legislature its findings and recommendations by or before February 10, 1947.

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## HOUSE CONCURRENT RESOLUTION NO. 6

(By Mrs. Walker)

(Originating in the Committee on Health.)

[Adopted January 31, 1947.]

Raising a committee to negotiate a grant of the Newton D. Baker Hospital, Martinsburg, West Virginia, by the Federal Government to the State of West Virginia.

WHEREAS, The Interim Committee on Health, created under House Concurrent Resolution Number Four, Regular Session, West Virginia Legislature, one thousand nine hundred forty-



five, has recommended that the interest of the State of West Virginia in acquiring the Newton D. Baker Hospital, situate at Martinsburg, West Virginia, be kept alive and furthered wherever possible; and

WHEREAS, The use of said hospital now being made by the Veterans Administration is temporary in nature, as is disclosed in the following communication received from said Administration:

VETERANS ADMINISTRATION

Washington 25, D. C.

Sep. 26, 1946

In Reply Refer to: 11CAA

State of West Virginia  
Legislative Interim Committees  
Charleston, West Virginia

My dear Mr. Amos:

Reference is made to communication dated September 6, 1946, signed jointly by Mr. Arnold Vickers and yourself as Co-Chairmen, and advising that the State of West Virginia is interested in ultimately acquiring the Newton D. Baker Hospital.

The Veterans Administration will utilize the Newton D. Baker Hospital to temporarily provide facilities pending construction of the new permanent hospitals in West Virginia. This will require a period of approximately two (2) years.

Very truly yours,

(signed) J. E. Harris  
J. E. HARRIS

Chief, Requirements Division  
Real Estate Service

and;

WHEREAS, It may be possible for the State of West Virginia to acquire said Newton D. Baker Hospital after the Veterans

Administration has made the use of it above referred to, or subject to said use, if desires of acquisition are properly presented to federal departments and authorities having jurisdiction of the matter; and

WHEREAS, Like institutions have been granted to the States of Ohio and Virginia and to other of our sister states; and

WHEREAS, There is great need in the State of West Virginia for the utilization of an institution having the capacity of Newton D. Baker Hospital in the administration of a health program; now, therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the presiding officers of the Senate and the House of Delegates be, and they are hereby authorized and directed to secure the offer of a grant of the Newton D. Baker Hospital to the State of West Virginia and said officers are authorized, empowered, and directed to negotiate such a grant of said hospital from federal authorities, officers, and divisions having jurisdiction in the premises, and what said officers shall do hereunder, they shall report back to this or any succeeding Extraordinary or Regular Session of the Legislature.

The expenses of said officers in furtherance of the duties herein imposed upon them shall be paid from the contingent fund of the Senate and contingent fund of the House of Delegates, in equal amounts.

The Clerk of the House of Delegates is hereby directed to forward copies of this resolution to the members of the House of Representatives and members of the Senate representing the State of West Virginia in Congress.

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## HOUSE CONCURRENT RESOLUTION NO. 8

(By Committee on Rules)

[Adopted February 26, 1947.]

Providing for the appointment of an Interim Committee to make a study, survey and investigation respecting enab-

ling legislation for the "Forestry Amendment" to the Constitution of West Virginia, of conservation, game and fish matters generally, and to approve expenditures of appropriations required to be approved by a joint legislative committee.

WHEREAS, The "Forestry Amendment" is now a part of the Constitution of West Virginia, and to be effective, must be followed by enabling legislation, and such legislation will require revision and alteration of many of the existing laws of this State dealing with taxation, property law, eminent domain, conservation and forestry, and will require many changes of public policy with respect to existing law; and

WHEREAS, The Legislature is of opinion the problem to be solved by such enabling legislation should be first thoroughly studied before the necessary changes in public policy and law resulting therefrom are enacted; and

WHEREAS, Approval of certain appropriations by a joint legislative committee, is necessary; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That an interim committee, consisting of five members of the House of Delegates, not more than three of whom shall be members of the same political party, to be appointed by the Speaker thereof, and five members of the Senate, not more than three of whom shall be members of the same political party, to be appointed by the President thereof, which committee the Speaker of the House of Delegates and the President of the Senate shall be ex officio members and co-chairmen, is hereby created for the purpose of making thorough study, survey and investigation of the following subjects, namely:

1. To study the problems presented by the adoption of the Forestry Amendment to the Constitution of West Virginia, and the necessary amendments to law and changes in policy necessary to be formulated, preliminary to enactment of enabling legislation therefor.

2. To study the subject of conservation of natural resources generally, propagation of game and fish, and planting of food and cover crops for same, reforestation, acquisition and development of fishing streams and land for conservation, game and fish, forestry and state park purposes.

3. To study and recommend to the special committee hereinafter referred to, approval for expenditure of unexpended balances of Item 27, of section 3-a, of article two of chapter eleven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-five, which may be approved for expenditure prior to midnight of the thirtieth day of June, one thousand nine hundred forty-seven.

The committee shall elect a chairman and vice chairman from its membership, and is authorized to employ such assistants 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 such books, records and papers as may be necessary to carry out the spirit of this resolution.

With respect to the matter of enabling legislation under the Forestry Amendment, there shall be appointed by the Governor a committee, of not to exceed twenty persons, who shall act in an advisory capacity to the interim committee, and at least one of the members of said advisory committee shall be representatives or members of the following: One member from the West Virginia University College of Agriculture; one member representing the soil conservation districts of the State of West Virginia; one member representing the mining industry of this State; one member representing the lumber industry; one member representing woodworking manufacturers; one member representing the farming industry; one member representing the West Virginia Extension Service; one member representing organized labor; one member representing forest land owners; one member representing the railroad industry; one member from the West Virginia State Bar; one member representing the sportsmen of this state; one member representing the electric power industry; one mem-

ber representing the State Chamber of Commerce; one member representing the county assessors; one member representing county commissioners. In addition, the Governor, the Auditor, the Commissioner of Agriculture, the Attorney General, the Director of Conservation, the Tax Commissioner, and the Chief of the Department of Mines shall be ex officio members of said advisory committee.

Vacancies occurring for any cause in the membership shall be filled by the officer authorized to make the original appointments.

The Speaker of the House of Delegates and the President of the Senate shall appoint from the membership of this Interim Committee a special committee, consisting of the persons mentioned in Item 27, of section 3-a, of article two, chapter eleven, acts of the Legislature of West Virginia, one thousand nine hundred forty-five, which is hereby designated as the joint legislative committee to serve from the date this resolution is adopted until midnight of the thirtieth day of June, one thousand nine hundred forty-seven, for approval of unexpended balances in said Item 27, aforesaid, and as the joint legislative committee to approve expenditures of similar nature, requiring approval of a joint legislative committee from the first day of July, one thousand nine hundred forty-seven, to the date of convening of the Legislature at its regular session in the year one thousand nine hundred forty-nine.

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 thirteenth, one thousand nine hundred forty-nine, 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 thirty-five thousand dollars (\$35,000.00), or so much thereof as may be needed, is hereby appropriated for

the expenses of the committee, one-half thereof to be paid from the contingent fund of the Senate and one-half thereof to be paid from the contingent fund of the House of Delegates, upon proper requisition of the Clerks of the two Houses.

The Clerk of the House of Delegates, and the Clerk of the Senate, upon the approval of the chairman of said committee, shall draw their requisitions upon the Auditor, payable equally out of the contingent fund of the Senate and the contingent fund of the House of Delegates for such expenditures and expenses of said committee as are authorized by this resolution. Requisitions to the Auditor for payment of expenses of said committee shall be accompanied by the signed approval of said expenses, signed by the chairman of said committee, or by some person authorized to do so by the committee.

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#### HOUSE CONCURRENT RESOLUTION NO. 11

(By Mr. Harmer and Mr. Schupbach)

[Adopted February 13, 1947.]

Requesting the Board of Public Works to amend the Budget Bill so as to provide for the payment of the outstanding indebtedness against the West Virginia University stadium, by the liquidation of the West Virginia University stadium bonds.

WHEREAS, State universities and other State educational institutions in this and other states have generally been provided with stadiums, playing fields, gymnasiums, and other facilities for physical education, as well as intercollegiate athletics, partially or wholly from tax funds; and

WHEREAS, For example, the West Virginia Legislature has specifically appropriated, and the State Treasury has paid, \$110,000 for a one-third interest in the Fairfield Stadium for Marshall College at Huntington, has appropriated and paid \$41,000 for a like stadium at the Fairmont State Teachers College, with smaller sums at other state institutions, and with many instances of local tax funds for such purposes; and

WHEREAS, In the year 1923 tremendous state-wide enthusiasm had been created for intercollegiate athletics, and particularly for football, at West Virginia University; and

WHEREAS, In a commendable and enthusiastic spirit, private citizens of West Virginia and alumni of the State University to the number of more than 7,000 did then voluntarily proceed to subscribe a total of \$540,000, from which total the aggregate sum of \$400,000 was paid in cash, this being the largest sum ever raised state-wide in West Virginia by private subscription for any similar purpose, which purpose was the erection of the stadium now known as Mountaineer Field at West Virginia University, Morgantown; and

WHEREAS, The original plan for Mountaineer Field called for the erection of this structure by sections; and

WHEREAS, University officials, with the approval of the State Board of Control, decided, late in the year 1924, when the first units of Mountaineer Field were about to be finished, that the entire task of completing the stadium should be undertaken at once; and

WHEREAS, Mountaineer Field was, in accord with this program, completely finished and formally dedicated in November of 1925, with the Governor of West Virginia, and many other state officials, as well as the U. S. Commissioner of Education participating; and

WHEREAS, In the year 1926, when the period which became known as the "Big Depression" was first observable in West Virginia, particularly in the coal industry, it resulted in a sharp diminution in collections of subscriptions and receipt of new contributions, from private citizens; and

WHEREAS, In 1926 it became necessary to pay the temporary loans made by more than 80 West Virginia banks, which loans were secured by the personal endorsement of more than 600 public spirited West Virginia citizens, it was formally agreed in writing by university officials, by the University Board of Governors, by the Board of Control of West Virginia and with the approval of the Governor and the Attorney General of West Virginia that bonds in the aggregate amount of \$336,750 should

be issued and sold with no other real security than a pledge of the future profits from the athletic games of the university, and the unpaid balance due on long-term subscriptions; and

WHEREAS, Bonds in this amount were sold and are now held by one hundred twenty-six (126) citizens of West Virginia, banks, corporations, charity hospitals, cemetery organizations, trust accounts, and investment accounts of employees benefit associations, with the result that not hundreds, but many thousands of deserving West Virginia citizens have direct ownership of such bonds; and

WHEREAS, Twenty-seven (27) of the owners of these defaulted bonds are authentically shown to be the estate of deceased persons, affecting many individuals in real financial distress, also that thirteen (13) of the owners are West Virginia banks, and their trust departments, out of which ownership likewise considerable distress is experienced; that two of the owners are hospitals which invested their trust funds in these bonds believing they possessed adequate moral security, and among the owners are also to be found insurance companies, as well as many deserving individuals, one of whom invested funds saved by work on the section gang for a West Virginia railroad; and

WHEREAS, The said bonds have been in default as to principal and interest since December 1, 1934; and

WHEREAS, The continued use by the State of West Virginia of Mountaineer Field as a site for university athletic games, in the face of the failure by the State to reimburse those who provided, in good faith, forty per cent of the cost of the structure by the purchase of these bonds now in default, constitutes a serious reflection on the faith and credit of the State, and is in sharp contrast to the high standards of personal conduct and integrity which the university should inculcate and exemplify; and

WHEREAS, The Board of Public Works included an appropriation for the payment of these bonds in the Budget Bill submitted to the 1937 Legislature, and the Legislature of West Virginia, by virtually unanimous vote in both Houses, at both



1937 and 1939 sessions, approved, in principle, the payment of this debt of honor, and the Legislature of 1941 and 1943, again appropriated funds specifically for the payment of this debt of honor, and the Senate of the 1945 Legislature voted unanimously in favor of such payment; and

WHEREAS, The owners of the bonds are prevented by a technicality (title to the real estate upon which Mountaineer Field stands was not embraced in the security of these bondholders) from proceedings in the courts for the enforcement of their lien; and

WHEREAS, The 1947 Legislature has before it, in the form of appropriation and reappropriation items, the disposal of some thirty million dollars of surplus revenues or almost one hundred times the face value of these defaulted bonds; and

WHEREAS, The Honorable John J. Cornwell, a former Governor of West Virginia, speaking as a member of a Stadium Bondholders Committee, and directly representing the employees of the Baltimore and Ohio Railroad whose relief department had invested \$5,000 of its savings in these bonds, and directing his remarks to the Governor, the Board of Public Works, and the Legislature, under date of February 22, 1936, after reciting substantially the same facts as are set forth above, summarized as follows:

"The net of all of which is that the State of West Virginia is the owner of the stadium at the university which, with interest, has cost approximately a million dollars, built solely with money contributed by thousands of citizens and money lent, directly and indirectly by many thousands more, many of whom purchased the stadium bonds in the belief that it is a State enterprise while the State has constructed with public funds, in whole or in part, stadiums at its normal schools"; and

WHEREAS, The continued default of these bonds constitutes an indirect, but nevertheless, a major blot upon the faith and credit of the State of West Virginia; and

WHEREAS, The Supreme Court of the State of West Virginia, under a decision dated June 20, 1939, impressively and emphatically points not only to the right, but to the duty of the Legislature to redeem said bonds; and

WHEREAS, It has been conclusively shown by a survey recently made by the Board of Control that there has been no traffic in these bonds whereunder they have been purchased at distress prices and that, in fact, no trading whatever has taken place in these bonds; and

WHEREAS, The President of the University, the Board of Governors, and the Board of Control has submitted to the Board of Public Works a request for an appropriation to pay these bonds at this session of the Legislature; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Board of Public Works be respectfully requested to submit an amendment to the Budget Bill, providing for the liquidation of this indebtedness incurred in constructing Mountaineer Field, and that such appropriation be designated for this specific purpose, with the Board of Control authorized to redeem the principal of the outstanding bonds, as a means of implementing this appropriation: *Provided, however,* That in the redemption of said bonds the holders thereof shall receive only the principal amount thereof, without interest, except in case the holders of said bonds paid less than the principal amount therefor, they shall receive only the actual cost to them of said bonds, without interest: *And provided further,* That in case any beneficiary, legatee or distributee shall be the owners of said bonds, or by reason of any trust agreement, gift, or like instrument, such beneficiaries are entitled to the proceeds of said bonds, the cost of such bonds to the testator, donor, testatrix, trustor or intestate shall be considered the cost of the present beneficiary, legatee or distributee for the purpose of redemption. No redemption shall be made by the board of control or other state agency until such board of control or other state agency is furnished satisfactory proof of the cost of said bonds.

No bonds transferred in ownership subsequent to January eight, one thousand nine hundred forty-seven, except bonds in the estate of a deceased person, shall be redeemed under the provisions hereof.

### HOUSE CONCURRENT RESOLUTION NO. 13

(Originating in the House Committee on Rules)

[Adopted March 8, 1947.]

Proposing an amendment to joint rule number eleven, relating to joint standing committees.

*Resolved by the House of Delegates, the Senate concurring therein:*

That joint rule number eleven be amended by striking out paragraph three of said rule and inserting in lieu thereof the following:

(3) *Joint Committee on Government and Finance.*—The Joint Committee on Government and Finance shall consist of five members of the Senate and five members of the House of Delegates, of which not more than three of each House shall be members of the same political party, four of the members of the Senate committee shall be appointed by the President of the Senate and four of the members of the House committee shall be appointed by the Speaker of the House. The President of the Senate and the Speaker of the House shall be ex officio members of the committee and co-chairmen thereof. The committee shall begin its work as soon as practicable after the adjournment *sine die* of the regular session of the Legislature.

It shall be the duty of the committee to study and survey generally matters of government and finance and to make a report on its studies and findings, its expenditures and such recommendations as it may deem proper, to succeeding extraordinary and regular sessions of the Legislature; and such committee is hereby vested with power and authority to employ technical and clerical assistance, compel the attendance and testimony of witnesses, the production of books, records,

documents and other papers, and shall be vested with and authorized to exercise all power and authority granted such committees by the statutes and Constitution of the State of West Virginia. The offices of the committee shall be maintained at the capitol building in Charleston, West Virginia.

The expenses of the committee shall be paid from the contingent fund of the Senate and contingent fund of the House of Delegates in equal amounts. The members of the committee shall receive no remuneration for their services other than actual expenses incurred in the discharge of their duties hereunder as approved by the committee.

