ACTS

OF THE

FORTY-EIGHTH

LEGISLATURE

OF

WEST VIRGINIA

REGULAR SESSION

1947

EXTRAORDINARY SESSION

(June 23)

1947

EXTRAORDINARY SESSION

(March 18-23)

1946
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.

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

(*) Hold-over Senators, elected in 1946, who will be members of the 1949 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.

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(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.
SENATE COMMITTEES

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


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.
SENATE COMMITTEES

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

RULES
Messrs. Vickers (Mr. President) (Chairman), Johnston, Hardesty, Jackson (of Logan), Allen, McKown, Hannig, Harmer and Boreman.
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, Bailard, Beneke, Burnside, Creel, Maness, Osborne, Sayre and Woodrum.

HEALTH
Mrs. Walker (Chairman), Messrs. Doringer (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. Doringer (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.
HOUSE COMMITTEES

JUDICIARY

Messrs. Davis (Chairman), Flannery (Vice Chairman), Ansel, Casey, Doringer, 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, Harman, McVey, Mills, Stidham, Tinsley, Carder, Creel, Dawson, Eagle, Hayhurst, Jeffries, McCulty, Morgan and Powell.

MINING

Messrs. White (of Boone) (Chairman), Adkins (Vice Chairman), Blankenship, Doringer, 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


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.

*The chairman and vice chairman were selected by the committee.
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-
ized by the circuit court of the county in which the guardian was appointed or qualified. Any guardian, who may desire to spend more than the annual income of his ward’s estate for any purpose, shall file in such circuit court a petition, verified by his oath, setting forth the reasons why it is necessary to make such expenditures, to which petition the ward shall be made defendant. The court shall appoint a guardian ad litem for the ward, who shall answer such petition, be present at the hearing, and represent the infant. Five days’ notice shall be given to the defendant before such petition can be heard. At the hearing the evidence may be taken orally, and the court, if satisfied that such expenditure would be judicious and proper, may grant the prayer of the petition. Such petition may be filed and heard before the judge of such court in vacation as well as in term time. In the settlement of the guardian’s accounts no credit shall be allowed him by the commissioner of accounts or the court for expenditures for his ward, except for expenditures of the annual income of his ward’s estate and for expenditures of such amounts of the principal of the ward’s personal estate as shall have been authorized by the court as provided by this section: Provided, however, That, if the personal estate in the hands of the guardian does not exceed in amount the sum of one thousand dollars, disbursement may be made by the guardian from the corpus of such personal estate for the ward’s maintenance and education, after first securing the written approval so to do of and from the commissioner of accounts to whom the settlement of the ward’s estate was referred.

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.

In any such settlement, pursuant to the next preceding section, wherein the amount paid the guardian does not exceed the sum of one thousand dollars, the court or judge approving the settlement may, in its or his discretion, dispense with, or withdraw a reference to a commissioner of accounts, authorize the disbursement of the fund so created by the settlement and may discharge the guardian and the surety on his bond. In all such cases a certified copy of the order of the court or judge, as the case may be, shall be recorded in the office of the clerk of the county court wherein the guardian was appointed.

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.
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 apply any portion of the income or the estate for the support or maintenance of any person other than the ward, the spouse and the minor children of the ward, and a guardian of an infant shall not apply any portion of the income of the estate for the support or maintenance of any person other than the ward, except upon petition to and prior order of the court after a hearing. A signed duplicate or certified copy of such petition shall be furnished the proper office of the United States or any bureau or agency thereof and notice of hearing thereon shall be given such office, bureau, or agency, as provided in the case of a hearing on a committee’s account or other pleading: Provided, however, That all periodic payments which have been heretofore or shall be hereafter made pursuant to any law of the United States or regulation of any bureau or agency thereof shall constitute income and may be expended in accordance with the provisions of 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 thereunto 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.]


Section
1. Definitions.
2. West Virginia state apple commission.
3. Powers and duties of the commission.
4. Excise tax levied.
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 Virginia state apple commission; (b) the word “grower” shall mean any person who first sells commercial apples
as defined herein, and shall include individuals, corporations, partnerships, trusts, associations, cooperatives and any and all other business units, devices and arrangements; (c) the word "bushel" shall mean the bushel as commonly used in the apple industry, the amount of apples that can be contained in not less than two thousand one hundred and forty cubic inches and not more than two thousand five hundred cubic inches, or, by weight, fifty pounds more or less; (d) "commercial apples" shall mean fresh apples meeting the specifications of U. S. one canner grade or better grades.

Sec. 2. West Virginia State Apple Commission.—There is hereby created within the department of agriculture, an agency to be known as the West Virginia state apple commission, consisting of seven members representing as nearly as possible the commercial apple producing sections of the state. Such commission shall be appointed by the governor, by and with the advice and consent of the Senate, from a list of two eligible growers for each member to be appointed, which list shall be supplied the governor by the West Virginia state horticultural society. Members of this commission shall hold office until their successors are installed.

Each member must be a citizen of, and engaged in producing apples in West Virginia. The members of the commission shall serve for a term of four years, except that beginning with the first appointments, one member shall be appointed for one year, two members for two years, two members for three years and two members for four years. The commission shall elect one of its members as chairman. The members of the commission shall be reimbursed for actual expenses incurred and shall be paid each the sum of ten dollars per diem from the apple merchandising fund when attending meetings of the commission.

Sec. 3. Powers and Duties of the Commission.—(a) All funds levied and collected under this article shall be administered by the commission; (b) It shall be the duty of the commission to plan and conduct campaigns of edu-
cition, advertising, publicity, sales promotion, and con-
sumption of West Virginia apples, and the commission
may make contracts, expend moneys of the apple mer-
chandising fund and do whatever else may be necessary
to effectuate the purposes of this article; (c) The commis-
sion shall have authority to cooperate with other state, re-
gional and national agricultural and horticultural organi-
izations and state and federal agencies in research on pro-
duction, packaging and marketing, advertising, publicity,
education and other means of promoting the sale and use
of apples and to expend moneys of the apple merchan-
dising fund for such purposes; (d) The commission shall
have authority to appoint a secretary and such other em-
ployees as may be necessary, at salaries to be fixed by the
commission. All employees handling money under this
article shall be required to furnish corporate surety bonds
in such amounts as may be fixed by the commission and
in form to be approved by the attorney general.

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

Sec. 5. Report of Apples Sold.—Every grower of com-
cmercial apples shall submit to the commission not later
than fourteen days after December thirty-first of each
year, a signed statement of all apples sold by him be-
tween July first and December thirty-first of said year.
Such reports shall be made on forms prescribed and fur-
nished by the commission. Any grower who sells apples
of the preceding year's production after December thirty-
first shall file a signed statement with the commission not
later than June thirtieth, showing such apples so sold by
him and the tax paid thereon.
Sec. 6. Time and Manner of Payment of Excise Tax.—
The excise tax levied by this act shall be due and payable as follows: Fifty per cent not later than December thirty-first of each year and the balance not later than June thirtieth of the following year. Any commercial apples of a crop season which are sold after June thirtieth of the following year shall be reported to the commission and the excise tax paid thereon within twenty days after the end of the month in which such sale was made. Such excise tax shall be paid to the West Virginia apple commission and the commission shall promptly pay said moneys to the state treasurer, who shall promptly pay them into the state treasury to the credit of the apple merchandising fund.

Sec. 7. Records.—The grower shall keep a complete record of apples sold by him and shall preserve such record for a period of not less than two years from the time such apples are sold. Such record shall be open to the inspection of the commission and its duly authorized agents.

Sec. 8. How Unpaid Excise Tax and Interest Thereon Shall Be Collected.—The tax imposed by this article and unpaid on the date on which such tax was due and payable shall bear interest at the rate of one per cent per month from and after such due date until payment. If any grower defaults in any payment of the tax or interest thereon, the amount shall be collected by civil action in the name of the state of West Virginia at the relation of the commission, and the person adjudged in default shall pay the cost of such action. The attorney-general, at the request of the commission, shall forthwith institute action in the proper court for the collection of the amount of any tax past due under this article, including interest thereon.

Sec. 9. Apple Merchandising Fund Created; How Administered.—All moneys levied and collected under the provisions of this article shall be credited on the state treasurer's books to a fund to be known as the “Apple Merchandising Fund,” which is hereby created. All mon-
eys credited to the apple merchandising fund shall be appropriated by the Legislature for the purpose herein set forth, and shall be used exclusively for the administration and enforcement of this article, including the collection of taxes, the payment for personal services and expenses of employees and agents of the commission and the payment of rent, service, materials and supplies necessary to effectuate the purposes and objects of this article. The unexpended balance of the apple merchandising fund at the end of each biennium shall not be transferred to the general fund of the state treasury.

Sec. 10. How Moneys to Be Expended.—All moneys collected under this article shall be expended by the West Virginia apple commission by warrants on the state treasurer issued on vouchers signed by the duly authorized officer of the commission.

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

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

Sec. 13. Invalidity of Part of Article Not to Affect Remainder.—If any clause, sentence or section of this article shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence or section of this article directly involved in the controversy in which said adjudication shall have taken 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.]


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, partnership, corporation, company, society or association;
3  (b) The term “agricultural seeds” shall include the seeds of grass, forage, cereal and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural or field seeds and mixtures of such seeds;
4  (c) The term “vegetable seeds” shall include the seeds of those crops which are grown in gardens or on truck farms, and are generally known and sold under the name of vegetable seeds in this state;
5  (d) The term “seed potato” shall refer to the Irish potato (Solanum tuberosum);
(e) The term "weed seeds" shall include the seeds of all plants generally recognized as weeds within this state;

(f) Noxious weed seeds shall be divided into two classes, "prohibited weed seeds" and "noxious weed seeds," as defined in (1) and (2) of this subsection: Provided, that the commissioner of agriculture may, through promulgation of regulations, add to or subtract from the list of seeds included under either definition whenever he finds that such additions or subtractions are within the respective definitions;

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

"Prohibited weed seeds" in this state are the seeds of dodder (Cuscuta spp.), wild onion (Allium vineale), quack grass (Agropyrons repens), Johnson grass (Sorghum halapense), Canada thistle (Carduus arvensis), perennial sow thistle (Sonchus arvensis);

(2) "Noxious weed seeds" are the seeds of such weeds as are very objectionable in fields, lawns or gardens of this state, but can be controlled by good cultural practice. "Noxious weed seeds" in this state are the seeds of hawkweed (Heiracium spp.), buckhorn (Plantago lanceolata), English charlock or wild mustard (Brassica arvensis), corn cockle (Agrostemma githago), ox-eye daisy (Chrysanthemum leucanthemum), Indian mustard (Brassica juncea), star thistle (Centurea solstitialis), wild carrot (Daucus carota), horse nettle (Solanum carolinias), field pepper grass (Lepidium compestre), wild morning glory (Ipomea purpurea), bindweed (Convolvulus arvensis);

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

(h) The term "advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope 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
2. 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.
3. If the variety is unknown, that fact shall be stated for each agricultural seed component in excess of five per cent of the whole.
4. Lot number or other lot identification
5. Origin, if known, of alfalfa, red clover and field corn (except hybrid corn). If the origin is unknown that fact shall be stated.
6. Percentage by weight of all weed seeds.
7. 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
may be designated as "crop seeds"), other than those required to be named on the label.

(7) Percentage by weight of inert matter.

(8) For each named agricultural seed: (a) Percentage of germination exclusive of hard seed; (b) Percentage of hard seed, if present; (c) The calendar month and year the test was completed to determine such percentages.

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

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

(10) For agricultural seeds which germinate less than the standard last established by the commissioner of agriculture under this article, the label shall show in addition to the previous requirements of this section, the words "germination below standard" in not less than eight point type.