(4) Such other joint committees as may be provided for by concurrent resolution. A bill or resolution referred to a joint committee may be recalled from such committee by the House in which it originated.

#### HOUSE CONCURRENT RESOLUTION NO. 14

(By Mr. Lubliner)

[Adopted February 17, 1947.]

Deploring the death of the Honorable Ralph McClung Hiner.

WHEREAS, With sincere and heartfelt sorrow the members of the Legislature have learned of the death of the Honorable Ralph McClung Hiner, former member and Speaker of the House of Delegates, on Sunday, February 16, 1947; and

WHEREAS, The deceased served as a member of the House of Delegates in the 1929, 1931, 1933 and 1935 sessions of the Legislature, having been elected to four successive terms from the County of Pendleton; and

WHEREAS, At the 1933 regular session, the deceased was elected Speaker of the House of Delegates and presided over that body during the regular, first and second extraordinary sessions of the 1933 Legislature, which sessions are regarded by many persons as the most noteworthy in the history of the state due to the many important changes made in the tax and other laws of the state; and

WHEREAS, The deceased had held various positions of trust with the State and Federal governments, having served as state counsel for the Home Owners' Loan Corporation, member and chairman of the West Virginia Unemployment Compensation Board of Review, and had been an assistant attorney general since 1943; and

WHEREAS, As Speaker of the House of Delegates and in other public capacities, the deceased was courteous, fair and accommodating; and

WHEREAS, He was an active member of the American Legion, a faithful fraternalist, and in addition to his law practice, engaged in many business enterprises; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the members of this forty-eighth Legislature of West Virginia, fully aware of the esteem in which the deceased was held by his multitude of friends throughout the State, and aware of the tragic loss suffered by his family as a result of the untimely death of this well known West Virginian, do hereby extend their sincere and heartfelt sympathy to the members of the family of the deceased; and, be it

*Further Resolved*, That a copy of this resolution be transmitted to the widow of the deceased; and, be it

*Further Resolved*, That when the Senate and House of Delegates adjourn today, they do so out of respect to the memory of this former Speaker of the House of Delegates.

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## HOUSE CONCURRENT RESOLUTION NO. 20

(By Mr. Loop)

[Adopted March 5, 1947.]

Providing for observance of Arbor day and integrating same with the Forestry Amendment.

WHEREAS, The forests of West Virginia have been depleted by methods which at times have been very wasteful; and

WHEREAS, Wasteful methods of marketing and disease have caused much of our hillsides to be deprived of their protective coverage, thus causing erosion and floods; and

WHEREAS, The shortage of lumber for building and manufacturing is acute; and

WHEREAS, The newsprint shortage augurs a ready market in future years for woodpulp, suitable for making paper; and

WHEREAS, A tree, like a human, takes many years to reach maturity; and

WHEREAS, The people of the State by their vote have evidenced a desire for long-time planning towards restoration of our natural forests, and recoverage of our denuded hillsides; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Governor be requested to proclaim such observance of Arbor Day as will best promote the reforestation of our waste lands, and that, if possible, this be correlated with the putting into operation of the Forestry Amendment; and, be it

*Further Resolved*, That the State Superintendent of Schools is directed to cause such observance of Arbor Day in the schools of the State as will best promote the planting of trees in waste lands, that our natural forests may once more cover the West Virginia hills.

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## HOUSE CONCURRENT RESOLUTION NO. 21

(By Mr. File)

(Originating in the Committee on Finance)

[Adopted March 1, 1947.]

Directing governing boards of state institutions of higher learning to increase tuition fees.

WHEREAS, The moneys available for the state supported institutions of higher learning are not sufficient to maintain the proper staffs and desired excellence of instruction at these institutions; and

WHEREAS, The cost per student for instruction at said institutions is in excess of \$200.00 per year, which cost does not include any capital expenditures; and

WHEREAS, The average tuition charged to non-resident students by institutions of higher learning in states bordering on this state exceeds the sum of \$200.00 per year; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the tuition charges for the state supported institutions of higher learning after July 1, 1947, shall be fixed by the respective governing bodies of said institutions at not less than the following amount:

- (1) For non-resident students, \$100.00 per semester.

## HOUSE CONCURRENT RESOLUTION NO. 23

(By Mr. Harmer and Mr. Hansbarger)

[Adopted March 8, 1947.]

Authorizing the preparation and publication of an index to special acts of the West Virginia Legislature.

WHEREAS, There has never been a compilation of special acts of the West Virginia Legislature nor an index prepared to such acts; and

WHEREAS, There are many of such acts of importance which are constantly matters for consideration of courts and administrative bodies, and for interpretation by the Attorney General; and

WHEREAS, It is now difficult to find such laws because of their being scattered through the many volumes of acts of the Legis-

lature since the beginning of the State, some of which volumes are not now generally available; therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Attorney General is hereby authorized to compile for publication, an index in such form as he may deem proper, to all special acts of the West Virginia Legislature; and when such index is completed the Clerk of the House of Delegates shall have the same printed as herein directed.

The Attorney General shall include in said index, all special acts of the West Virginia Legislature, including municipal charters, and any act of the Legislature of Virginia which, in his opinion, should be included therein.

The Attorney General may employ not more than two persons to assist in the preparation, proofreading and printing of said index, and they shall be paid from the contingent fund of the Senate and the contingent fund of the House of Delegates. The compensation paid such persons shall not exceed that paid legislative employees. Such expense shall as nearly as possible be paid from said contingent funds in equal amounts.

Said index shall be printed in such form as the Attorney General may determine.

In the printing of said index the Clerk of the House of Delegates may request the Director of Purchases to ask for competitive bids thereon. The cost of such printing shall be paid from the Legislative printing fund.

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## HOUSE CONCURRENT RESOLUTION NO. 24

(By Mr. Chenoweth)

[Adopted March 8, 1947.]

Setting aside the twenty-fifth day of each March as Greek Day in West Virginia, for the purpose of commemorating Greek Independence Day, this day being the date in the



year 1821 on which Greece severed relations with the Turks and retained her right to call herself a democracy.

WHEREAS, The twelve thousand West Virginia citizens of Greek ancestry do request the concurrence of all members of West Virginia's forty-eighth Legislature in the establishment of a Greek Day, March twenty-fifth of each year, for the purpose of honoring the Cradle of Democracy and to pay tribute to the gallant Greek war-dead that died in order that Mountaineers and all peoples may remain freemen; and

WHEREAS, These Greek-Americans in West Virginia do wish to honor their native Greece for the price they paid for the love of freedom and carry high the memory of its four hundred and twenty-four thousand soldiers which were killed or executed in action; the fifty-thousand disabled Greek veterans; the half million war orphans; the half million tuberculars and the two million starved children; and

WHEREAS, With developments in the past forty-eight hours in the international picture, the immortal people of the Greek government are facing a choice between two systems of government; one being the nature of the democratic form in the United States and the second choice, that of communism which today flaunts its influence over the entire middle east; and

WHEREAS, Within the past forty-eight hours the British withdrawal of economic, moral and military support from Greece has placed a startling and staggering question on the table before the American government—and ultimately before the American people; and

WHEREAS, The brave people of Greece continue to fight aggression in an undeclared war against the hostile guerrilla bands from Albania, Yugoslavia and Bulgaria who are violating her borders and continue to maintain a firm grip on a home land that is ridden with malnutrition, fever and tuberculosis, and face this solemn hour with stout hearts to launch a great crusade against hunger, cold, pestilence, and death that reeks havoc over the length and breadth of their homeland; now, therefore, be it

*Resolved by the House of Delegates, the Senate concurring therein:*

That March twenty-fifth of each year be proclaimed Greek Day for the purpose of allowing the citizens of West Virginia who are of Greek ancestry and all citizens of West Virginia to commemorate the service rendered the world by the people of Greece in the recent conflict.

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#### HOUSE CONCURRENT RESOLUTION NO. 25

(By Mr. Jones)

[Adopted March 6, 1947.]

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 sections one through eighty-nine, of article one, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the national guard."

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#### HOUSE CONCURRENT RESOLUTION NO. 26

(By Mr. Hansbarger)

[Adopted March 8, 1947.]

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. 30 and Senate Resolution No. 9, 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 RESOLUTION NO. 1

(By Mr. Hansbarger)

[Adopted January 8, 1947.]

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-five, are hereby adopted and shall govern the proceedings of this House.

#### HOUSE RESOLUTION NO. 2

(By Mr. Doring)

[Adopted January 8, 1947.]

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.

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### HOUSE RESOLUTION NO. 3

(By Mr. Davis)

[Adopted January 8, 1947.]

Raising a committee to wait upon the Governor.

*Resolved by the House of Delegates:*

That a committee of three members be appointed by the Speaker, on the part of the House of Delegates, to join with a similar committee on the part of the Senate, to notify His Excellency, the Governor, that a quorum of each House of the Legislature has assembled and has organized by the election of officers as required by the Constitution, and that the Legislature is ready to receive any communication that he may be pleased to make.

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### HOUSE RESOLUTION NO. 4

(By Mr. Davis)

(Originating in the Committee on Rules)

[Adopted January 14, 1947.]

Amending rules of the House of Delegates.

*Resolved by the House of Delegates:*

That rule No. 81 be and the same is hereby rescinded, that rules following rule number 80 be renumbered consecutively, and that where a reference is made to a committee in other rules, the name of which is changed as a result of these amendments, said rules are hereby amended to the extent of correcting the name of said committee only; and, be it

*Further Resolved*, That rule No. 76 and rule No. 78, be amended to read as follows:

### **Standing Committees**

76. At the commencement of each regular session, the Speaker shall appoint the following standing committees, and all bills introduced and resolutions offered shall be referred to the appropriate committee, to-wit:

To consist of not less than eleven nor more than twenty-five members:

- Agriculture
- Banking
- Claims
- Counties, Districts and Municipalities
- Delinquent Lands
- Education
- Elections
- Finance
- Forestry and Conservation
- Game and Fish
- Health
- Humane Institutions
- Insurance
- Judiciary
- Labor and Industry
- Military Affairs
- Mining
- Penal and Correctional Institutions
- Railroads
- Redistricting
- Roads
- Temperance
- Veterans' Affairs

To consist of not less than five nor more than nine members:

Rules

**Committee on Rules**

78. The Committee on Rules shall have jurisdiction of all bills, resolutions, petitions, messages, memorials, and other matters relating to the following subjects:

(a) Matters relating to the payment of money out of the contingent fund of the House or creating a charge upon the same.

(b) Matters relating to the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; purchase of books and manuscripts for the House; erection of monuments to the memory of individuals.

(c) Matters relating to parliamentary rules; sale of food in the House wing of the Capitol; administration of the House wing of the Capitol; assignment of office space; and services to the House.

(d) All matters relating to House printing.

The committee may report to the House, from time to time, rules for the government thereof, and amendments to such rules. The committee shall be privileged to report at any time and said report may be adopted by a majority vote.

All resolutions authorizing the appointment of attaches or relating to the appointment of persons, or prescribing the salary or pay of such attaches or persons, shall originate in and come from the Committee on Rules.

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**HOUSE RESOLUTION NO. 5**

(By Mr. Davis)

[Adopted January 14, 1947.]

Relating to the appointment of assistant janitors.

WHEREAS, The Superintendent of Capitol Building and Grounds under authority of section twenty-two, article one, chapter five 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 eight dollars, and that the Superintendent of Capitol Building and Grounds is fixed at one dollar and fifty cents, 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. 6

(By Mr. Hansbarger)

[Adopted January 14, 1947.]

Providing 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. 7

(By Mr. Flannery)

[Adopted January 14, 1947.]

Authorizing the publication of a Legislative Manual.

*Resolved by the House of Delegates:*

That the Clerk is hereby authorized to compile and have printed without delay, a Legislative Manual containing the rules of the 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. The Clerk of the House of Delegates shall cooperate with the Clerk of the Senate in compiling said manual and include therein such material with reference to the Senate as the said Clerk of the Senate may prepare so as to obviate the necessity of the Senate publishing a manual.

A sufficient number of copies of said manual to supply each member of the Legislature with ten copies thereof shall be printed.

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## HOUSE RESOLUTION NO. 8

(By Mr. Flannery)

[Adopted January 14, 1947.]

Authorizing payment of mileage to members of the House of Delegates.

*Resolved by the House of Delegates:*

That in accordance with section thirty-three, article six of the Constitution of the State, the Clerk of the House of Delegates is hereby authorized to draw his requisitions upon the Auditor for mileage of members of the House of Delegates at the rate of ten cents per mile for such number of miles as has heretofore or will be certified to him by the various members as having been traveled in coming to the seat of government and returning to their homes on account of this session of the Legislature.



## HOUSE RESOLUTION NO. 9

(By Mr. Davis)

(Originating in the Committee on Rules)

[Adopted January 16, 1947.]

Authorizing the appointment of attaches for the House of Delegates for the 1947 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 nine dollars per day each;
- Two roll-call clerks at nine dollars per day each;
- Four proofreaders at ten dollars per day each;
- Four copyholders at nine dollars per day each;
- One payroll and supply clerk at fifteen dollars per day;
- One assistant payroll and supply clerk at twelve dollars per day;
- One bill editor at twelve dollars per day;
- One clerk to the Committee on Enrolled Bills at ten dollars per day;
- Two file clerks at nine dollars per day each;
- Two typists at nine dollars per day each;
- One reception-telephone operator at nine dollars per day;
- One Journal clerk at fifteen dollars per day;
- One Journal stenographer at twelve dollars per day;

(2) For other offices and positions, the following:

- One clerk, one assistant clerk and one stenographer to the Committee on Finance at fifteen, twelve and ten dollars per day each, respectively;
- One clerk, one assistant clerk and one stenographer to the Committee on the Judiciary at fifteen, twelve and ten dollars per day each, respectively;
- One clerk to the Committee on Education at twelve dollars per day;

Twelve committee clerks, to be assigned by the Speaker, at ten dollars per day each;

One secretary to the minority and one clerk to the minority at twelve dollars per day each;

Six stenographers for the minority room at ten dollars per day each;

One supervisor of stenographers at twelve dollars per day;

Twelve stenographers at ten dollars per day each;

Four typists at nine dollars per day each;

One superintendent of document and mailing room at fifteen dollars per day;

One assistant superintendent of document and mailing rooms at twelve dollars per day;

Eight document room clerks at nine dollars per day each;

Eight mailing room clerks at nine dollars per day each;

Four pages at eight dollars per day each;

One messenger to the Speaker at nine dollars per day;

Three assistants to the Sergeant-at-Arms at ten dollars per day each;

One clerk to the Sergeant-at-Arms at ten dollars per day;

Six assistant doorkeepers at nine dollars per day each;

One mimeograph supervisor at twelve dollars per day;

Four mimeograph operators at nine dollars per day each;

One custodian of offices and property at nine dollars per day;

Two ladies' cloak room attendants at eight dollars per day each;

Two men's cloak room attendants at eight dollars per day each;

One night watchman at nine 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 fifteen and twelve dollars per day, respectively; and that the secretary and stenographer to the Clerk as provided for by the rules, shall receive twelve and fifteen dollars per day, 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 eleven, Acts of the Legislature, regular session, one thousand nine hundred forty-five; that the Sergeant-at-Arms and Doorkeeper shall receive twelve dollars per day each; and that the three assistant clerks provided for by section nine, article one, chapter four of the code, two of which shall receive fifteen dollars per day each and one shall receive twelve dollars per day; and, be it

*Further Resolved*, That all of the appointments made under authority of this resolution shall be certified to the Auditor and Treasurer by the Clerk, and the Clerk is hereby authorized to draw his 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 diem 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 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. 12

(By Mr. Burnside)

[Adopted January 30, 1947.]

Raising a committee to investigate conditions in certain counties relative to rabies among wild foxes.