(b) For vegetable seeds—

(1) Name of kind and variety;

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

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

(c) For seed potatoes—

Only "certified" seed potatoes which grade from the standpoint of physical defects better than the minimum requirements of U. S. No. 1 may be offered for sale as seed. There shall be attached to each bag or container a tag showing by whom certified, the standard or conditions under which said certification is made, and the name of the official state or governmental agency making the inspection upon which the certification is made.
Sec. 3. Certificate of Registration; Fee Stamps.—Every producer or distributor of agricultural or vegetable seeds or seed potatoes who shall sell, offer or expose for sale or distribution in this state any seeds, shall before the same is offered or exposed for sale obtain from the commissioner of agriculture a certificate of registration showing that he has registered with the commissioner of agriculture to sell seeds in West Virginia. The commissioner of agriculture shall have full power and is hereby authorized and required to cancel and withdraw any certificate upon satisfactory evidence that any provisions of this article or any rules and regulations covering the sale of any seed have been violated. The commissioner shall not issue any certificate of registration except upon filing with the commissioner of agriculture a statement of the name and address of the seedsman, importer, dealer, or agent, or other person, firm or corporation, selling, offering or exposing for sale or distribution any seeds in this state; a list of the seeds to be offered for sale, and accompanied by a registration fee of one dollar. Certificates so issued by the commissioner shall become null and void on December thirty-first next after date of issue unless sooner revoked as herein provided.

For the purpose of defraying the cost of inspection and analyses of seeds and the enforcement of this article, every producer or distributor of agricultural or vegetable seeds or seed potatoes who shall sell, offer or expose for sale or distribution in this state any such seed shall, before the same is offered or exposed for sale or distribution, obtain from the commissioner of agriculture fee stamps to be attached to each package or container of seeds at the following rates:

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

(b) For all other agricultural seeds the following rates:

Four cents for each one hundred pounds; three cents
for each seventy-five pounds; two cents for each fifty pounds; one cent for each twenty-five pounds.

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

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

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

The distributor of any agricultural or vegetable seed or seed potato shall not be required to register or place fee stamps on the containers of seeds if the seed has already been registered and properly stamped under this article by a person entitled to do so, and such registration is then in effect.

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

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

1. Unless the test to determine the percentage of germination required by section two shall have been completed within a nine month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale or offering for sale or transportation;

2. Not labeled in accordance with the provisions of this article or having a false or misleading labeling;

3. Pertaining to which there has been a false or misleading advertisement;

4. Containing prohibited weed seeds, subject to tolerances and methods of determination prescribed in the rules and regulations under this article;

5. Containing more than two per cent by weight of weed seeds.

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

1. To detach, alter, deface or destroy any label provided for in this article or the rules and regulations made and promulgated thereunder, or to alter or substitute seed
in a manner that may defeat the purposes of this article;
(2) To disseminate any false or misleading advertisement concerning agricultural, vegetable or potato seed
in any manner or by any means;
(3) To hinder or obstruct in any way any authorized person in the performance of his duties under this
article;
(4) To fail to comply with a "stop-sale" order.

Sec. 5. Exemptions.—(a) The provisions of sections
two and three shall not apply:
(1) To grain or potatoes not intended for seeding
purposes;
(2) To seed in storage in or consigned to a seed cleaning
or processing establishment for cleaning or processing: Provided, That any labeling or other representation
which may be made with respect to the uncleaned or unprocessed seed shall be subject to this article;
(b) No person shall be subject to the penalties of this
article for having sold or offered or exposed for sale in
this state any agricultural, vegetable or potato seeds
which were incorrectly labeled or represented as to kind, variety, type, or origin, which seeds cannot be identified
by examination thereof, unless he has failed to obtain an
invoice or grower's declaration giving kind, or kind and
variety, or kind and type, and origin, if required, and to
take such other precautions as may be necessary to in-
sure the identity to be that stated.

Sec. 6. Duties and Authority of Commissioner of Agri-
culture.—(a) The duty of enforcing this article and
carrying out its provisions and requirements shall be
vested in the commissioner of agriculture. It shall be his
duty:
(1) To establish germination standards for agricul-
tural and vegetable seeds;
(2) To sample, inspect, make analysis of, and test
agricultural, vegetable and potato seeds transported, sold
or offered or exposed for sale within this state for seed-
ing purposes, at such time and place and to such extent
as he may deem necessary to determine whether such
seeds are in compliance with the provisions of this ar-
article, and to notify promptly the person who transported, sold, offered or exposed the seed for sale, of any violation;

(3) To prescribe and adopt rules and regulations governing the methods of sampling, inspecting, analysis, tests and examination of agricultural and vegetable seed, and the tolerances to be followed in the administration of this article, which shall be in general accord with officially prescribed practice in interstate commerce, and such other rules and regulations as may be necessary to secure the efficient enforcement of this article.

(b) Further for the purpose of carrying out the provisions of this article the commissioner of agriculture, individually or through his authorized agents, is authorized:

(1) To enter upon any public or private premises during regular business hours in order to have access to seeds subject to this article and the rules and regulations thereunder;

(2) To issue and enforce a written or printed “stop-sale” order to the owner or custodian of any lot of seed which the commissioner of agriculture finds is in violation of any provisions of this article, which order shall prohibit further sale or movement of such seed until the commissioner has released the same;

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

(4) To make or provide for making purity and germination tests of seeds for farmers and dealers on request; to prescribe rules and regulations governing such testing; and to fix and collect charges for the tests made. Such fees shall be deposited with the state treasurer in a special revenue fund and may be expended on order of the commissioner of agriculture.

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

(6) To establish a certifying agency for seed grown in this state.
Sec. 7. **Seizure.**—Any lot of seed not in compliance with the provisions of this article shall be subject to seizure on complaint of the commissioner of agriculture to a court of competent jurisdiction. In the event that the court finds the seed to be in violation of this article and orders the condemnation of said seed, it shall be denatured, processed, destroyed, relabeled, or otherwise disposed of in compliance with the laws of this state.

Sec. 8. **Violations and Prosecutions.**—Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than two hundred dollars for the first offense, and not less than two hundred dollars nor more than five hundred dollars for each subsequent offense.

When the commissioner of agriculture shall find that any person has violated any of the provisions of this article, he or his duly authorized agent or agents may institute proceedings in a court of competent jurisdiction: Provided, however, That no prosecution under this article shall be instituted without the defendant first having been given an opportunity to appear before the commissioner of agriculture or his duly authorized agent to introduce evidence, either in person or by agent or attorney, at a hearing. If, after such hearing, or without such hearing in case the defendant or his agent or attorney fails or refuses to appear, the commissioner of agriculture is of the opinion that the evidence warrants prosecution, he shall proceed according to law.

Sec. 9. **Invalidity of Part of Article Not to Affect Remainder; Inconsistent Acts Repealed.**—If any provision of this article is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the article and the applicability thereof to other persons and circumstances shall not be affected thereby.

Any acts or parts of acts inconsistent with this act are 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.]


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 or distribute in this state any commercial feeding stuff, shall, before the same is sold, offered or exposed for sale or distributed, obtain from the commissioner of agriculture a certificate of registration for each brand of such commercial feeding stuffs. The commissioner of agriculture shall have full power, and is hereby authorized and required to cancel and withdraw any certificate upon satisfactory evidence that the law or any rules and regulations covering the sale of commercial feeding stuffs have been violated by the holder of the same. The commissioner shall not issue any certificate of registration except upon the filing with the commissioner of a certified copy of the statement specified in section two, of this article, for each brand of commercial feeding stuffs, accompani-
ied by a fee of one dollar for each brand: Provided, how-

ever, That any change shall require a new registration.

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

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

Sec. 9. Commissioner of Agriculture to Enforce Article;
Rules and Regulations; Set Standards; Issue and Enforce
“Stop Sale” Order; Authority to Enter on Premises.—The
commissioner of agriculture is hereby charged with the
enforcement of the provisions of this article, and is em-
powered to prescribe and enforce rules and regulations
consistent with this article in carrying out its provisions.
The commissioner is hereby authorized to fix minimum
and/or maximum standards or requirements covering all
nutritive values and elements affecting nutrition, and to
prohibit and to prevent the use of worthless, deleterious
or harmful ingredients. A certification by the United
States department of agriculture indicating federal in-
spection at source may be accepted by the commissioner
as meeting West Virginia requirements.
Whenever it appears that any commercial feeding stuff
is being offered or exposed for sale in this state in viola-
tion of any of the provisions of this article, the commis-
sioner is hereby authorized to issue a written or printed
“Stop Sale” order or “Embargo”, and it shall be unlawful
for any person, firm, corporation or manufacturer to per-
mit any such commercial feed to be moved or disposed of
in any manner except upon written order of the commis-
sioner of agriculture or by court order. The commis-
sioner shall cause notice of such violation to be given
to the person affected thereby, and any person so notified
shall be given an opportunity to be heard under such
rules and regulations as the commissioner may prescribe.
After such hearing if it still further appears that any of
the provisions of this article have been violated, the com-
missioner may institute proceedings in any court of com-
petent jurisdiction for the disposal of such commercial
feeding stuffs.
Nothing contained in this act shall prevent any person
from appealing from the commissioner’s decision, and
the circuit court of the county in which the alleged in-
fraction occurred shall have jurisdiction thereof.
The commissioner or his agent shall have free access
to all places of business, mills, buildings and conveyances
of any kind used in the transportation, importation, man-
ufacture, sale or storage of any commercial feeding stuffs,
with power and authority to open any parcel containing
or supposed to contain any commercial feeding stuffs, and
upon full payment of the selling price, to take therefrom
samples for analyses, and to examine the books and all records pertaining to the shipment, manufacture, sale or 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.]

Art. 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.
10. Minimum plant food content.
11. Grade list.
12. False or misleading statements.
15. Rules, regulations and standards.
17. "Stop sale" orders.
18. Seizure, condemnation, and sale.
19. Violations.
20. Exchanges between manufacturers.

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 "West Virginia Fertilizer Law of 1947."

Sec. 2. Enforcing Official.—This article shall be administered by the commissioner of agriculture of the state of West Virginia, hereinafter referred to as the "commissioner."

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

(a) The term "person" includes individuals, partnerships, firms, associations and corporations.

(b) Words importing the singular number may extend and be applied to several persons or things, and words importing the plural number may include the singular.

(c) The term "distributor" means any person who offers for sale, sells, or otherwise supplies mixed fertilizers or fertilizer materials.

(d) The term "sell" or "sale" includes exchange.

(e) The term "fertilizer material" means any substance containing nitrogen, phosphoric acid, potash, or any other recognized plant food element or compound which is used primarily for its plant food content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

(f) The term "mixed fertilizer" means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

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

(h) The term "brand" means the name, grade, and other designations under which mixed fertilizers or fertilizer materials are offered for sale, sold or distributed in this state.

(i) The term "official sample" means any sample of mixed fertilizer or fertilizer material taken by the com-
missioner or his agents according to the methods prescribed by the commissioner.

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

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

Sec. 4. Registration.—(a) Each brand of mixed fertilizer or fertilizer material shall be registered before being offered for sale, sold or distributed in this state. The application for registration shall be submitted in duplicate to the commissioner on forms furnished by the commissioner, and shall be accompanied by a remittance of one dollar per brand for a registration fee. Upon approval by the commissioner a copy of the registration shall be furnished to the applicant. The application shall include the following information in the following order:

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

(2) The brand.

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

- Total nitrogen
- Available phosphoric acid
- Soluble potash

In the case of bone, tankage, and other organic phosphate materials on which the chemist makes no determination of available phosphoric acid, the total phosphoric acid shall be guaranteed: Provided, That unacidulated material, phosphatic materials and basic slag shall be guaranteed as to both total and available phosphoric acid.

(4) The commissioner may permit or require the potential basicity or acidity (expressed in terms of calcium carbonate equivalent in multiples of one hundred pounds per ton) to be registered and guaranteed.

(5) The commissioner may permit or require mixed fertilizers and fertilizer materials to be registered and guaranteed with additional information if the foregoing does not adequately describe the fertility value of the
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Sec. 4.  (a) Whenever such guarantees are for plant food elements other than phosphorus and potassium, they shall be stated in their elemental form.