WHEREAS, During the calendar year of one thousand nine hundred forty-six there existed in the counties of Harrison, Upshur and Lewis an epidemic of rabies among the wild foxes of these counties, resulting in great financial loss to the farmers and citizens of said counties due to the spread of this infectious disease to the domestic herds of the farmers and the pet stock of the citizens which have been bitten by rabid foxes; and

WHEREAS, The loss to the farmers of Harrison county alone, by reason of the spread of this dangerous disease, has amounted probably to the sum of twenty thousand dollars at the least, which damage has been proportionately in the counties of Upshur and Lewis; and

WHEREAS, The only step that has been taken by either the Department of Agriculture or the Conservation department of West Virginia has been by the Conservation department by sending to Harrison County a few trappers who spent an insignificant period of time in attempting to trap wild foxes and with insignificant results; and

WHEREAS, A dangerous condition does now exist in said counties which ought to be investigated by a special committee raised by this House of Delegates with specific instructions to look into the conditions and make proper recommendations to this body in order that proper action may be taken; therefore, be it

*Resolved by the House of Delegates:*

That the Speaker of the House do appoint from the members of this body a committee of five members who shall immediately investigate the conditions existing in the counties of Harrison, Upshur and Lewis caused by the infection of rabies among the wild foxes of these counties and caused by the

spread of this infectious and dangerous disease to the domestic herds and pet stock of the farmers and citizens of these counties, and make speedy report to this body their findings with regard to the conditions mentioned, and that they make recommendations to this body of what, in their opinion, ought to be done to eliminate the dangerous condition or to bring the same under proper control.

### HOUSE RESOLUTION NO. 13

(By Mr. Hansbarger)

[Adopted January 30, 1947.]

Authorizing payment of expenses of members of standing committees, and subcommittees thereof, incurred in visiting state institutions.

WHEREAS, Various members of standing committees and subcommittees thereof have visited state institutions as directed by the various committees, and incurred certain expenses for hotel, transportation, meals, stenographic service and other miscellaneous expenses in connection with these visits; therefore, be it

*Resolved by the House of Delegates:*

That the Clerk of the House of Delegates is hereby authorized to draw his requisition upon the Auditor, payable from the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, in favor of the members of such subcommittees, to reimburse them for money expended in the visiting and inspecting of said state institutions.

### HOUSE RESOLUTION NO. 18

(By Mr. Hansbarger)

[Adopted February 7, 1947.]

Authorizing standing committees of the House of Delegates to compel attendance and testimony of witnesses, and com-

pel the production of books, documents or other papers deemed necessary by any such committee.

*Resolved by the House of Delegates:*

That any standing committee of the House of Delegates is hereby vested with power and authority to administer oaths, compel the attendance and testimony of witnesses, and compel the production of such books, documents, papers or accounts as the committee may deem necessary. Any standing committee is hereby authorized and empowered to sit during a recess of the House of Delegates during this regular session of the Legislature.

In addition to the power and authority granted to such standing committees by this resolution, and supplementary to such power and authority, the committee is further empowered to exercise any and all power and authority in performing its duties, as granted by section five, article one, chapter four of the code of West Virginia, and by the State Constitution.

HOUSE RESOLUTION NO. 20

(By Mr. Doring)

[Adopted February 17, 1947.]

Concerning the death of Mrs. Joseph Rosier, wife of Delegate Rosier of the County of Marion.

WHEREAS, The members of this body learned on last Saturday with unfeigned sorrow of the death of the wife of Delegate Joseph Rosier of the County of Marion; therefore, be it

*Resolved by the House of Delegates:*

That the members of this body hereby extend their sincere and heartfelt sympathy to Delegate Rosier; and, be it

*Further Resolved*, That the Clerk of the House of Delegates do procure an appropriate floral emblem as a token of the sympathy and respect of the members of this body.

## HOUSE RESOLUTION NO. 21

(By Mr. Morris)

[Adopted February 19, 1947.]

Requesting certain information from the West Virginia Beer Commissioner.

WHEREAS, The Legislature at its regular session in 1945 created the office of State Beer Commissioner, who is charged with the duty of enforcing the non-intoxicating beer law of the State; and

WHEREAS, Articles have appeared in many newspapers charging him with neglect of duty with respect to such enforcement; and

WHEREAS, It is fair to the Commissioner and to the public that the facts in the matter be known to the Legislature and to the general public; therefore, be it

*Resolved by the House of Delegates:*

(1) That the Beer Commissioner be requested to submit to the House of Delegates the following information:

- (a) The total number of revocations, suspensions and surrenders of retail beer licenses in the State by counties from July 1, 1945, to July 1, 1946.
- (b) The total number of revocations, suspensions and surrenders of retail licenses by counties in the State from July 1, 1945, to July 1, 1946, brought about on the evidence and transcripts of violations of the law by the state police and other enforcement agencies in the State outside of his department.
- (c) The total number of revocations, suspensions and surrenders of retail beer licenses in the State by counties from July 1, 1945, to July 1, 1946, brought about by evidence gathered by the supervisor and investigators of said beer commissioner.

(2) That a similar statement be submitted for the period July 1, 1946, to December 31, 1946.

(3) That the Beer Commissioner submit to this House a statement of the total amount paid out for salaries and expenses of enforcement officers of the nonintoxicating beer law for each of the above periods.

(4) That the Commissioner is hereby requested to report the information requested above not later than Monday, February 24, 1947, or as soon thereafter as possible.

### HOUSE RESOLUTION NO. 22

(By Mr. Schupbach and Mr. Cline)

[Adopted February 19, 1947.]

Requesting the Board of Public Works to submit a Supplemental Budget appropriating the money requested by the Department of Public Assistance, providing for \$7,341,500.00 for the fiscal year 1947-1948 and \$7,600,499.00 for the fiscal year 1948-1949.

WHEREAS, The Department of Public Assistance requested \$7,341,500.00 for the fiscal year 1947-1948 and \$7,600,499.00 for the fiscal year 1948-1949 from the Board of Public Works; and

WHEREAS, The Board of Public Works approved to the Department of Public Assistance \$3,873,970.00 for each year of the biennium 1947-1949; and

WHEREAS, The sums appropriated to the Department of Public Assistance by the Board of Public Works are insufficient to adequately provide for those citizens who through recurring misfortune of life have been compelled to receive state aid; and

WHEREAS, We owe a legal and moral duty to grant reasonable and proper assistance to the aged and infirm, the blind, the underprivileged, and the poverty stricken; therefore, be it

*Resolved by the House of Delegates:*

That the Board of Public Works be, and is hereby, requested to submit a Supplemental Budget, appropriating to the Depart-



ment of Public Assistance the sum of \$7,341,500.00 for the fiscal year 1947-1948 and \$7,600,499.00 for the fiscal year 1948-1949.

### HOUSE RESOLUTION NO. 23

(Originating in the Committee on Rules)

[Adopted February 19, 1947.]

Authorizing the committee on rules to arrange a special calendar.

*Resolved by the House of Delegates:*

The Committee on Rules may arrange a special calendar as provided for by House Rule No. 70, effective on such date hereafter as said committee may determine, 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. 27

(By Mr. White, of Boone, and Mr. Osborne)

[Adopted March 1, 1947.]

Authorizing the installation of a sound amplification system for the House Chamber.

WHEREAS, The acoustic qualities of the House Chamber and galleries are very poor, making it difficult for persons in the galleries as well as for many of the members to understand much of the proceedings; and

WHEREAS, A sound amplification system can be installed at a small cost that will remedy this condition and also afford facilities for recording proceedings by the addition of certain other equipment, if the House should later desire to make such an addition; therefore, be it

*Resolved by the House of Delegates:*

That a committee, consisting of one member of the majority and one member of the minority, be appointed to assist the Clerk in an investigation of the advisability of installing a modern sound amplification system, and in case said committee finds suitable equipment and recommends the purchase thereof, the Clerk is hereby authorized to contract for the purchase and installation thereof at a cost not to exceed \$3,750.00. The cost of any such system and the installation thereof shall be paid from the contingent fund of the House of Delegates.

## HOUSE RESOLUTION NO. 30

(By Mr. Davis)

(Originating in the Committee on Rules)

[Adopted March 8, 1947.]

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 this session.

*Resolved by the House of Delegates:*

That under authority of section thirteen, article one, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, the Clerk of the House of Delegates is hereby directed to have printed by the public printer 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 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 following assistants to the Clerk, and other employees and attaches of the House of Delegates, is extended for the time

herein set out, at the same per diem as paid during this regular session of the Legislature, to-wit:

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 and three copyholders, is extended for ninety days; the secretary to the minority is extended for one hundred twenty days, and the clerk to the minority is extended for thirty days; one assistant clerk is extended for ninety days; an assistant superintendent of document and mailing rooms, a supervisor of the mimeograph room, a payroll and supply clerk, a supervisor of stenographers, two file 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 Finance is extended for ten days; the time of the clerk and stenographer to the Committee on Education is extended for ten days; the time of the Clerk to the Committee on Enrolled Bills is extended for ten days; the time of a custodian of offices and property is extended for thirty days; the time of two document room clerks is extended for fifteen days; and the time of eight janitors is extended for six 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 sixty days; and, be it

*Further Resolved*, That the Speaker is hereby authorized to employ a full-time stenographer at a salary not to exceed two hundred dollars per month and a full-time messenger-janitor for the House of Delegates at a salary not to exceed one hundred fifty 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 offices, the time of the Sergeant-at-Arms and Doorkeeper 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 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. 31

(By Mr. Ross)

[Adopted March 8, 1947.]

Thanking and commending services of Hiram Phillips, Sergeant-at-Arms.

WHEREAS, Hiram Phillips, a former member of this body from the County of Mingo, was at the organization of this session of the Legislature elected Sergeant-at-Arms; and

WHEREAS, The Honorable Hiram Phillips has been most courteous and accommodating to the members of the Legislature throughout this session; therefore, be it

*Resolved by the House of Delegates:*

That the members of the House of Delegates hereby express their appreciation and thanks to the Honorable Hiram Phillips for his very courteous and accommodating assistance during this session of the Legislature; and, be it

*Further Resolved*, That the Clerk be, and he is hereby, directed to mail a copy of this resolution to the Williamson Daily News, Williamson, W. Va.

#### HOUSE RESOLUTION NO. 32

(By Mr. Hansbarger and Mr. Ballard)

[Adopted March 8, 1947.]

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 service to the Chairmen and members of the Committees on Finance, Game and Fish, and Forestry and Conservation, 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. 33

(By Mr. Davis)

[Adopted March 8, 1947.]

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. 34

(By Mr. Flannery)

[Adopted March 8, 1947.]

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. Allen)

[Adopted January 14, 1947.]

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-five, are hereby adopted and shall govern the proceedings of this session.

## SENATE CONCURRENT RESOLUTION NO. 2

(By Mr. Harmer)

[Adopted January 8, 1947.]

Relating to the payment by the Auditor of mileage and contingent and other expenses of this session of the Legislature.

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Auditor, in advance of the appropriation for the purpose, is hereby authorized, upon proper requisition of the Clerk of the Senate and the Clerk of the House of Delegates, to pay the mileage of the members of the Senate and the House of Delegates; bills incurred and services furnished to the Legislature for this session, including contingent expenses; the per diem of the officers and attaches of the Senate and House of Delegates; and bills for the legislative printing of this session, as the accounts may become due.

## SENATE CONCURRENT RESOLUTION NO. 3

(By Mr. Bambrick)

[Adopted January 21, 1947.]

Providing for the designation of U. S. Route Number Twenty-two as a Blue Star Drive.



WHEREAS, The Federation of Garden Clubs of West Virginia, in cooperation with other State Federations of Garden Clubs in the Blue Star Memorial Program, sponsored by the National Council of State Garden Clubs, are desirous of recognizing and commemorating the splendid services and achievements of their sons and daughters who served in the Armed Forces of the United States in World War II; and

WHEREAS, It is fitting and appropriate that legislative recognition be accorded the services and sacrifices of citizens so valiantly rendered; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That U. S. Highway Route Number Twenty-two is hereby designated as the Blue Star Drive as a memorial in commemoration of the services of the men and women of West Virginia who served in the Armed Forces of the United States in World War II, and the State Highway Commissioner shall cause to be erected along said highway suitable tablets and ornamentations to carry out the purposes of this resolution and shall file with the Secretary of State a description of the particular section of U. S. Highway Route Number Twenty-two so designated as Blue Star Drive where such tablets and ornamentations are placed.

#### SENATE CONCURRENT RESOLUTION NO. 6

(By Mr. McKinley and Mr. Love)

[Adopted February 17, 1947.]

Creating a special committee of the Legislature for the purpose of studying and drafting a bill authorizing the State of West Virginia, its political subdivisions and municipal corporations including county boards of education to participate in the Federal Social Security Program for employees.

WHEREAS, It is the intention of the Legislature to increase salaries and generally lessen the financial plight of school teachers, state, county and municipal employees; and

WHEREAS, Most of said employees now have no such protection as the Federal Social Security Program provides for employees in private industry; and

WHEREAS, Legislation has been introduced in the Congress of the United States to amend the Federal Social Security Act to permit state and municipal governments and the subdivisions and agencies thereof to participate for their employees; therefore, be it

*Resolved by the Senate; the House of Delegates concurring therein:*

That a special committee of the Legislature, consisting of three members of the Senate and three members of the House of Delegates be appointed by the presiding officers of the respective legislative bodies to study the problem of state participation in the Federal Social Security Act and that the committee hereby be instructed to report to the Legislature its findings and recommendations and to submit adequate legislation to accomplish this purpose in ample time for action thereon at this session.

#### SENATE CONCURRENT RESOLUTION NO. 10

(By Mr. Vickers, Mr. President)

[Adopted February 27, 1947.]

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 sections four, five, six, eight, nine, ten and sixteen of article four, and section five of article five, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to workmen's compensation."

### SENATE CONCURRENT RESOLUTION NO. 11

(By Mr. Boreman)

[Adopted March 3, 1947.]

To make "West Virginia, My Home Sweet Home" one of the official state songs of the State of West Virginia.

WHEREAS, The State of West Virginia is without an official state song; and

WHEREAS, Colonel Julian G. Hearne, Jr., Infantry, United States Army, a native and resident of West Virginia, who brought honor to his native State by accepting the first surrender of a Japanese garrison, at Aka Shima, on August twenty-second, one thousand nine hundred forty-five, has composed the melody and written the lyrics of a song of and for West Virginia, entitled "West Virginia, My Home Sweet Home"; and

WHEREAS, "West Virginia, My Home Sweet Home" has a beautiful and stately melody, and a simple but dignified lyric which expresses great pride in being a West Virginian,—a lyric which extols not only the beauty of the hills, but goes to the very roots of the people of the State and expresses their happiness in working, playing and worshipping among loyal kinsfolk and friends, amidst prosperous farms, orchards, factories and mines, in a free land, where the east meets the west and provides the best from each; and

WHEREAS, "West Virginia, My Home Sweet Home" acknowledges that "other states are OK, it's a grand old USA, but West Virginia's home, sweet home" for the West Virginian singing it; and

WHEREAS, It is desirable to have official state songs, and "West Virginia, My Home Sweet Home" is regarded as admirably suited for such purpose; now therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the composition consisting of the words and music known as "West Virginia, My Home Sweet Home", words and music by Julian G. Hearne, Jr., is designated one of the official state songs of the State of West Virginia.

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#### SENATE CONCURRENT RESOLUTION NO. 12

(By Mr. Stemple and Mr. Bowling)

[Adopted March 8, 1947.]

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, amending article fourteen thereof, relating to roads and bonds to be issued and sold for building secondary roads."

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#### SENATE CONCURRENT RESOLUTION NO. 13

(By Mr. Johnston)

[Adopted March 8, 1947.]

Commending members of the press who have reported the proceedings of this session of the Legislature.

WHEREAS, The West Virginia Legislature, in regular session, has enacted numerous laws of great moment and importance to the citizens of this State; and

WHEREAS, It is necessary that the citizenry receive accurate and comprehensive information of the acts of the Legislature; and

WHEREAS, The members of the press galleries of both houses have been in constant attendance at all sessions, preparing information on the acts of the Legislature for the benefit of the people of West Virginia; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Legislature commends the members of the press for their untiring efforts to disseminate all proceedings of this body, their courteous and wholehearted cooperation with officers and members of the Legislature and the fair and comprehensive manner in which said proceedings have been presented to the public.

#### SENATE JOINT RESOLUTION NO. 5

(By Mr. Stemple and Mr. Bowling)

[Adopted March 8, 1947.]

Proposing an amendment to the Constitution of the State of West Virginia, amending article fourteen thereof, relating to roads and bonds to be issued for building secondary roads.

*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 the State 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-eight, which proposed amendment is as follows:

That article fourteen of the Constitution of the State of West Virginia be, and the same is hereby amended by adding thereto the following:

The Legislature shall have power to authorize the issuing and selling of state bonds not exceeding in the aggregate fifty million dollars in addition to the state bonds which were authorized to be issued and sold by the amendment to the Constitution proposed by Senate Joint Resolution No. 15, adopted February fifteenth, one thousand nine hundred nineteen, and afterwards ratified by a vote of the people, and Senate Joint Resolution No. 17, adopted by the Legislature at the regular session, one thousand nine hundred twenty-seven, and afterwards ratified by a vote of the people. The proceeds of said additional bonds hereby authorized to be issued and sold shall be used and appropriated solely for the building and construction, or for assisting in building and constructing a system of state secondary roads and highways.