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

(c) Each and every brand of mixed fertilizer or fertilizer material filed with the commissioner must remain uniform for the period of registration, and in no case, even at a subsequent registration, shall the grade or quality be lowered.

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

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

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

(b) Payment of the fee levied by paragraph (a) of this section shall be based on a statement under oath in
due form of law which shall be filed with the commis-
sioner of agriculture on or before the fifteenth day of July
and January, which shall set forth the number of net
tons of such fertilizers sold or distributed in this state
during the preceding six months' period; and upon such
statement each and every manufacturer shall pay to
the commissioner of agriculture the sum of twenty-five
cents per net ton of two thousand pounds. Each appli-
cant for a certificate of registration shall include in such
application a permit granting to the commissioner or
his duly designated representative permission to verify
from applicants' records such applicants' statement of
tonnage.

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

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

(c) The results of official analyses of any mixed ferti-
ilizer or fertilizer material which has been found to be
subject to penalty shall be forwarded by the commissi-
er to the registrant at least ten days before the report
is submitted to the purchaser. If during that period no
adequate evidence to the contrary is made available to
the commissioner, the report shall become official. Upon
request the commissioner shall furnish to the registrant
a portion of any sample found subject to penalty.
Sec. 8. Plant Food Deficiency.—(a) The commission-
er, 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 pro-
vided for in paragraphs (b) and (c), of section seven.
(b) If the analysis shall show that any mixed fertil-
er 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 includ-
ing 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 includ-
ing twenty per cent; and 1.00 per cent on goods guaran-
teed over twenty per cent.

(4) Deficiencies in any other constituent or constitu-
ents covered under items (4) and (5), paragraph (a),
section four, of this article, which the registrant is re-
quired to or may guarantee, shall be evaluated by the
commissioner, and penalties therefor shall be prescribed
by the commissioner.
(c) Nothing contained in this section shall prevent
any person from appealing to a court of competent
jurisdiction, praying for judgment as to the justification
of such penalties.
(d) All penalties assessed under this section shall be
paid to the consumer of the lot of mixed fertilizer or
fertilizer material represented by the sample analyzed,
within three months from the date of notice by the
commissioner to the registrant, receipts taken therefor
and promptly forwarded to the commissioner. If said
consumers cannot be found, the amount of the penalty
shall be paid to the commissioner, who shall deposit the
same in the treasury of the state of West Virginia.

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

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

Sec. 11. Grade List.—The commissioner, after a public
hearing and upon approval by the director of the agri-
cultural experiment station, shall promulgate a list of
grades of mixed fertilizer adequate to meet the agricul-
tural needs of the state. After this list of grades has
been established, no other grades of mixed fertilizers
shall be eligible for registration: Provided, however,
That higher multiples of the ratios carried by the ap-
proved grades may be permitted with the approval of
the commissioner and the director of the experiment
station. The commissioner may revise this list of grades
not oftener than once each year by conforming to the
procedure described in this section.

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

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

Sec. 14. Publications.—The commissioner shall pub-
lish at least annually in such forms as he may deem
proper, information concerning the production and use
of mixed fertilizers and fertilizer materials, and a report
of the results of the analyses based on official samples of
mixed fertilizers and fertilizer materials sold within the
Provided, however, That the information concerning the production and use of mixed fertilizer and fertilizer materials shall be shown separately for the periods July first to December thirty-first, and January first to June thirtieth, of each year.

Sec. 15. Rules, Regulations and Standards.—For the enforcement of this article, the commissioner is authorized to prescribe, and after public hearing following due public notice, to enforce such rules, regulations and standards relating to the sale and distribution of mixed fertilizers and fertilizer materials as he may find necessary to carry into effect the full intent and meaning of this article.

Sec. 16. Cancellation of Registrations.—The commissioner is authorized and empowered to cancel the registration of any brand of mixed fertilizer or fertilizer material or to refuse to register any brand of mixed fertilizer or fertilizer material as herein provided, upon satisfactory proof that the registrant has violated any of the provisions of this article, or any of the rules and regulations made and promulgated thereunder: Provided, That no registration shall be revoked or refused until the registrant shall have been given a hearing by the commissioner.

Sec. 17. “Stop Sale” Orders.—It shall be the duty of the commissioner to issue and enforce a written or printed “stop sale” order to the owner or custodian of any lot of mixed fertilizer or fertilizer material, and to hold at a designated place when the commissioner finds said mixed fertilizer or fertilizer material is being offered or exposed for sale in violation of any of the provisions of this article, until the law has been complied with and said mixed fertilizer or fertilizer material is released in writing by the commissioner or said violation has been otherwise legally disposed of by written authority. The commissioner shall release the mixed fertilizer or fertilizer material so withdrawn when the requirements of the provisions of this article have been complied
with, and upon payment of all costs and expenses incurred in connection with the withdrawal.

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

Sec. 19. Violations.—If it shall appear from the examination of any mixed fertilizer or fertilizer material or other evidence that any of the provisions of this article, or the rules and regulations issued thereunder, have been violated, the commissioner shall cause notice of such violation to be given to the registrant, distributor, and possessor from whom said sample or other evidence was taken; any party so notified shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the commissioner. If it appears after such hearing that any of the provisions of this article or the rules and regulations issued thereunder have been violated, the commissioner may and is hereby authorized to prosecute, in any court of competent jurisdiction, any person violating the provisions of this article. Any person convicted of violating any provisions of this article or the rules and regulations issued thereunder shall be adjudged guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than two hundred dollars for the first offense, and not less than two hundred dollars nor more than five hundred dollars for each subsequent offense.
Sec. 20. Exchanges between Manufacturers.—Nothing
in this article shall be construed to restrict or avoid
sales or exchanges of mixed fertilizers or fertilizer ma-
terials to each other by importers, manufacturers, or
manipulators who have registered their brands as re-
quired by the provisions of this article.