When a bond issue as aforesaid is authorized, the Legislature shall at the same time provide for the collection of an annual state tax sufficient to pay annually the interest on such debt and to pay the principal thereof within and not exceeding thirty years.

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### SENATE RESOLUTION NO. 1

(By Mr. McKown)

[Adopted January 8, 1947.]

Raising a committee to notify the House of Delegates that the Senate is organized.

*Resolved by the Senate:*

That the President of the Senate is hereby authorized to appoint a committee of three to inform the House of Delegates that the Senate is organized by the election of the Honorable Arnold 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. Mitchell)

[Adopted January 8, 1947.]

Providing for the appointment of a committee to inform the Governor that the Legislature is organized.

*Resolved by the Senate:*

That the President of the Senate is hereby authorized to appoint a committee of three, to join with a similar committee from the House of Delegates, to wait upon the Governor and inform him that the Legislature has assembled in regular session, has organized by the election of officers as required by the Constitution, and is ready, with a quorum of each House present, to proceed with the business of the session and to receive any communication or message he may desire to present.

## SENATE RESOLUTION NO. 3

(By Mr. Love)

[Adopted January 8, 1947.]

Relating to the mailing of Journals and Bills.

*Resolved by the Senate:*

That the Clerk of the Senate is hereby authorized to have mailed from the Senate document room, copies of the bills and daily Journals of the Senate to addresses to be furnished to the Clerk by the members of the Senate, twenty of which such addresses may be submitted by each member of the Senate, the expense of such mailing, including postage, to be paid out of the contingent fund of the Senate by the Auditor, in advance of the appropriation therefor, under requisition drawn by the Clerk of the Senate.

## SENATE RESOLUTION NO. 4

(By Mr. Bean)

[Adopted January 8, 1947.]

Adopting rules of the Senate.

*Resolved by the Senate:*

That the rules of the Senate, regular session, one thousand nine hundred forty-five, be adopted as the rules of the Senate for this session.

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## SENATE RESOLUTION NO. 5

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted January 20, 1947.]

Authorizing the appointment of attaches and other employees for the Senate for the one thousand nine hundred forty-seven 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 stenographer to the Finance Committee, at ten dollars per diem;

One stenographer to the Judiciary Committee, at ten dollars per diem;

Two assistants to the Sergeant-at-Arms, at ten dollars per diem;

One assistant journal room supervisor, at ten dollars per diem;

Two committee clerks at large, at ten dollars per diem;

Four committee clerks, at ten dollars per diem;

One clerk on enrolled bills, at ten dollars per diem;

Five assistant doorkeepers, at nine dollars per diem;



Ten journal and mailing room clerks, at nine dollars per diem;

Eight document room clerks, at nine dollars per diem;

One receptionist to the President, at nine dollars per diem;

Eight floor stenographers, at ten dollars per diem;

Ten typists, at nine dollars per diem;

One secretary to the Minority, at twenty dollars per diem;

One journal stenographer, at sixteen dollars per diem;

One bill editor, at eighteen dollars per diem;

One secretary to the Clerk, at fifteen dollars per diem;

One secretary to the President, at fifteen dollars per diem;

One clerk to the Minority, at fifteen dollars per diem;

One supervisor of printing, at sixteen dollars per diem;

Five mimeograph operators, at ten dollars per diem;

One payroll clerk, at twelve dollars per diem;

One messenger to the President, at eight dollars per diem;

Two proofreaders, at ten dollars per diem;

Two proofreaders, at nine dollars per diem;

One journal room supervisor, at eleven dollars per diem;

One chaplain, at eight dollars per diem;

One chaplain, at (local) five dollars per diem; out-of-town eight dollars per diem;

One clerk to the Finance Committee, at fifteen dollars per diem;

One assistant clerk to the Finance Committee, at twelve dollars per diem;

One clerk to the Judiciary Committee, at fifteen dollars per diem;

One assistant clerk to the Judiciary Committee, at twelve dollars per diem;

One messenger for the Clerk's office, at nine dollars per diem;

Three clerk stenographers, at ten dollars per diem;

Four committee clerk stenographers, at twelve dollars per diem;

Ten janitors, at eight dollars per diem;

*Further Resolved*, That the Clerk of the Senate is authorized to appoint a court reporter, at fifteen dollars per diem for each day the Senate is in session; and be it

*Further Resolved*, That the Sergeant-at-Arms shall receive

twelve dollars per diem; the Doorkeeper twelve dollars per diem and the Clerk twenty-two dollars per diem;

The Clerk shall draw his requisitions upon the Auditor in favor of the officers and attaches herein appointed for consecutive days from the date of the opening of this session at the per diem herein set out, and the Auditor shall honor and pay such requisitions in advance of the appropriation for the purpose when presented, and charge same to the "Per diem of officers and attaches" fund of the Senate.

The Clerk shall assign duties to the said employees and require them to perform the duties assigned to them, and he is authorized and directed to remove any of such employees whose work is not satisfactory and to appoint another in his place.

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#### SENATE RESOLUTION NO. 6

(By Mr. Vickers, Mr. President)

[Adopted February 4, 1947.]

Relating to the compensation of attaches.

*Resolved by the Senate:*

That the per diem of the ten typists heretofore appointed under Senate Resolution No. 5 is fixed at ten dollars from and including January 23, 1947.

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#### SENATE RESOLUTION NO. 7

(By Mr. McNeer)

[Adopted February 12, 1947.]

Concerning the death of the Honorable George P. Alderson, State Tax Commissioner.

WHEREAS, The members of this body have been saddened by the passing of a valuable and beloved member of the State Administration, in the death of the Honorable George P. Alderson, State Tax Commissioner; and

WHEREAS, Mr. Alderson was a widely known Democrat and public official throughout the State, and recognized as an able lawyer, public servant, and one interested in farming and the development of the natural resources of the State; and

WHEREAS, His broad experience, good judgment, and wise counsel proved valuable to the discharge of the official duties of the State Tax Department, and won for him the respect of all with whom he was brought into contact; therefore, be it

*Resolved by the Senate:*

That this body express its realization of the deep loss suffered by the State in the passing of Mr. Alderson, and extend its sincere sympathy to the bereaved family; and be it

*Further Resolved*, That the Clerk of the Senate send a copy of this resolution to the widow of the deceased.

## SENATE RESOLUTION NO. 8

(By Mr. Johnston)

[Adopted February 18, 1947.]

Authorizing the Committee on Rules to arrange a Special Calendar.

*Resolved by the Senate:*

Beginning February twenty-fourth, and for the remainder of the session, the Committee on Rules is authorized to arrange a Special Calendar and, until the business on the special calendar is disposed of each day no item of business on the regular calendar shall be considered or take precedence over any item of business on the special calendar, except by a vote of two-thirds of the members present and voting.

## SENATE RESOLUTION NO. 9

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 7, 1947.]

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-two 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 twenty days at fifteen dollars per diem;

One Clerk to Judiciary Committee for seven days at fifteen dollars per diem;

One Stenographer to Finance Committee for five days at twelve dollars per diem;

Two Stenographers to Judiciary Committee for five days at twelve dollars per diem;

One Clerk on enrolled bills for ten days at ten dollars per diem;

One Journal Room Supervisor for fifteen days at ten dollars per diem;

One Journal Room Clerk for thirty days at ten dollars per diem;

One Stenographer for sixty days at ten dollars per diem;

Two Journal Stenographers for thirty days at ten dollars per diem;

One Secretary to the Clerk for one hundred and eighty days at fifteen dollars per diem;

One Journal Clerk for one hundred and eighty days at sixteen dollars per diem;

One Journal Editor for one hundred and eighty days at twenty dollars per diem;

One Stenographer for fifteen days at ten dollars per diem;

One Printing Clerk for one hundred and eighty days at sixteen dollars per diem;

Two Proofreaders for one hundred and fifty days at ten dollars per diem;

Two Copyholders for ninety days at nine dollars per diem;

One Clerk to Minority for ninety days at fifteen dollars per diem;

One Supervisor of Supplies for thirty days at twelve dollars per diem;

One Secretary to the President for thirty days at fifteen dollars per diem;

One Supervisor of Janitors for sixty days at nine dollars per diem;

Three Assistant Janitors for thirty days at eight dollars per diem each.

## SENATE RESOLUTION NO. 10

(By Mr. Johnston)

(Originating in the Committee on Rules)

[Adopted March 8, 1947.]

Authorizing the payment of expenses of the 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 item of expense incurred by the Senate Committee on the Penitentiary on its visit of inspection:

Donald Van Camp, mileage \$41.00, meals and hotel \$6.75.

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SENATE RESOLUTION NO. 11

(By Mr. Johnston)

(Originating in the Committee on Rules)

[Adopted March 8, 1947.]

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 Building and Grounds, is fixed at one and one-half dollars per diem, as the Senate's part of his per diem allowed by section twenty-two, article one, chapter five of the code.

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SENATE RESOLUTION NO. 12

(By Mr. Johnston)

[Adopted March 8, 1947.]

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*.

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SENATE RESOLUTION NO. 13

(By Mr. Johnston)

[Adopted March 8, 1947.]

Raising a committee to notify the Governor that the Senate is ready to adjourn *sine die*.

*Resolved by the Senate:*

That the President is authorized to appoint a committee of three to meet with a like committee on the part of the House of Delegates to inform the Governor that the Legislature has completed its labors and is ready to adjourn *sine die*, and to inquire if he has any further communications he desires to make.

# LEGISLATURE OF WEST VIRGINIA

## ACTS OF 1947

### EXTRAORDINARY SESSION

#### CHAPTER 1

(House Bill No. 4—By Mr. Hansbarger)

AN ACT making appropriations of public money out of the treasury to pay the expenses of this extraordinary session of the Legislature, and for contingent and other expenses of the Senate and House of Delegates.

[Passed June 23, 1947; in effect from passage. Approved by the Governor.]

#### Appropriations

##### 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 are appropriated out of the treasury for the fiscal year ending June thirtieth, one thousand nine hundred forty-seven, the following sums of money for the following named purposes:

##### Section 1. *Senate*.—Compensation and per diem

- |   |                                      |           |
|---|--------------------------------------|-----------|
| 2 | of officers and attaches             | \$ 200.00 |
| 3 | Mileage of members                   | 1,000.00  |
| 4 | Current expenses and contingent fund | 1,000.00  |

##### Sec. 2. *House of Delegates*.—Mileage of mem-

- |   |                                      |            |
|---|--------------------------------------|------------|
| 2 | bers                                 | \$2,700.00 |
| 3 | Current expenses and contingent fund | 2,000.00   |



**Sec. 3. Joint Expenses.—Printing and**

2 stationery \_\_\_\_\_ \$1,000.00

**Sec. 4. Payment of Bills After Adjournment.—**The  
2 Clerk of the Senate, with the approval of the President of  
3 the Senate, and the Clerk of the House of Delegates, with  
4 the approval of the Speaker, are authorized to draw their  
5 requisitions upon the Auditor, payable out of the contin-  
6 gent fund of the respective Houses, for any bills for sup-  
7 plies and services that may have been incurred by the  
8 Senate and House of Delegates and not included in this  
9 act, and for bills and services incurred after adjournment,  
10 the requisitions for same to be accompanied by a bill for  
11 same to be filed with the Auditor.

## CHAPTER 2

(House Bill No. 2—By Mr. Speaker, Mr. Amos)

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 last amended by chapter forty-one, acts of the Legislature, regular session, one thousand nine hundred forty-seven, providing for 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 created by virtue of the laws of the state of West Virginia and for all foreign corporations doing business in the state of West Virginia, with authority to accept service of notices and process on behalf of such corporations and upon whom service of notice and process may be made in this state for and upon every such corporation in suits or proceedings instituted against such corporations.

[Passed June 23, 1947; 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 last amended by chapter forty-one, acts of the Legislature, regular session, one thousand nine hundred forty-seven, 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 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, of which process or notice two copies for each defendant shall be furnished the auditor with the original notice or process, the auditor shall file in his office a copy of such process or notice, with a note thereon endorsed of the time of service, or acceptance, as the case may be, and transmit one copy of 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, chapter eleven of this code, as amended, and for the purpose of all other cases where it is the duty of the auditor to collect a debt or claim due the state from corporations, the secretary of state, in lieu of the auditor, is hereby constituted the attorney in fact for such corporations. No act of any such corporation appointing the secretary of state such

35 attorney in fact shall be necessary. All provisions in this  
36 section relating to the service of process on, or acceptance  
37 of process by, the auditor, and the duties imposed upon  
38 the auditor, shall apply to the secretary of state in such  
39 cases.

## CHAPTER 3

(House Bill No. 1—By Mr. Speaker, Mr. Amos)

AN ACT to amend article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, to be designated section thirteen-b, relating to the power of cities, towns and villages to levy and collect an annual privilege tax on any business or occupation, upon which the state imposes an annual privilege tax under article thirteen, chapter eleven of the code of West Virginia.

[Passed June 23, 1947: in effect from passage. Approved by the Governor.]

### Article 4. Powers, Duties and Allied Relations of Municipal Corporations, Councils or Officers.

#### Section

13-b. Business and occupation tax.

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

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

Section 13-b. *Business and Occupation Tax.*—Whenever  
2 any business or occupation, upon which the state imposes  
3 an annual privilege tax under article thirteen, chapter  
4 eleven of this code, as amended, is engaged in or carried  
5 on within any city, town or village of the state, the council  
6 or similar governing body may by ordinance, unless pro-  
7 hibited by existing law, impose a similar privilege tax

8 thereon for the use of the city, town or village: *Provided,*  
9 *however,* That in no case shall the rate of such municipal  
10 privilege tax on a particular activity exceed the rate im-  
11 posed by the state, exclusive of surtaxes.

12 Any taxes levied pursuant to authority of this section  
13 may be made operative as of the first day of the current  
14 fiscal year and each year thereafter.

15 If any sentence or paragraph of this section shall for  
16 any reason be adjudged invalid by any court of competent  
17 jurisdiction, such judgment shall not affect, impair or  
18 invalidate the remainder thereof, but shall be confined  
19 in its operation to the sentence or paragraph or part  
20 thereof, directly involved in the controversy in which  
21 such judgment shall have been rendered.

22 All acts, special or general, inconsistent with the pro-  
23 visions hereof are hereby repealed.

## CHAPTER 4

(House Bill No. 3—By Mr. Speaker, Mr. Amos)

AN ACT to amend and reenact section two, article two, chapter eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter fifty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, relating to the initiation of proceedings for the framing of charters of municipalities in the state by permitting the governing bodies thereof to call elections.

[Passed June 23, 1947; in effect from passage. Approved by the Governor.]

### Article 2. Home Rule Procedure; Charter Elections.

#### Section

2. Initiation of proceedings for framing a charter.

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

That section two, article two, chapter eight-a of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter fifty-six, acts of the Legislature, regular ses-

sion, one thousand nine hundred thirty-seven, be amended and reenacted to read as follows:

Section 2. *Initiation of Proceedings for Framing a Charter.*—The governing body of a city may provide by ordinance for the submission to the voters of the city at any general election or at a regular or a special municipal election of the question, "Shall a charter be framed by representatives of the voters?": *Provided, however,* That the governing body of a city may not, without the petition of the voters, as hereinafter set forth, submit the same question to the voters more than once in any two year period after the effective date of this act.

The governing body of a city shall, upon petition bearing the signatures, written in their own handwriting, of voters of the city equal in number to fifteen per centum, if a class I or class II city, and ten per centum, if a class III city, of the total registration of voters therein, or if there be no registration of voters then a like per centum of duly qualified voters for the last preceding general election, provide by ordinance for the submission to the voters of the city at any general election or at a regular municipal election of the question, "Shall a charter be framed by representatives of the voters?"

The governing body of a city shall provide by ordinance for a special election on said question if a petition bearing the signatures in their own handwriting of voters of the city equal in number to fifteen per centum, if a class I or class II city, and ten per centum if a class III city, of the total registration of voters therein, or if there be no registration of voters then a like per centum of duly qualified voters for the last preceding general election, expressly requesting that a special election be called for the purpose, be presented to the governing body more than one hundred twenty days prior to the date of the next regular municipal election.

Any special election under this section shall be held not less than thirty nor more than sixty days after the ordinance shall have been adopted, or the petition shall have been presented to the governing body.

## DISPOSITION OF BILLS ENACTED

The following table shows the disposition of Senate and House Bills passed at the regular and extraordinary sessions of the 1947 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	3	71	75	306	109
2	98	91	78	322	164
*2	2	103	76	338	18
*3	4	104	158	344	79
*4	1	105	156	349	173
6	135	115	62	352	93
7	55	117	101	354	32
9	123	121	63	361	119
11	49	131	31	362	96
12	85	136	3	363	28
13	60	139	169	379	151
20	89	145	92	381	91
21	88	160	141	393	20
22	73	161	152	394	50
23	72	167	56	410	134
25	37	168	57	411	181
31	81	183	94	412	157
34	84	202	107	413	166
35	77	206	106	425	126
36	82	207	174	428	139
45	80	233	13	437	120
47	100	235	7	440	167
50	147	237	8	443	182
52	125	252	128	444	168
55	23	253	137	453	45
56	154	271	155	455	133
60	142	287	16	465	170
61	148	304	95	468	180
66	171	305	111		

### SENATE BILLS

Bill No.	Chapter	Bill No.	Chapter	Bill No.	Chapter
1	27	135	112	272	124
2	130	137	90	279	14
6	29	140	69	280	99
26	83	144	87	281	42
35	64	145	86	282	46
37	59	161	4	283	113
38	36	162	105	284	2
39	35	163	33	285	121
40	150	164	97	286	1
42	58	169	61	290	71
45	136	172	163	291	15
46	175	189	172	292	43
51	129	192	65	298	138
56	70	195	44	300	122
65	115	212	6	302	165
68	132	214	74	305	52
71	40	215	22	307	34
73	144	216	51	309	140
76	47	220	145	322	183
85	5	221	21	324	161
89	114	222	178	333	160
92	159	224	103	335	17
93	153	226	102	337	26
94	10	231	177	339	38
97	9	233	30	340	41
100	67	237	66	346	54
102	53	243	68	349	108
117	39	255	110	351	146
120	12	256	176	355	19
121	11	262	179	358	127
129	131	263	48	359	118
130	116	266	24	363	25
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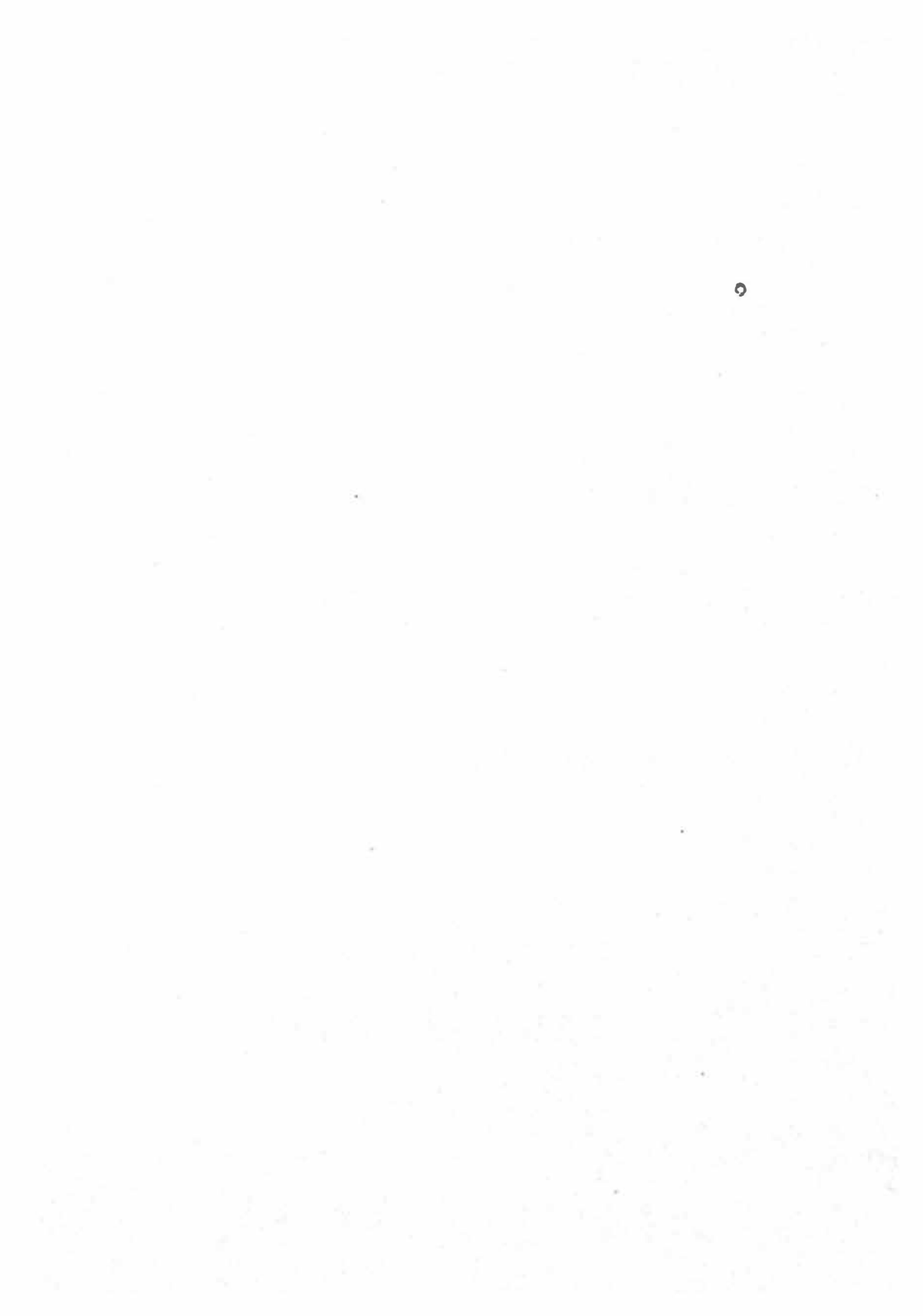


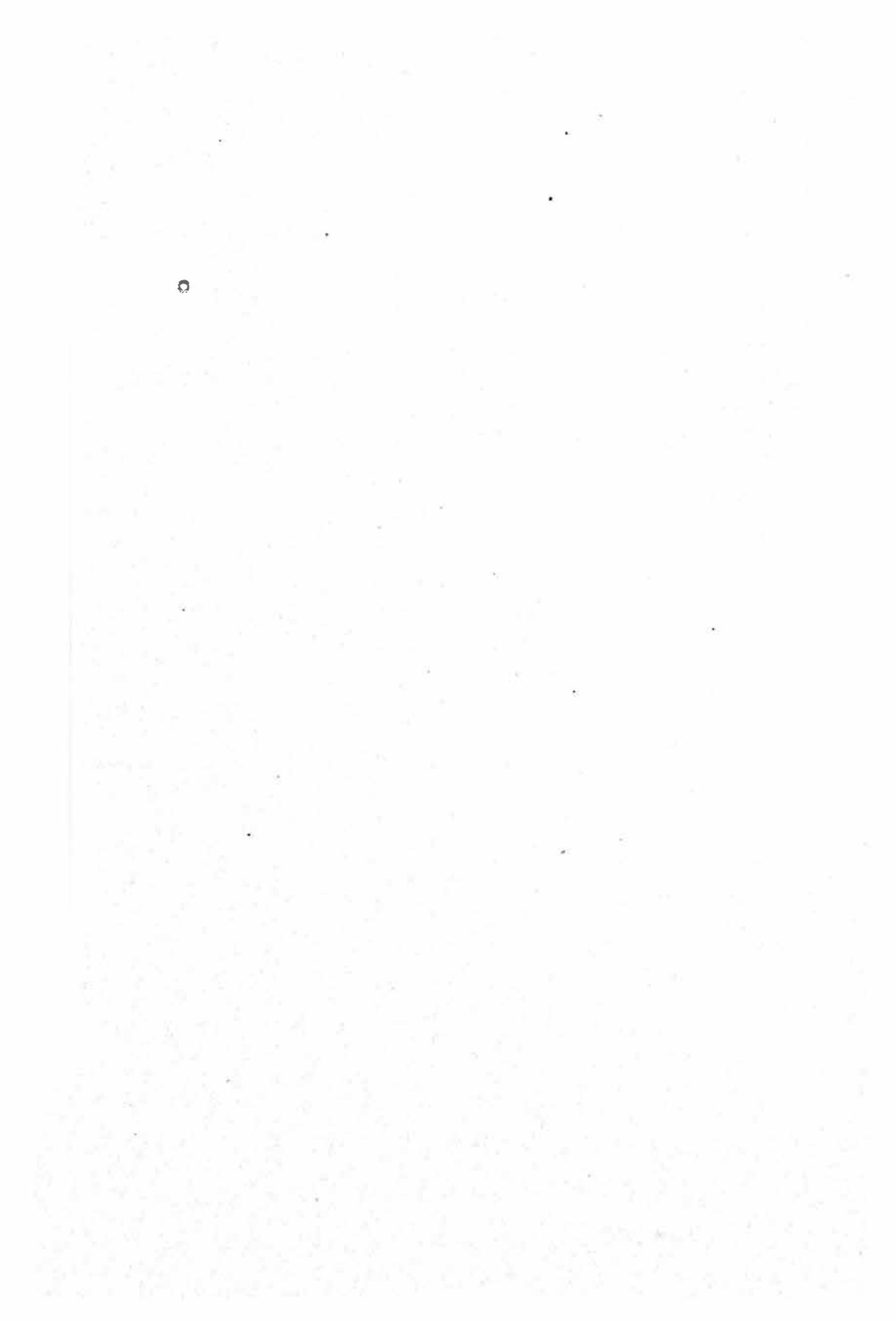
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**RESOLUTIONS**

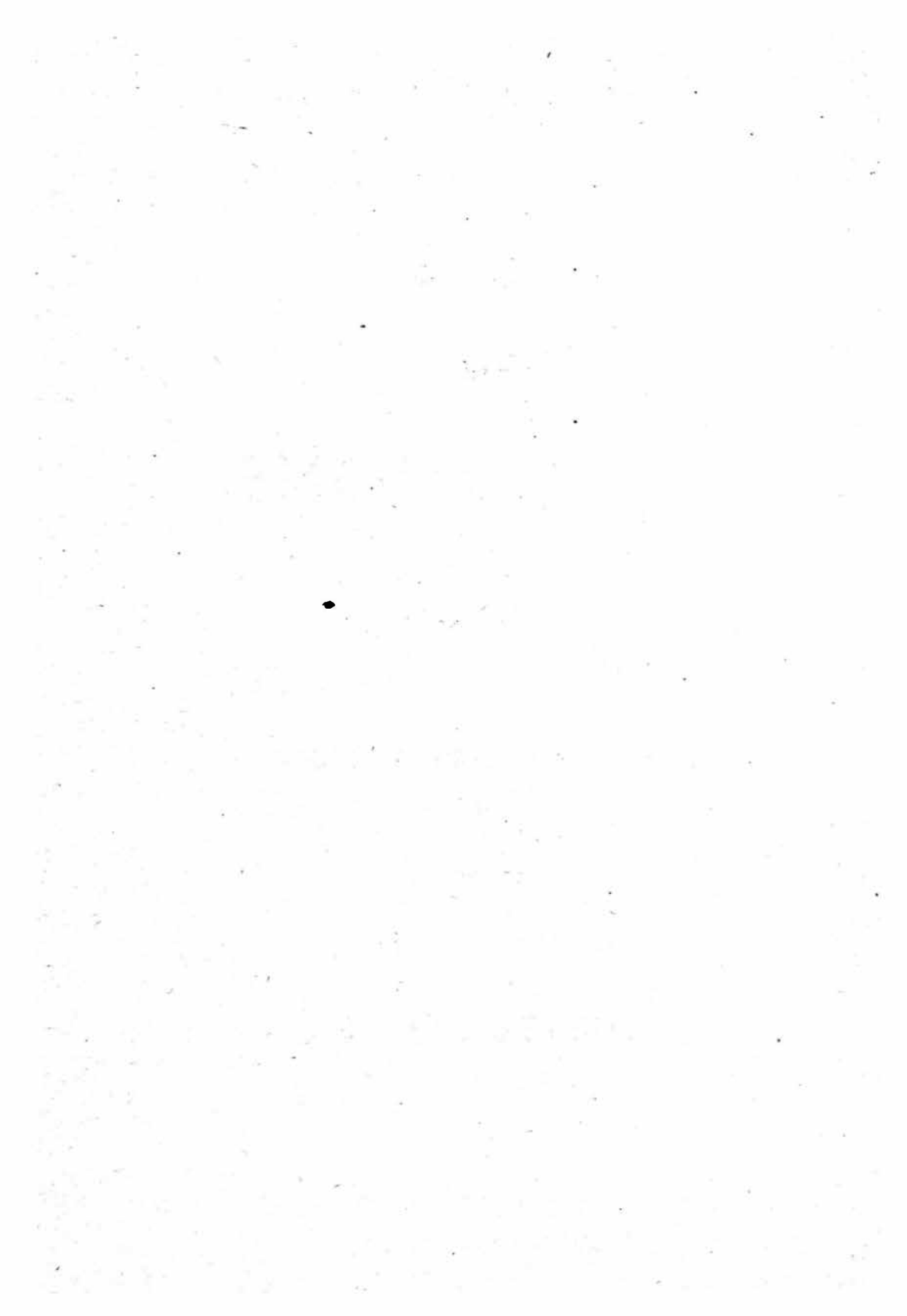
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**EXTRAORDINARY SESSION**

**(March 18-23, 1946)**

**OF THE**

**FORTY-SEVENTH**  
**LEGISLATURE**



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# LEGISLATURE OF WEST VIRGINIA

## MEMBERS AND OFFICERS

### EXTRAORDINARY SESSION, 1946

#### 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 Moundsville
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.....	*William Mitchell (D)..... †Glenn Taylor (D).....	Welch Matewan
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.

(†) Appointed to fill unexpired term of W. E. Burchett, resigned.

# 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.....	**Grace Miller Hathaway (R).....	Grantsville
Clay.....	J. Bennie Vaughan (D).....	Prociou
Doddridge.....	F. E. Strickling (R).....	West Union
Fayette.....	Newton T. Cavendish (D).....	Ansted
	Magee 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 ville
Logan.....	Ernest B. Craddock (D).....	Henlawson
	W. E. Flannery (D).....	Man
	Lucien R. Gore (D).....	Logan
Marion.....	†C. Fremont Davis (D).....	Fairmont
	Fred L. Doring (D).....	Fairmont
	Clarence L. Hall (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 to fill vacancy caused by the death of her father, the Honorable O. C. Hathaway.

(†) 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.