Sec. 21. Constitutionality; Repeal of Inconsistent Acts.
—If any clause, sentence, paragraph, or part of this article
shall for any reason be judged invalid by any court of
competent jurisdiction, such judgment shall not affect,
impair, or invalidate the remainder thereof but shall be
confined in its operation to the clause, sentence, paragraph,
or part thereof directly involved in the controversy in
which such judgment shall have been rendered.
All acts and parts of acts inconsistent with the provi-
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 con-
servation districts, the state soil conservation committee,
its powers and duties, and the election, appointment, quali-
fications 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
scientific processes for increasing such yields; loss of soil
and water which causes destruction of food and cover
for wildlife; the washing of soil into streams which silts
over spawning beds and destroys water plants, diminish-
ing the food supply of fish; a diminishing of the under-
ground water reserve, which causes water shortages, in-
tensifies periods of drought, and causes crop failures; an
increase in the speed and volume of rainfall run-off,
causing severe and increasing floods, which bring suffer-
ing, disease, and death; impoverishment of families at-
tempting to farm eroding and eroded lands; damage to
roads, highways, railways, farm buildings, and other
property from floods; and losses in navigation, hydro-
electric power, municipal water supply, irrigation devel-
opments, farming and grazing.

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

(d) It is hereby declared to be the policy of the Legis-
lature to provide for the conservation of the soil and soil
resources of this state, and for the control and prevention
of soil erosion, and thereby to preserve natural resources,
control floods, prevent impairment of dams and reser-
voirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands and protect and promote the health, safety, and general welfare of the people of this state.

(e) This act contemplates that the incidental cost of organizing soil conservation districts will be borne by the state, while the expense of operating the districts so organized, will be provided by donations, gifts, contributions, grants and appropriations, in money, services, materials or otherwise, from the United States or any of its agencies, from the state of West Virginia, or from other sources, with the understanding that the owners or occupiers will contribute funds, labor, materials and equipment to aid the carrying out of erosion control measures on their lands.

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

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

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

The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be
necessary for the execution of its functions under this act.

(b) The state soil conservation committee may employ an administrative officer and such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The committee may call upon the attorney general of the state for such legal services as it may require. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. The committee is empowered to secure necessary and suitable office accommodations, and the necessary supplies and equipment. Upon request of the committee, for the purpose of carrying out any of its functions, the supervising officer of any state agency, or of any state institution of learning shall, insofar as may be possible, under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee, members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the committee may request.

(c) A member of the committee shall hold office so long as he shall retain the office by virtue of which he shall be serving on the committee. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. The chairman and members of the committee shall receive no compensation for their services on the committee, but shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate public record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

(d) In addition to the duties and powers hereinafter
conferred upon the state soil conservation committee, it
shall have the following duties and powers:

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

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

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

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

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

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

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

Where more than one petition is filed covering neigh-
22 boring parts of the same region, whether or not these 
23 areas overlap, the state soil conservation committee may 
24 consolidate all or any such petitions.
(b) Within thirty days after such a petition has been 
26 filed with the state soil conservation committee, it shall 
27 cause due notice to be given of a proposed hearing upon 
28 the question of the desirability and necessity, in the inter-
29 est of the public health, safety, and welfare, of the crea-
30 tion of such district, upon the question of the appropriate 
31 boundaries to be assigned to such district, upon the 
32 propriety of the petition and other proceedings taken un-
33 der this act, and upon all questions relevant to such in-
queries. All owners of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the committee shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. Districts thus defined may be a watershed or portion thereof, and nothing in this act shall be interpreted to exclude from consideration, small areas often constituting a very small part of a large watershed. The district may be large or small, but in making such determination and in defining such boundaries, the committee shall give due weight and consideration to the topography of the area considered and of the state, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this act, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislative determinations set forth in section two of this act. The territory to be included within such boundaries need not be con-
If the committee shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

(c) After the committee has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this act is administratively practicable and feasible. To assist the committee in the determination of such administrative practicability and feasibility, it shall be the duty of the committee, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum to be given. The question shall be submitted by ballots upon which the words “For creation of a soil conservation district of the lands below described and lying in the county (ies) of ___________, ___________, ___________” and “Against creation of a soil conservation district of the lands below described and lying in the county (ies) of ___________, ___________, ___________” shall appear, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed districts as determined by the committee. All owners of lands lying within the
boundaries of the territory, as determined by the state soil conservation committee, shall be eligible to vote in such referendum.

(d) The committee shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of such referendum or in any matter relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

(e) The committee shall publish the result of such referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the defined boundaries, the number of land owners eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legisla-
Provided, however, That the committee shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least sixty per centum of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

(f) If the committee shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two supervisors to act with the supervisors elected as provided hereinafter, as the governing body of the district.

(g) The two appointed supervisors shall present to the secretary of state an application signed by them which shall set forth (and such application need contain no detail other than the mere recitals): (1) that a petition for the creation of the district was filed with the state soil conservation committee pursuant to the provisions of this act, and that the proceedings specified in this act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district under this act; and that the committee has appointed them as supervisors; (2) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) the term of office of each of the supervisors; (4) the name which is proposed for the district; and (5) the location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this state to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the state soil conservation committee, which shall certify, (and such statement need contain no detail
other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the committee did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district; and that the result of such referendum showed a majority of the votes cast in such referendum to be in favor of the creation of the district; that thereafter the committee did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the committee.

The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this state or so nearly similar as to lead to confusion or uncertainty, he shall file them and shall record them in an appropriate book of record in his office. If the secretary of state shall find that the name proposed for the district is identical with that of any other soil conservation district of this state, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the state soil conservation committee, which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the secretary of state shall record the application and statement, with the name so modified, in an appropriate book of record in his office. The secretary of state shall make and issue to the said supervisors a certificate, under the seal of the state, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by
the state soil conservation committee as aforesaid,
but in no event shall they include any area in-
cluded within the boundaries of another soil con-
servation district organized under the provisions of this
act.

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

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

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

Sec. 6. Election of Supervisors for Each District.—
Within thirty days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, nominating petitions may be filed with the state soil conservation committee to nominate candidates for supervisors of such district.