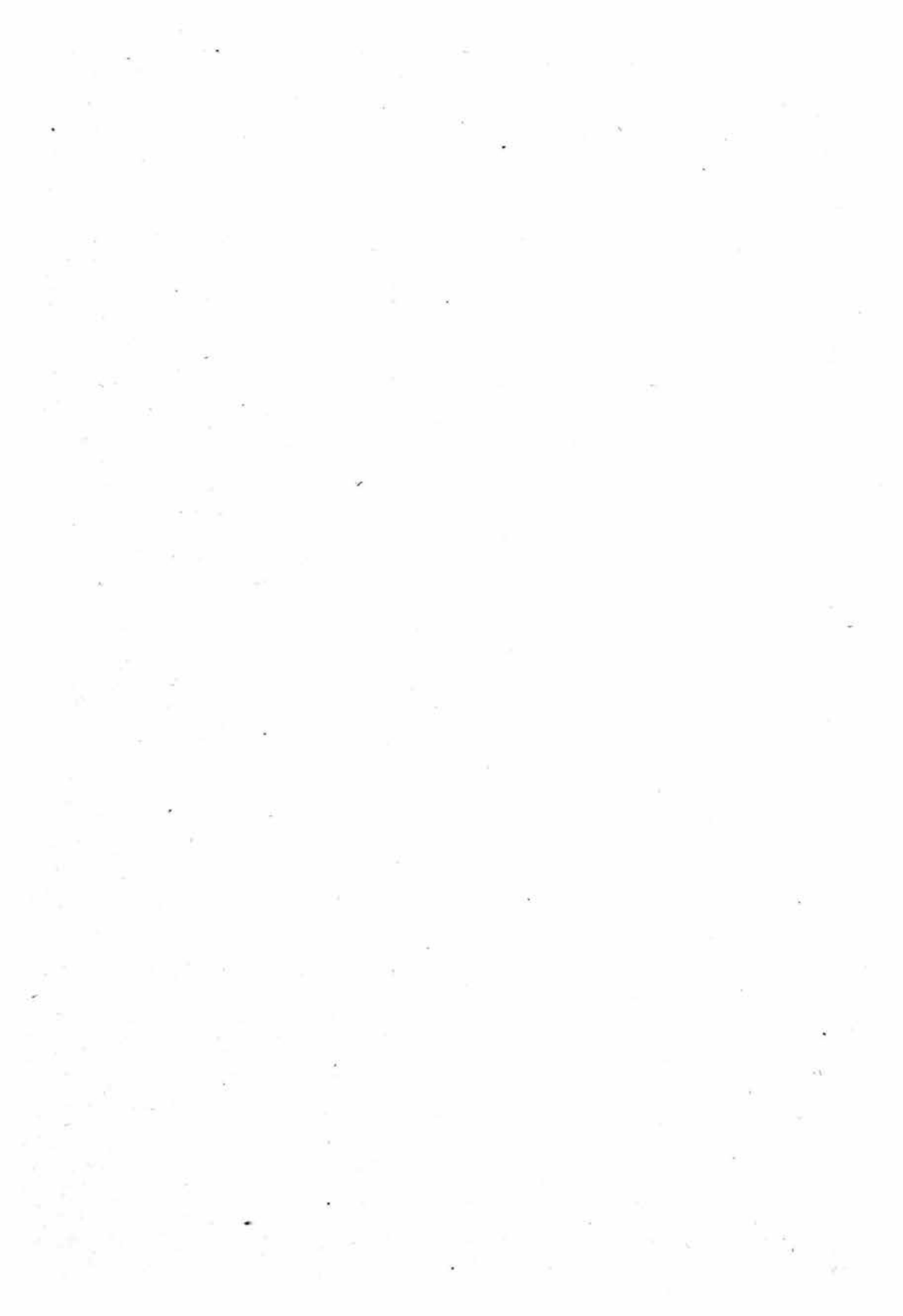
(‡) Appointed to fill unexpired term of the Honorable J. Harper Meredith, resigned.

## HOUSE OF DELEGATES

vii

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).....	Berkeley Springs
McDowell.....	George Evans (D)..... Julian C. Hansbarger (D)..... Fleming A. Jones, Jr. (D)..... E. B. Shannon (D)..... Roy A. Warden (D).....	Iaeger Welch Welch Welch War
Nicholas.....	O. J. Carroll (D).....	Summersville
Ohio.....	Russell A. Burt (D)..... William O. Callahan (R)..... Edward J. Flaccus (R)..... Wright Hugus (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)..... †Fayette C. Smoot (R)..... Robert Evans Stealey (R).....	Parkersburg, Rt. 5 Parkersburg Parkersburg
Wyoming.....	C. A. Blankenship (D).....	Pineville
(D) Democrats.....		65
(R) Republicans.....		29
Total.....		94

(†) Appointed to fill unexpired term of the Honorable Blaine M. Miller, resigned.



# LEGISLATURE OF WEST VIRGINIA

## ACTS OF 1946 EXTRAORDINARY SESSION

### CHAPTER 1

(Senate Bill No. 5—Originating in the Senate Committee on Finance)

AN ACT making appropriations of public moneys out of the treasury to pay the expenses of this extraordinary session of the Legislature and for contingent and other expenses of the Senate and House of Delegates.

[Passed March 23, 1946; 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 are appropriated out of the treasury for the fiscal year ending June thirtieth, one thousand nine hundred forty-six, the following sums of money for the following named purposes:

Section 1. <i>Senate</i> .—Compensation and		
2	per diem of officers and attaches_____	\$ 3,500.00
3	Mileage of members_____	780.20
4	Current expenses and contingent fund_____	5,000.00
5	Contingent Fund (S. C. R. No. 3)_____	7,500.00

Sec. 2. <i>House of Delegates</i> .—Compensation and		
2	tion and per diem of officers and attaches _____	\$ 2,500.00
3	Mileage of members_____	2,600.00
4	Current expenses and contingent fund_____	5,000.00
5	Contingent Fund (S. C. R. No. 3)_____	7,500.00

Sec. 3. *Joint Expenses.*—Printing and  
 2 stationery \_\_\_\_\_ \$ 7,500.00

Sec. 4. *Payment of Bills After Adjournment.*—The clerk  
 2 of the senate, with the approval of the president of the  
 3 senate, and the clerk of the house of delegates, with the  
 4 approval of the speaker, are authorized to draw their  
 5 warrants 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 appro-  
 9 priation bill, and for bills and services incurred after ad-  
 10 journment, the requisition for same to be accompanied  
 11 by a bill for same to be filed with the auditor.

## CHAPTER 2

(Senate Bill No. 4—Originating in the Senate Committee on Finance)

AN ACT to appropriate public moneys out of the state treasury for West Virginia University and other state colleges, and for the auditor's office to carry out the administration of any act of this session of the Legislature providing for the regulation of hospital service plans and medical service plans.

[Passed March 23, 1946; in effect from passage. Approved by the Governor.]

### Appropriations

#### Section

1. Additional appropriations.

#### EXECUTIVE

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West Liberty state college—Acct. No. 323 _____	5
West Virginia institute of technology—Acct. No. 327 _____	6
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2. Expenditure of excess collections by educational institutions.
3. Release of appropriations for certain state educational institutions.
4. Expenditure of appropriations heretofore made for West Virginia university and Marshall college.

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

Section 1. *Additional Appropriations.*—That in addition  
 2 to the appropriations made by chapter eleven, acts of  
 3 the Legislature, regular session, one thousand nine hun-  
 4 dred forty-five, there be and are hereby appropriated out  
 5 of the treasury for the fiscal year ending June thirtieth,  
 6 one thousand nine hundred forty-six and for the fiscal  
 7 year ending June thirtieth, one thousand nine hundred  
 8 forty-seven, the following sums of money for the follow-  
 9 ing purposes:

150—*Auditor's Office*

Acct. No. 150

		Fiscal Years	
		1945-46	1946-47
1	Personal Services _____\$	3,510.00	\$ 14,040.00
2	Current Expenses _____	1,050.00	3,200.00
3	Equipment _____	1,160.00	200.00
4	Totals _____\$	5,720.00	\$ 17,440.00

39—*West Virginia University*

Acct. No. 300

1	Personal Services _____	\$ 190,000.00
2	Current Expense _____	40,000.00
3	Equipment _____	20,000.00
4	To provide sites for Federal	
5	housing units _____	30,000.00
6	To equip Federal dormitories	
7	or housing units _____	40,000.00

8	To reimburse capital expendi-	
9	ture appropriations _____	30,000.00
10	For purchase of surplus war	
11	properties _____	40,000.00
<hr/>		
12	Total _____	\$ 390,000.00

## 400—Potomac State School of West Virginia University

## Acct. No. 315

1	Personal Services:	
2	For staff returning from	
3	military leave _____	\$ 6,932.00
4	For other _____	20,400.00
5	Current Expense _____	1,000.00
6	Equipment _____	2,500.00
7	To provide sites for Federal	
8	housing units _____	4,500.00
9	To equip Federal dormitories	
10	or housing units _____	5,500.00
<hr/>		
11	Total _____	\$ 40,832.00

## 401—Marshall College

## Acct. No. 320

1	Personal Services:	
2	For staff returning from	
3	military leave _____	\$ 39,500.00
4	For other _____	146,000.00
5	Current Expense _____	10,000.00
6	Equipment _____	8,000.00
7	To provide sites for Federal	
8	housing units _____	5,000.00
9	To equip Federal dormitories	
10	or housing units _____	10,000.00
11	To reimburse capital expendi-	
12	ture appropriations _____	5,000.00
<hr/>		
13	Total _____	\$ 223,500.00



## 402—Fairmont State College

## Acct. No. 321

1	Personal Services _____	\$	40,000.00
2	Current Expense _____		2,250.00
3	Equipment _____		6,000.00
4	Total _____	\$	48,250.00

## 403—Glenville State College

## Acct. No. 322

1	Personal Services _____	\$	15,000.00
2	Current Expense _____		800.00
3	Equipment _____		2,550.00
4	Total _____	\$	18,350.00

## 404—West Liberty State College

## Acct. No. 323

1	Personal Services:		
2	For staff returning from		
3	military leave _____	\$	3,300.00
4	For other _____		16,700.00
5	Current Expense _____		1,000.00
6	Equipment _____		500.00
7	To provide sites for Federal		
8	housing units _____		5,000.00
9	To equip Federal dormitories		
10	or housing units _____		5,000.00
11	Total _____	\$	31,500.00

## 405—Shepherd College

## Acct. No. 324

1	Personal Services _____	\$	3,500.00
2	Current Expense _____		1,000.00
3	Equipment _____		2,900.00
4	To provide sites for Federal		
5	housing units _____		1,000.00

6	To equip Federal dormitories		
7	or housing units _____		15,000.00
8	Total _____	\$	23,400.00

406—Concord College  
Acct. No. 325

1	Personal Services:		
2	For staff returning from		
3	military leave _____	\$	10,438.00
4	For other _____		19,600.00
5	Current Expense _____		1,000.00
6	Equipment _____		15,967.00
7	To provide sites for Federal		
8	housing units _____	\$ 5,000.00	2,500.00
9	Total _____	\$ 5,000.00	\$ 49,505.00

407—West Virginia Institute of Technology  
Acct. No. 327

1	Personal Services:		
2	For staff returning from		
3	military leave _____	\$	12,750.00
4	For other _____		39,090.00
5	Current Expense _____	\$ 1,400.00	4,200.00
6	Equipment _____		20,000.00
7	To provide sites for Federal		
8	housing units _____		8,600.00
9	To equip Federal dormitories		
10	or housing units _____		13,000.00
11	To reimburse Governor's Emer-		
12	gency Fund appropriation _____		2,000.00
13	Total _____	\$ 1,400.00	\$ 99,640.00

408—West Virginia State College  
Acct. No. 328

1	Personal Services:		
2	For staff returning from mili-		
3	tary leave _____	\$	6,500.00

4	For other .....	27,000.00
5	Current Expense .....	3,500.00
6	To provide sites for Federal	
7	housing units .....	6,375.00
8	To equip Federal dormitories	
9	or housing units .....	6,725.00
		17,100
10	Total .....	\$ 50,100.00

## 410—Bluefield State College

## Acct. No. 329

1	Personal Services .....	\$ 21,000.00
2	Current Expense .....	\$ 1,500.00 \$ 2,500.00
3	Equipment .....	2,500.00
4	To provide sites for Federal	
5	housing units .....	6,000.00
6	To equip Federal dormitories	
7	or housing units .....	15,000.00
8	Total .....	\$ 4,000.00 \$ 44,500.00

Sec. 2. *Expenditure of Excess Collections by Educational Institutions.*—In addition to the amounts above appropriated each of the educational institutions of the state may with the approval of the budget director and the board of public works expended the amount of its excess collections as provided in section thirty-two, chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-one.

Sec. 3. *Release of Appropriations for Certain State Educational Institutions.*—In view of the fact that the Interim Committee created under Senate Concurrent Resolution Number Six, regular session, one thousand nine hundred forty-five, has made to the Legislature a favorable report concerning the propriety of building the units specified in the appropriations hereinafter mentioned, the Legislature hereby sanctions the immediate release for expenditure of the appropriations in items eight to eighteen, both inclusive, section three-a, title two, chapter eleven, acts of the Legislature, regular session, one

12 thousand nine hundred forty-five. Upon the approval  
13 of the budget director and the board of public works,  
14 such appropriations or any part thereof may be expended  
15 for the construction of buildings, or for the acquisition  
16 of land and buildings, or for the purchase of equipment.

Sec. 4. *Expenditure of Appropriations Heretofore Made  
2 for West Virginia University and Marshall College.*—The  
3 Legislature hereby authorizes the expenditure of the  
4 appropriations, or any part thereof, made for West Vir-  
5 ginia university in item nineteen and for Marshall col-  
6 lege in item twenty-one, section three-a, title two, chapter  
7 eleven, acts of the Legislature, regular session, one thou-  
8 sand nine hundred forty-five, for the construction of  
9 buildings, or for the acquisition of land and buildings, or  
10 for the purchase of equipment, upon the approval of the  
11 budget director and the board of public works.

---

## CHAPTER 3

(House Bill No. 2—By Mr. Speaker, Mr. Amos, by request)

AN ACT to emend and reenact chapter one hundred thirty-seven, acts of the Legislature of West Virginia, regular session, one thousand nine hundred forty-five, relating to the disposition of balances remaining in funds realized from the Federal Army, Navy and Civil Aeronautics Trainee Program in various state educational institutions.

[Passed March 21, 1946; 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 at West Virginian university and the state colleges of West Virginia.
2. Duration of act.

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

That chapter one hundred thirty-seven, acts of the Legislature of West Virginia, regular session, one thousand nine

hundred forty-five, be amended and reenacted to read as follows:

Section 1. *Application of the Net Proceeds from the Federal Army, Navy and Civil Aeronautics Trainee Program at West Virginia University and the State Colleges of West Virginia.*—The entire net proceeds derived from the Federal Army, Navy and Civil Aeronautics Trainee Program at West Virginia University, West Virginia Institute of Technology, Marshall College, Shepherd College, Concord College, Fairmont State College and West Virginia State College shall be expended respectively by such institutions upon the approval of the board of governors for West Virginia University as to that institution, and upon the approval of the West Virginia board of control as to all the other institutions named herein, for the renovation and repair of buildings, for the replacement of furniture and equipment, for the restoration of property damaged as a result of such trainee programs, or for the purpose of providing necessary facilities or personnel for the accommodation and instruction of returning veterans and others enrolled at such institutions. Any unexpended funds heretofore collected by these institutions, whether heretofore paid and reported to the state or otherwise, and any funds hereafter collected and derived from such sources by each such institution, shall be placed and kept in a special fund to the credit of such institution so reporting or collecting the same, and shall be expended by the board of governors for West Virginia university for that institution, and shall be expended by the board of control for each of the other institutions so reporting or collecting for the purposes herein enumerated.

Sec. 2. *Duration of Act.*—The provisions of this act shall be operative and in full force and effect until June thirtieth, one thousand nine hundred forty-seven.

## CHAPTER 4

(House Bill No. 6—By Mr. Davis, of Kanawha)

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 section two of article twelve thereof and to be known as the "Education Amendment".

[Passed March 23, 1946; in effect from passage. Approved by the Governor.]

### Section

1. Submitting an amendment to section two of article twelve of the state constitution.
2. Amendment to be known as the "Education Amendment."
3. Form of ballot; election.
4. Certificates of election commissioners; canvass of vote; certifying result.
5. Proclamation of result of election by governor.
6. Publication of proposed amendment by governor.

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

Section 1. *Submitting An Amendment to Section Two of Article Twelve of the State Constitution.*—The question of the ratification or rejection of an amendment to the constitution of the state of West Virginia, proposed in accordance with the provisions of section two of article fourteen of the constitution, amending section two of article twelve thereof, shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred forty-six, which proposed amendment is as follows:

### Proposed Amendment

#### ARTICLE 12. EDUCATION

##### *Supervision of Free Schools and Colleges*

Section 2. The general supervision of the free schools of the State, and of such state colleges as may be designated by the Legislature, shall be vested in the State Board of Education, and the general supervision of the state university shall be vested in the Board of Governors of West Virginia University. In addition thereto, each board shall perform such other duties in relation to pub-

8 lic education as may be prescribed by law. Each board  
9 shall consist of nine members, to be appointed by the  
10 Governor, by and with the advice and consent of the  
11 Senate, for overlapping terms of nine years, except that  
12 the original appointments shall be for terms of one, two,  
13 three, four, five, six, seven, eight, and nine years, re-  
14 spectively. At least one member of the State Board of  
15 Education shall be of the Negro race. No more than five  
16 members of each board shall belong to the same political  
17 party, and in addition to the general qualifications other-  
18 wise required by this Constitution, the Legislature may  
19 prescribe other specific qualifications for membership on  
20 each board. No member of either board may be removed  
21 from office by the Governor except for official miscon-  
22 duct, incompetence, neglect of duty, or gross immorality,  
23 and then only in the manner prescribed by law for the  
24 removal by the Governor of state elective officers.