The committee shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the committee unless it shall be subscribed by twenty-five or more owners of lands lying within the boundaries of such district and within the boundaries of the county in which the candidate resides. Land owners may sign more than one such nominating petition to nominate more than one candidate for supervisor. The committee shall give due notice of an election to be held for the election of one supervisor from each county or portion thereof within the boundaries of the district. The names of all nominees in each county on behalf of whom such nominating petitions have been filed within the time designated, shall appear arranged in alphabetical order of the surnames upon a ballot, with a square before each name and a direction to insert an X mark in the square before any one name to indicate the voter's preference. All owners of lands lying within the district shall be eligible to vote in such election for one candidate from the county in which they reside. Only such land owners shall be eligible to vote. The candidate in each county who shall receive the largest number of votes cast in such election by land owners residing in his county shall be one of the elected supervisors for such district. The committee shall pay all expenses of such election, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the determination of the eligibility of voters therein, and shall make public the results thereof.

Sec. 7. Appointment, Qualification, and Tenure of Supervisors.—The governing body of the district shall consist of the supervisors, appointed or elected, as provided in preceding sections. The two supervisors appointed by the committee shall be persons who are by training and experience qualified to perform the specialized skilled
services which will be required of them in the performance of their duties hereunder, and must be legal residents and land owners of the district.

The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be three years, except that the supervisors who are first appointed shall be designated to serve for terms of one and two years, respectively, from the date of their appointment. A supervisor shall hold office until his successor has been elected, or appointed. In case a new county or portion thereof is added to a district the committee may appoint a supervisor to represent it until such time as the next regular election of supervisors for the district takes place. In case a vacancy occurs among the elected supervisors of a district the committee shall appoint a successor from the same county to fill the unexpired term. Such appointment shall be made from a name or list of names submitted by local farm organizations and agencies. When any county or portion thereof lying within the boundaries of a district shall have in effect eight hundred or more signed agreements of cooperation with occupiers of land located within said county, then at the next regular election of supervisors the land occupiers within said county or portion thereof are entitled to elect two supervisors to represent the county instead of one for the term and in the manner previously prescribed. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall be entitled to expenses, and a per diem not to exceed four dollars when engaged in the performance of his duties.

The supervisors may with the approval of the state committee employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties and compensation. The supervisors may delegate to their chairman, to one or more supervisors or to one or more agents, or employees, such administrative powers and duties as they may deem
The supervisors shall furnish to the state soil conservation committee, upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this act.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any supervisor may be removed by the state soil conservation committee upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of a district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

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.

[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. Herdesty)

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 words, terms, and phrases shall be defined as provided in section one, article two-a, chapter twenty-nine of the code of West Virginia, as amended.

Sec. 2. Establishment and Operation of Airports by Counties and Municipalities.—Any county, city, town, or village may establish, lease, construct, equip, maintain and operate for such county, city, town or village, an airport for the use of aircraft, and may acquire or lease for such purpose real property within or without such county, or within or outside the corporate limits of such city, town or village, or may set apart and use for such purpose real property owned by the county, city, town or village, which
is not needed for any other public use, however such real
property was acquired. The county court now owning or
leasing or hereafter acquiring or leasing any real prop-
erty without the limits of its county for the purpose of
constructing and operating an airport, shall have the same
and all jurisdiction over such property, its maintenance
and operation, as it has with respect to real property
owned or leased and operated by it for airport purposes
within the limits of its own county.

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

Sec. 4. Construction, Maintenance and Operation of
Airport; Regulations and Fees.—The county court or local
legislative body of such county, city, town or village
may direct or employ or vest jurisdiction in any appro-
priate officer, board or body of such county, city, town
or village to locate, construct, equip, improve, maintain
and operate such airport for such county, city, town or
village, but the site so located and the construction, equip-
ment, improvement, maintenance and operation of such
airport shall be subject to the approval of such county
court or local legislative body, as the case may be. The
expense of the construction, improvement, equipment,
maintenance and operation shall be a county, city, town
or village charge, as the case may be.
The county court or local legislative body of the city, town, or village may adopt regulations and establish fees or charges for the use of such airport, or may authorize the officer, board or body of such county, city, town or village having jurisdiction to adopt such regulations and establish such fees and charges, subject, however, to the approval of such county court or local legislative body before they shall take effect.

Sec. 5. Airports Maintained Jointly; Abandonment Thereof; Suits Concerning Same.—One or more counties, cities, towns or villages may join with another or other counties, cities, towns and/or villages for the purpose of acquiring, leasing, equipping, constructing, maintaining and operating an airport. Any such airport may be established at such point as the legislative bodies in the county, or counties, city or cities, town or towns, village or villages joining therein may agree upon, and such county or counties, city or cities, town or towns, village or villages may raise, by levy or otherwise as provided in this article, funds for the purpose of acquiring, leasing, constructing, equipping, maintaining and operating any such airport and the counties and municipalities shall agree upon the proportionate part of the cost and expense of such airport to be paid by each county, city, town and/or village joining therein. The provisions of sections two, three, four, five, six, and seven of this article, shall apply to any joint airport established under the provisions of this section. In case any airport established by the joint action of any two or more counties, cities, towns and/or villages acting together under this section is abandoned, such airport owned by such counties, cities, towns and/or villages may be sold with the approval of the legislative authorities of the counties and municipalities which had joined in its purchase. The proceeds of such sale shall be distributed to the counties and municipalities in the proportion in which such counties and municipalities had contributed to the acquisition, maintenance and operation of such airport. In case of a failure of the counties
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and municipalities to agree upon the disposition of such
airport and the equipment thereon or connected there-
with or in its operation or maintenance, any one or more
of the counties and municipalities interested therein may
bring a suit in the circuit court of the county in which
such airport or the larger part thereof is located, and upon
a trial of the cause, held in the manner provided by law
for other suits in equity, the court shall make such decree
or decrees with reference to the disposition of the prop-
erty and distribution of the proceeds or other moneys in-
volved as to the court may seem to the best interests of
all the parties involved, and an appeal to the supreme
court of appeals shall lie as in other equity suits.