25 The elective office of State Superintendent of Free  
26 Schools is hereby abolished, but this provision shall in  
27 no way impair the right of the present incumbent to  
28 serve the remainder of the term for which he was elected.  
29 Hereafter, the State Board of Education shall, in the man-  
30 ner prescribed by law, select the State Superintendent  
31 of Free Schools, who shall serve at its will and pleasure.  
32 He need not be a resident of the State at the time of his  
33 selection but must reside therein at the time he assumes  
34 the duties of his office. He shall be the chief school officer  
35 of the State and shall have such powers and shall per-  
36 form such duties as may be prescribed by law. The State  
37 Superintendent of Free Schools selected by the State  
38 Board of Education shall be a member of the Board of  
39 Public Works.

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

Sec. 3. *Form of Ballot; Election.*—For the purpose of

2 enabling the voters of the State to vote on the question  
3 of the proposed amendment to the constitution at the  
4 general 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 that election, the  
8 following:

9 Ballot on constitutional "Education Amendment",  
10 amending section two of article twelve of the state con-  
11 stitution.

12 ☐ For ratification of "Education Amendment".

13 ☐ Against ratification of "Education 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 officers  
18 to be voted for at the election, and all of the provisions  
19 of law relating to general elections, including all duties  
20 to be performed by any officer or board, as far as appli-  
21 cable 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  
24 provided. The ballots cast on the question of the pro-  
25 posed amendment shall be counted as other ballots cast  
26 at the election.

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

8 "We, the undersigned who acted as commissioners (or  
9 canvassers, as the case may be), of the election held at  
10 precinct number \_\_\_\_\_, in the district of \_\_\_\_\_,  
11 in the county of \_\_\_\_\_, on the fifth day of No-  
12 vember, one thousand nine hundred forty-six, upon the  
13 question of the ratification or rejection of the proposed  
14 constitutional amendment to section two of article twelve,



15 do hereby certify that the result of that election is as  
16 follows:

17 For ratification of 'Education Amendment'

18 .....votes.

19 Against ratification of 'Education Amendment'

20 .....votes.

21 Given under our hands this ..... day of No-  
22 vember, one thousand nine hundred forty-six."

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

33 The certificates, together with the ballots cast on the  
34 question of the proposed amendment, shall be laid be-  
35 fore the commissioners of the county court at the court-  
36 house at the same time the ballots, poll books and the  
37 certificates of the election for the members of the Legis-  
38 lature are laid before them; and as soon as the result of  
39 the election in the county upon the question of such  
40 ratification or rejection is ascertained, two certificates  
41 of such result shall be made out and signed by the com-  
42 missioners, 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  
46 the returns of the election held in this county, in each  
47 district thereof, on the fifth day of November, one thou-  
48 sand nine hundred forty-six, do certify that the result  
49 of the election in this county on the question of the  
50 ratification or rejection of the proposed constitutional  
51 amendment to section two of article twelve is as fol-  
52 lows:

53 For ratification of 'Education Amendment'

54 .....votes.

55     Against ratification of 'Education Amendment'

56     \_\_\_\_\_votes.

57     Given under our hands this \_\_\_\_\_day of \_\_\_\_\_,  
58     one thousand nine hundred forty-six."

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

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

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

## CHAPTER 5

(Senate Bill No. 3—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact article thirteen, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the organization and operation of hospital service corporations and medical service corporations, and to their licensing and regulation by the state.

[Passed March 22, 1946; in effect from passage. Approved by the Governor.]

### Article 13. Hospital Service Corporations and Medical Service Corporations.

#### Section

1. Declaration of legislative policy.
2. Definitions.
3. Corporations affected; eligibility of hospitals and physicians for participation in service plans.
4. Exemptions.
5. Supervision by insurance commissioner; annual reports.
6. Licenses.
7. Required provisions in contracts made by the corporation with hospitals and physicians.
8. Contract with needy persons.
9. Pay roll deductions of governmental employees.
10. Investment; bonds of corporate officers and employees.
11. Dissolution.
12. Judicial review.

*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 amended, be amended and reenacted to read as follows:

Section 1. *Declaration of Legislative Policy.*—In view of  
2 the desirability of making available to the people of the  
3 state increased hospital and medical services on a dis-  
4 tributive cost basis, the declared policy of the Legislature  
5 in the enactment of this article is to encourage the organi-  
6 zation, promotion and expansion of hospital service cor-  
7 porations and medical service corporations by exempting  
8 them from the payment of all taxes and from the opera-  
9 tion of the general insurance laws of the state, but at the  
10 same time subjecting them to such regulation as may be

11 necessary for the adequate protection of those members  
12 of the public who subscribe for the services offered by  
13 such corporations.

Sec. 2. *Definitions.*—For the purposes of this article:

2 (1) "Corporation" shall mean either a hospital service  
3 corporation or a medical service corporation.

4 (2) "Hospital service corporation" shall mean a non-  
5 profit, nonstock corporation, organized in accordance with  
6 the provisions of article one of this chapter for the sole  
7 purpose of contracting with the public and with hospitals  
8 for hospital service to be furnished to subscribers under  
9 terms of their contract with the corporation.

10 (3) "Hospital service" shall mean only such hospital  
11 care, to be provided by approved hospitals, or such pay-  
12 ment therefor, as may be specified in the contract made  
13 by the subscriber with the corporation.

14 (4) "Medical service corporation" shall mean a non-  
15 profit, nonstock corporation, organized in accordance with  
16 the provisions of article one of this chapter for the sole  
17 purpose of contracting with the public and with duly  
18 licensed physicians for medical service to be furnished  
19 to subscribers under terms of their contract with the  
20 corporation, and controlled by a board of directors, the  
21 majority of whom are duly licensed physicians.

22 (5) "Medical service" shall mean only such medical and  
23 surgical care, to be provided by duly licensed physicians,  
24 or such payment therefor, as may be specified in the con-  
25 tract made by the subscriber with the corporation.

Sec. 3. *Corporations Affected; Eligibility of Hospitals  
and Physicians.*—Every such corporation operating within  
2 the state, whether organized before or after the effective  
3 date of this article, shall on and after such date be sub-  
4 ject to the provisions hereof, except that no such corpora-  
5 tion doing business on that date shall be required before  
6 the first day of July, one thousand nine hundred forty-six,  
7 to obtain the license provided for in section six of this  
8 article. Every approved hospital in this state shall be  
9 eligible for participation in the hospital service plan op-  
10 erating in the area in which such hospital is located.  
11 Every duly licensed physician in this state shall be eligible

13 for participation in the medical service plan operating in  
14 the area in which he resides or practices.

Sec. 4. *Exemptions.*—Every such corporation is hereby  
2 declared to be a scientific, nonprofit institution, and as  
3 such exempt from the payment of all property and other  
4 taxes. Except as otherwise provided in this article, such  
5 corporations shall also be exempt from the operation of  
6 the general insurance laws of the state. If, however, any  
7 such corporation shall be converted into a corporation  
8 organized for pecuniary profit, or if it shall transact busi-  
9 ness without having obtained a license as required by  
10 section six of this article, it shall thereupon forfeit its  
11 right to these exemptions.

Sec. 5. *Supervision by Insurance Commissioner; An-  
2 nual Reports.*—The auditor as state insurance commis-  
3 sioner shall, to the extent specified in this article, have  
4 general supervisory control over every such corporation,  
5 and it shall be his duty to see that the provisions hereof  
6 are properly executed and administered.

7 No such corporation shall, without the prior approval  
8 of the commissioner, make any change in the terms of  
9 its contract with subscribers or in the form of its appli-  
10 cations, renewals, riders or endorsements; nor, after the  
11 first year of its operation, shall any such corporation use  
12 for administrative expenses more than twenty per cent  
13 of its gross collections without first having obtained the  
14 approval of the commissioner. No such corporation shall  
15 include in its name the words "insurance", "casualty",  
16 "surety", "health and accident", "mutual", or any other  
17 words descriptive of the insurance or surety business;  
18 nor shall such name be so similar to that of any insurance  
19 or surety company, which was doing business in the state  
20 when such corporation was formed, as to tend, in the  
21 opinion of the insurance commissioner, to confuse the  
22 public.

23 The insurance commissioner, and any deputy or ex-  
24 aminer appointed by him for the purpose, shall in respect  
25 to every such corporation have the power of visitation,  
26 shall have free access to all books, papers and documents  
27 relating to the business of the corporation, and may ad-

28 minister oaths and compel the attendance of witnesses,  
29 including any officer, agent or employee of the corpora-  
30 tion, in connection with any inquiry by him concerning  
31 the affairs or condition of the corporation.

32 The insurance commissioner shall pass upon the actu-  
33 arial soundness of the schedule of rates to be charged  
34 subscribers and fees to be paid hospitals and physicians  
35 by every such corporation. If in his opinion the schedule  
36 of rates and fees is not actuarially sound, the schedule  
37 shall be returned to the corporation, together with a state-  
38 ment setting forth the reasons for the disapproval. If the  
39 corporation fails to submit an approved revised schedule  
40 within sixty days after the schedule is returned to it, the  
41 insurance commissioner shall fix such rates or fees as will  
42 in his opinion render the service plan actuarially sound.

43 On or before the first day of March of each year, every  
44 such corporation shall file with the insurance commis-  
45 sioner an annual report for the preceding calendar year,  
46 in such form as may be prescribed by him. Such report  
47 shall show the financial condition of the corporation on  
48 the last day of the preceding year, and shall be verified  
49 by at least two of the principal officers of the corporation.

Sec. 6. *Licenses.*—No such corporation shall enter into  
2 any contract with a subscriber until it has obtained from  
3 the insurance commissioner a license as provided in this  
4 section. Application for a license shall be made on the  
5 forms to be prescribed and furnished by the commis-  
6 sioner.

7 Such application shall be accompanied by a copy of  
8 the following documents: (1) Certificate of incorpora-  
9 tion. (2) By-laws. (3) Contracts between the corpora-  
10 tion and participating hospitals or physicians. (4) Pro-  
11 posed contracts to be issued to subscribers, setting forth  
12 the hospital or medical service to which subscribers are  
13 entitled, and the table of rates to be charged for such  
14 service. (5) Financial statement, showing the amount of  
15 contributions paid, or agreed to be paid, to the corporation  
16 for working capital, the name or names of each con-  
17 tributor, and the terms of each contribution.

18 Within thirty days after receipt of an application, the

19 insurance commissioner shall, upon payment to him of a  
20 license fee of one hundred dollars, issue a license author-  
21 izing the corporation to transact business in the state in  
22 the area to be served by it, if he is satisfied (1) that the  
23 applicant is incorporated in this state, under the pro-  
24 visions of article one of this chapter, as a *bona fide* non-  
25 profit corporation, (2) that the contracts between the  
26 corporation and participating hospitals and physicians  
27 contain all the terms required by the following section,  
28 (3) that the working capital available to the corpora-  
29 tion will be sufficient to pay all operating expenses,  
30 other than payment for hospital or medical services, for  
31 a reasonable period after the issuance of the license, and  
32 (4) that the proposed plan will serve the best interests  
33 of all the people of the area in which the corporation  
34 intends to operate, regardless of their race, color or eco-  
35 nomic status. Any license so issued may be renewed  
36 annually upon payment to the insurance commissioner  
37 of a renewal fee of one hundred dollars. The license of  
38 any corporation may be revoked by the commissioner if  
39 he finds that the corporation has violated any of the  
40 provisions of this article.

41 The provisions of the general insurance laws relating  
42 to the licensing of agents, solicitors and brokers shall  
43 apply to such persons employed by hospital or medical  
44 service corporations, except that the license fee shall be  
45 one dollar a year.

46 The provisions of the general insurance laws relating  
47 to the refusal to issue a license and to the revocation of  
48 a license shall, insofar as practicable, apply to the licenses  
49 provided for in this section.

50 All licenses issued by the insurance commissioner un-  
51 der the provisions of this section shall, unless sooner  
52 revoked, continue in force until the first day of April  
53 following their issuance. If the expiration date of any  
54 license issued to a corporation is less than nine months  
55 after its issuance, the license fee shall be prorated on a  
56 quarterly basis.

Sec. 7. *Required Provisions in Contracts Made by the*  
2 *Corporation with Hospitals and Physicians.*—Each con-

tract made by the corporation with participating hospitals and physicians shall contain the following provisions:

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

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

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

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

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

(1) To liquidate on a pro rata basis any losses incurred by hospitals or physicians upon the settlement of bills in previous years.

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

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



Sec. 8. *Contracts with Needy Persons.*—A corporation  
2 may accept from governmental agencies payment of all  
3 or part of the cost of subscriptions for hospital or med-  
4 ical service to be rendered needy persons, and may ac-  
5 cept from private agencies, corporations, associations,  
6 groups or individuals, similar payment for such service  
7 to be rendered needy or other persons. All contracts for  
8 hospital or medical service shall, however, be made by  
9 the corporation with the persons entitled to receive such  
10 service.

Sec. 9. *Pay Roll Deductions of Governmental Em-*  
2 *ployees.*—The officer charged with the duty of preparing  
3 the pay roll of any subscriber, who is an employee of  
4 the state government or of any of its political subdi-  
5 visions, may upon request of the subscriber deduct from  
6 his pay roll the amount of the fee owed by the sub-  
7 scriber to any hospital service corporation or medical  
8 service corporation, in which case the officer shall pay  
9 over such amount directly to the corporation.

Sec. 10. *Investments; Bonds of Corporate Officers and*  
2 *Employees.*—The funds of any such corporation may be  
3 invested only in securities of the United States, the state  
4 of West Virginia, or one of its political subdivisions.  
5 With the approval of the insurance commissioner, how-  
6 ever, part of such funds may be spent by the corporation  
7 for the purchase or erection of a building to be used as  
8 its office.  
9 Every officer or employee of any such corporation, who  
10 is entrusted with the handling of its funds, shall fur-  
11 nish, in such amount as may with the approval of the  
12 insurance commissioner be fixed by the board of direc-  
13 tors of the corporation, a bond with corporate surety,  
14 conditioned upon the faithful performance of all his  
15 duties.

Sec. 11. *Dissolution.*—Upon the insolvency of any such  
2 corporation, its dissolution or liquidation shall be con-  
3 ducted under the supervision of the insurance commis-  
4 sioner, who shall have in respect thereto all the powers  
5 conferred upon him by the provisions of the general

6 insurance laws in respect to the dissolution or liquida-  
7 tion of insurance companies.

Sec. 12. *Judicial Review of the Orders Issued by the*  
2 *Insurance Commissioner.*—All official orders of the insur-  
3 ance commissioner issued under the authority conferred  
4 upon him by this article shall be subject to such judicial  
5 review as is provided for in section fourteen, article four,  
6 chapter thirty-three of the code.

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# RESOLUTIONS

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## HOUSE CONCURRENT RESOLUTION NO. 1

(By Mr. Davis, of Kanawha)

[Adopted March 18, 1946.]

Providing for a joint assembly to hear an address by the Governor.

*Resolved by the House of Delegates, the Senate concurring therein:*

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 12:50 o'clock, P. M., this day, to hear an address by His Excellency, the Governor.

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## HOUSE RESOLUTION NO. 1

(By Mr. Ward)

[Adopted March 18, 1946.]

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-five, as amended, are hereby adopted as the rules to govern the proceedings of this extraordinary session, insofar as the same are applicable.

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## HOUSE RESOLUTION NO. 2

(By Mr. Hansbarger)

[Adopted March 18, 1946.]

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 27th day of February, 1946, with a quorum present, and is ready to proceed with the business for which this extraordinary session of the Legislature has been convened.

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## HOUSE RESOLUTION NO. 3

(By Mr. Davis, of Kanawha)

[Adopted March 18, 1946.]

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 27th day of February, 1946, with a quorum of each House present, and is ready to receive any communication or message that he may be pleased to present.

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## HOUSE RESOLUTION NO. 4

(By Mr. Davis, of Kanawha)

(Originating in the Committee on Rules)

[Adopted March 18, 1946.]

Authorizing the appointment and payment of attaches 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. 9, regular session, one thousand nine hundred forty-five, 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 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 any other person or persons be appointed in their places for any such time as they may be suspended when not needed; and, be it

*Further Resolved*, That under authority of section nine, article one, chapter four of the code, the Clerk is hereby authorized to appoint two assistant clerks, and to appoint a secretary and stenographer as provided for by the Rules of the House, each of same to be paid the same per diem as was paid during the regular session, one thousand nine hundred forty-five; 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 the Door-

keeper shall receive the same per diem as paid during the regular session, one thousand nine hundred forty-five; and, be it

*Further Resolved*, That the Clerk is hereby authorized, with the approval of the Speaker, to draw his requisitions upon the Auditor in payment of persons for services rendered the House of Delegates preparatory to the convening of this extraordinary session.

### HOUSE RESOLUTION NO. 5

(By Mr. Doringe)

[Adopted March 18, 1946.]

Authorizing payment of mileage to members of the House of Delegates.

*Resolved by the House of Delegates:*

That in accordance with section thirty-three, article six of the Constitution of the State, the Clerk of the House of Delegates is hereby authorized to draw his requisitions upon the Auditor for mileage of members of the House of Delegates at the rate of ten cents per mile for such number of miles as has heretofore or will be certified to him by the various members as having been traveled in coming to the seat of government and returning to their homes on account of this extraordinary session of the Legislature.

### HOUSE RESOLUTION NO. 6

(By Mr. Hansbarger)

(Originating in the Committee on Rules)

[Adopted March 19, 1946.]

Authorizing the appointment of assistant janitors.

WHEREAS, The Superintendent of Capitol Building and Grounds under authority of section twenty-two, article one,

chapter five of the code of West Virginia, has designated six assistant janitors for the janitor work of the House of Delegates during this extraordinary session of the Legislature; therefore, be it

*Resolved by the House of Delegates:*

That said assistant janitors shall receive the same per diem as paid during the regular session, one thousand nine hundred forty-five, and that the per diem of said Superintendent of Capitol Building and Grounds is fixed at one dollar and fifty cents, as the House of Delegates' one-half of his per diem. Said per diem shall be paid from the contingent fund of the House of Delegates.

#### HOUSE RESOLUTION NO. 7

(By Mr. Rairden)

[Adopted March 22, 1946.]

Requesting the Governor to amend or supplement his call for this extraordinary session.

WHEREAS, There will remain in the state treasury a surplus of several million dollars after the release of certain appropriations made by the Legislature at its 1945 regular session and after the appropriations which are being considered at this session are made; and

WHEREAS, Existing public school buildings in most counties of the State are wholly inadequate and in serious need of extensive repair and improvement; therefore, be it

*Resolved by the House of Delegates:*

That His Excellency, the Governor, is hereby respectfully requested to amend or supplement his call convening this extraordinary session of the Legislature so as to permit this session of the Legislature to consider the appropriation of funds for the construction and repair of public school buildings under such terms and conditions as may be provided by the Legislature.

## HOUSE RESOLUTION NO. 8

(By Mr. Davis, of Marion)

[Adopted March 22, 1946.]

Relating to air transportation in West Virginia.

WHEREAS, The State of West Virginia has for more than a year been without adequate air service, being limited to a single daily connection with airlines serving the rest of the United States; and

WHEREAS, There is no scheduled air transport service whatsoever within the State, connecting its various cities with the Capitol at Charleston; and

WHEREAS, Such service is desirable for the convenience of the two million citizens of the State and necessary to the conduct of their commerce, industry and government; and

WHEREAS, There have been applications for permits to operate airlines filed with the Public Service Commission which announce the intention of the applicants to provide such service, and said applicants have duly applied to the Public Service Commission of West Virginia for certification to operate intrastate airlines; therefore, be it

*Resolved by the House of Delegates:*

That the House of Delegates does hereby urge the Public Service Commission in its deliberations upon these applications to consider carefully the needs of the State of West Virginia and its people for air transportation and to encourage feeder line operations in West Virginia.

## HOUSE RESOLUTION NO. 9

(By Mr. Knight)

[Adopted March 22, 1946.]

Concerning illness of members of the House of Delegates.

WHEREAS, Due to illness Delegates Jonah Adkins, Tom O. Curry, Rush D. Holt and Claude V. Swann, four of the esteemed



members of this body, have been prevented from attendance at this extraordinary session; therefore, be it

*Resolved by the House of Delegates:*

That the members of this body regret to learn of the illness of these distinguished legislators, and wish for them a speedy recovery; and, be it

*Further Resolved*, That the Clerk transmit a copy of this resolution to Delegates Adkins, Curry, Holt and Swann.

### HOUSE RESOLUTION NO. 10

(By Mr. Hansbarger)

(Originating in the Committee on Rules)

[Adopted March 23, 1946.]

Authorizing the printing and distribution of acts of this extraordinary session, providing for the 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 in signature form sufficient copies of the acts of this session to supply the members of the Legislature with ten copies each and to supply such persons as may request them. The public printer shall hold the type for the acts of the session, and the same shall be included with the bound volume of the 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 the following officers, attaches and employees is extended for the following number of days to receive the same per diem as paid during the regular session, one thousand nine hundred forty-five:

Two assistant clerks, a journal clerk, a superintendent of

document and mailing room, a secretary to the minority, and the secretary to the Speaker for thirty days each; a messenger to the Speaker for fifteen days; a custodian of offices and property, three stenographers, two proofreaders, two copyholders, two file clerks, two mailing room clerks, and one clerk on enrolled bills for ten days each; the Sergeant-at-Arms and the Doorkeeper for five days each; and six janitors for five days each.

The Clerk of the House of Delegates shall mail to all persons on the members' mailing list for the last regular session of the House of Delegates the daily journals of this session.

All expenses authorized, except printing costs, by this resolution shall be paid out of the Contingent Fund of the House of Delegates upon proper requisition of the Clerk. In the event the appropriation made by this session for the Contingent Fund is not sufficient to pay the expenses authorized by this resolution the same shall be paid from the balance now in the House Contingent Fund, appropriated by the 1945 regular session.

The Clerk shall draw his requisition upon the Auditor in favor of the persons appointed under authority of this resolution for consecutive days from the date of their appointment.

### HOUSE RESOLUTION NO. 11

(By Mr. Cline)

[Adopted March 23, 1946.]

Commending the North-South Football Game, Inc., on awarding of scholarships.

WHEREAS, During the past twelve years the North-South football game has become the leading high school sports event in West Virginia, drawing an attendance last year of more than twenty thousand persons; and

WHEREAS, This event, participated in by leading athletes from the high schools of the State, has grown more popular annually because of the novelty of actually affording the boys one game that is strictly their own; and

WHEREAS, The North-South Football Game, Inc., a non-profit organization, representing twenty West Virginia daily newspapers, has recently announced the establishment of a trust fund for the purpose of awarding two full four-year scholarships annually, valued at \$4,000.00; therefore, be it

*Resolved by the House of Delegates:*

That this body hereby commends the officials of the North-South Football Game, Inc., for the step they have taken in awarding these scholarships, thereby encouraging interest in scholastic achievement and assisting young men of the State in obtaining a college education.

#### HOUSE RESOLUTION NO. 12

(By Mr. Ross, of Mercer)

[Adopted March 23, 1946.]

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. 3

(By Mr. Winters)

[Adopted March 21, 1946.]

Providing for the appointment of an interim committee to make a study, survey and investigation of conditions, institutional and educational opportunities and general care for veterans of World War II and other wars.

WHEREAS, The housing situation throughout this State is such, and is a matter of concern to veterans and their families, that

many veterans have taken the opportunity of advanced education in our schools of higher learning under the G. I. Bill of Rights; and

WHEREAS, The curricula established in some of the colleges is insufficient to satisfy demands of such veterans; and

WHEREAS, The veterans ask only an equal opportunity to establish themselves as to what and how they were prior to entering the services; therefore, be it

*Resolved by the Senate, the House of Delegates concurring therein:*

That an interim committee, consisting of members to be composed as follows: One member to be from each Congressional District who shall be a veteran of World War II, two members at large both of whom shall be veterans of World War II, the State Director of Veterans Administration, the State Adjutant of the American Legion, two members from the Senate, two members from the House of Delegates, and the President of the Senate and the Speaker of the House of Delegates shall be members and ex officio chairman and co-chairmen, is hereby set up for the purpose of making a thorough study, survey and investigation of matters pertaining to veterans affairs.

The President of the Senate and the Speaker of the House of Delegates shall appoint the members to said committee heretofore designated and the Governor is hereby directed to appoint the remaining members hereinbefore designated.

Any vacancies occurring for any cause in the membership shall be filled by the officers authorized to make the original appointments. The committee is authorized to fix the amount to be paid the members of said committee as an allowance for their expenses, not to exceed fifteen dollars per day per member, and for their mileage.

The sum of fifteen thousand dollars (\$15,000.00) or so much thereof as may be needed, is hereby appropriated for the expenses of the committee, one-half 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 Senate and the contingent fund of the House of Delegates for such expenditures and expenses of said committee as are authorized by this resolution. Requisitions to the Auditor for payment of expenses of said committee shall be accompanied by the signed approval of said expenses, signed by the chairman of said committee or by one authorized to do so by the committee.

The said committee shall report its findings at the next regular session of the Legislature.

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#### SENATE CONCURRENT RESOLUTION NO. 4

(By Mr. Johnston)

[Adopted March 21, 1946.]

Adopting joint rules.

*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-five, are adopted to govern the proceedings of this session.

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#### SENATE CONCURRENT RESOLUTION NO. 5

(By Mr. Vickers, Mr. President)

[Adopted March 23, 1946.]

Raising a joint committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn *sine die*.

*Resolved by the Senate, the House of Delegates 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.

### SENATE JOINT RESOLUTION NO. 1

(By Mr. Vickers, Mr. President)

(Originating in the Legislative Interim Committee on  
Education)

[Adopted March 23, 1946.]

Proposing an amendment to the Constitution of the State, amending section two, article twelve thereof, providing for the reorganization of the State Board of Education and the Board of Governors of West Virginia University, prescribing the duties of each board, and providing for the selection of the State Superintendent of Free Schools by the State Board of Education.

*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 the State of West Virginia 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 section two, article twelve of the Constitution of this State be amended to read as follows:

#### *Supervision of Free Schools and Colleges*

Section 2. The general supervision of the free schools of the State, and of such state colleges as may be designated by the Legislature, shall be vested in the State Board of Education, and the general supervision of the state university shall be

vested in the Board of Governors of West Virginia University. In addition thereto, each board shall perform such other duties in relation to public education as may be prescribed by law. Each board shall consist of nine members, to be appointed by the Governor, by and with the advice and consent of the Senate, for overlapping terms of nine years, except that the original appointments shall be for terms of one, two, three, four, five, six, seven, eight, and nine years, respectively. At least one member of the State Board of Education shall be of the Negro race. No more than five members of each board shall belong to the same political party, and in addition to the general qualifications otherwise required by the Constitution, the Legislature may prescribe other specific qualifications for membership on each board. No member of either board may be removed from office by the Governor except for official misconduct, incompetence, neglect of duty, or gross immorality, and then only in the manner prescribed by law for the removal by the Governor of state elective officers.

The elective office of State Superintendent of Free Schools is hereby abolished, but this provision shall in no way impair the right of the present incumbent to serve the remainder of the term for which he was elected. Hereafter, the State Board of Education shall, in the manner prescribed by law, select the State Superintendent of Free Schools, who shall serve at its will and pleasure. He need not be a resident of the State at the time of his selection but must reside therein at the time he assumes the duties of his office. He shall be the chief school officer of the State and shall have such powers and shall perform such duties as may be prescribed by law. The State Superintendent of Free Schools selected by the State Board of Education shall be a member of the Board of Public Works.

## SENATE RESOLUTION NO. 1

(By Mr. Johnston)

[Adopted March 18, 1946.]

Adopting the rules of the Senate.

*Resolved by the Senate:*

That the rules of the Senate, regular session, one thousand nine hundred forty-five, be adopted by the Senate as the rules of this session.

## SENATE RESOLUTION NO. 2

(By Mr. Bean)

[Adopted March 18, 1946.]

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 Clarence W. Meadows, with a quorum present, and is ready to proceed with the business of the extraordinary session.

## SENATE RESOLUTION NO. 3

(By Mr. Hardesty)

[Adopted March 18, 1946.]

Raising a committee to wait upon the Governor.

*Resolved by the Senate:*

That a committee of three, on the part of the Senate, be appointed by the President 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-seventh day of February, one thousand nine hundred forty-six, with a quorum of each House present, and is ready to receive any communication or message he may be pleased to make.

#### SENATE RESOLUTION NO. 4

(By Mr. McKown and Mr. Winters)

[Adopted March 19, 1946.]

Extending the sympathy of the Senate to Mrs. Fern Runion in her illness.

WHEREAS, Mrs. Fern Runion has served the Senate as Supervisor of Stenographers and Journal Stenographer continuously since one thousand nine hundred thirty-three, in an untiring manner and most efficiently, and

WHEREAS, She is unable to attend this session by reason of illness; therefore, be it

*Resolved by the Senate:*

That the Senate has learned with regret of her illness which prevents her attendance at this session and hereby extends to her its sympathy, with the sincere hope that her recovery may be both speedy and complete; and, be it

*Further Resolved*, That the Clerk of the Senate is directed to send Mrs. Runion a copy of this resolution, together with a suitable floral tribute on the part of the Senate.

#### SENATE RESOLUTION NO. 5

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 21, 1946.]

Relating to the payment of expenses for services preparatory to and at the beginning of the 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:

J. Howard Myers, Clerk, 10 days at \$20.00.....	\$200.00
Five janitors, at \$7.00 per day each, for 14 days.....	490.00

## SENATE RESOLUTION NO. 6

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 21, 1946.]

Authorizing the appointment of attaches for the Senate for the one thousand nine hundred forty-six 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 twelve dollars per day; one printing clerk at fifteen dollars per day; one secretary to the minority at eighteen dollars per day; one journal stenographer at fifteen dollars per day; one clerk to minority at twelve dollars per day; one clerk to judiciary at twelve dollars per day; one clerk to finance at twelve dollars per day; two assistant Sergeants-at-Arms at nine dollars per day; one chaplain at five dollars per day; five floor stenographers at nine dollars per day; one proofreader at ten dollars per day; one proofreader at nine dollars per day; one proofreader at eight dollars per day; two assistant doorkeepers at eight dollars per day; five journal room clerks at eight dollars per day; five typists at eight dollars per day; two messengers at seven dollars per

day; one receptionist at eight dollars per day; one secretary to finance at nine dollars per day; four janitors at seven dollars per day; one messenger at eight dollars per day; one secretary to judiciary at nine dollars per day; one mail clerk at eight dollars per day; 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.

### SENATE RESOLUTION NO. 7

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 21, 1946.]

Authorizing the Clerk of the Senate to draw his requisitions upon the Auditor in favor of each member of the Senate for mileage at the rate of ten cents per mile for each mile as set out below, payable out of the appropriation to be made for the payment of mileage of members of the Senate.

#### *Resolved by the Senate:*

That each member of the Senate is entitled to mileage at the rate of ten cents per mile in coming to the seat of government to attend the present session of the Legislature, and returning to their respective homes, as follows:

Allen, Fred C. ....	300
Bambrick, George L. ....	388
Bean, Ralph J. ....	475
Belknap, G. C. ....	170
Boner, Floyd D. ....	330
Boreman, H. S. ....	164
Bowers, Theodore M. ....	260
Bowling, John H. ....	284
Burgess, Walter F. ....	324
Davis, Thomas J. ....	240
Eddy, Don ....	400
Ellison, Henry S. ....	270

Hall, A. M. ....	96
Hall, O. D. ....	160
Hannig, Wm. A. ....	425
Hardesty, C. Howard .....	366
Harmer, Hardin R. ....	350
Jackson, Glenn .....	140
Johnston, W. Broughton .....	230
McKown, C. H. ....	140
Mitchell, William .....	264
Musgrave, R. F. ....	72
Perry, William P. C. ....	632
Reed, A. L. ....	380
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## SENATE RESOLUTION NO. 8

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 23, 1946.]

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 and fifty cents, as the Senate's part of his per diem allowed by section twenty-two, article one, chapter five of the code.

## SENATE RESOLUTION NO. 9

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 23, 1946.]

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 fifteen dollars per diem for fifteen days; one journal stenographer at fifteen dollars per diem for fifteen days; one secretary to the minority at eighteen dollars per diem for fifteen days; one proofreader at ten dollars per diem for fifteen days; three journal room clerks at eight dollars per diem for one day; one floor stenographer at nine dollars per diem for ten days; three janitors at seven dollars per diem for five days; one clerk to judiciary at twelve dollars per diem for one day; one clerk to finance at twelve dollars per diem for one day; one assistant sergeant at arms at nine dollars per diem for one day; one sergeant at arms at ten dollars per diem for five days; one doorkeeper at ten dollars per diem for one day; one clerk to minority at twelve dollars per diem for ten days.

## SENATE RESOLUTION NO. 10

(By Mr. Vickers, Mr. President)

(Originating in the Committee on Rules)

[Adopted March 23, 1946.]

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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