Sec. 6. The State and Political Subdivisions Empowered
to Lease Airports and Grounds.—The state, acting through
the aeronautics commission, or any county, incorporated
city, town or village owning, either severally or jointly
with other like governmental units, an airport and any
grounds used or useful in connection therewith may sev-
erally or jointly lease the same, for use as such airport
and for any other purposes incidental to and not incon-
sistent therewith, for a term not exceeding thirty years:
Provided, however, That no lease shall be executed by
such owner or owners of any such airport or grounds un-
less and until such owner or owners shall have given no-
tice by publication once a week for two successive weeks
in two newspapers of opposite politics and of general cir-
culation in the territory of the governmental unit or units
affected, and by publication once a week for two succes-
sive weeks in such other journal or magazine, or journals
or magazines, as such owner or owners may deem advis-
able, of its or their intent to lease said airport or grounds,
which said notice shall accurately describe what is pro-
posed to be leased, the purpose or purposes for which it
may be used and the terms of said lease, and shall state
the time and place for the public opening of proposals
for such lease, and shall reserve the right to reject any
and all proposals. Nothing herein contained, however,
shall prevent such owner or owners of such airport or
grounds from granting or renting landing rights for air-
planes, hangar space, gasoline storage, or handling facil-
ities, ticket or general office space, or any other facilities
or rights in connection with such airport or grounds, cov-
ering or affecting less than the whole thereof, without
notice and upon such terms as such owner or owners
may deem advisable. All income received by a county
court, or incorporated city, town or village under the terms
of any such lease or grant shall be paid to the state sink-
ing fund commission to retire the bonded indebtedness, if
any, created for the acquisition, building and construc-
tion of such airport or grounds. And if there be no such
outstanding bonded indebtedness, then such income to be
paid into the general fund of such county, incorporated
city, town or village.

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

Sec. 8. Construction, Maintenance and Operation of
Airports by Municipalities of an Adjoining State; Acquisi-
tion of Sites Therefor; Rights, Powers and Privileges Rel-
lating Thereto.—Notwithstanding any other provisions of
law, a municipal corporation, organized and existing un-
der the laws of an adjoining state, the corporate limits
thereof being not more than ten miles distant from the
boundaries of this state, may establish, lease, construct, equip, maintain and operate for such municipal corporation of an adjoining state an airport exclusively for a non-profit public use, and may acquire or lease for such purpose real property situate within this state at a distance not greater than ten miles from the corporate limits of such municipal corporation of an adjoining state; and such municipal corporation shall have the right to acquire real property necessary for such airport by gift or by purchase, and otherwise by condemnation, and the use of real property under the provisions hereof shall be deemed to be a public use for which private property may be taken or damaged, for just compensation. All property, real and personal, acquired, held and used in this state pursuant to the provisions of this section shall be public property and therefore exempt from taxation in the manner provided by section nine, article three, chapter eleven, of 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.
8. State airports, establishment and operation.
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.
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.
24. Penalties for violation of provisions of this article.
25. Exchange of violations information.
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 Virginia, unless the context otherwise requires:

(a) "Aeronautics" means the art and science of flight, including, but not limited to, transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities, and instruction in flying or ground subjects pertaining thereto.

(b) "Aeronautics instructor" means any individual who, for hire or reward, engages in giving instruction, or offers to give instruction in aeronautics, either in flying or ground subjects, or both. It does not include any instructor in any public school, college or university of this state, or any other institution of higher learning duly accredited and approved for carrying on collegiate work, while engaged in the performance of his duties as such instructor.

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

(d) "Airmen" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers or appliances, and any individual who serves in the capacity of aircraft dispatcher, or air-traffic control-tower operator. It does not include any individual employed outside the United States, or any
individual employed by a manufacturer of aircraft, aircraft engines, propellors, or appliances to perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical duties in connection with aircraft owned or operated by him.

(e) "Air navigation" or "aviation" means the operation or navigation of aircraft in the air space over this state, or upon any airport within this state.

(f) "Air navigation facility" means any facility other than one owned or controlled by the federal government, used in, available for use in, or designed for use in aid of air navigation, including airports, and any structures, mechanisms, lights, beacons, markers, communications system, or other instrumentalities or devices used or useful as an aid or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

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

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

(i) "Air school" means any person who engages in giving, or offering to give, instruction in aeronautics, either in flying or ground subjects, or both, for or without hire or reward. It does not include any public school, college, or university of this state, or any other institution of higher learning duly accredited and approved for carrying on collegiate work.

(j) "Commission" means the West Virginia state aeronautics commission.
72 (k) "Director" means the director of aeronautics of this state.
74 (l) "Municipality" means any county, city, town, village, or other political subdivision of this state. "Municipal" means pertaining to a municipality as herein defined.
77 (m) "Operation of aircraft" or "operate aircraft" means the use, navigation or piloting of aircraft in the air space over this state or upon the ground within this state.
80 (n) "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
84 (o) "State airway" means a route in the navigable airspace over and above the lands or waters of this state, designated by the commission as a route suitable for air navigation.
(p) The singular of any of the above defined terms shall include the plural and the plural the singular.

Sec. 2. Creation and Membership.—There is hereby created an aeronautics commission, to be known as "The West Virginia State Aeronautics Commission", to consist of five members to be appointed by the governor, by and with the advice and consent of the Senate. One of such members shall be the state road commissioner ex officio, whose term as such member shall continue for the period that he holds the office of state road commissioner. The other four members of the commission shall be appointed by the governor, each to serve a term beginning the first day of July, one thousand nine hundred forty-seven, one to serve for a term of one year, one to serve for a term of two years, one to serve for a term of three years, and one to serve for a term of four years. The successors of the members (other than the state road commissioner) initially appointed as provided herein, shall be appointed for terms of four years each in the same manner as the members originally appointed under this act, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be ap-
pointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his successor. No more than three members of the commission shall be members of the same political party. All members of the commission shall be citizens and residents of this state. The members of the commission who shall be appointed by the governor as provided by this section shall be selected with due regard to their fitness by reason of their aeronautical knowledge and practical experience in the field of aeronautics. In making such appointments, the governor shall, so far as may be possible and practicable, select the several members from different geographical sections of the state.

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

Sec. 3. Powers and Duties of Commission.—The commission shall assume, carry on and succeed to all the duties, rights, powers, obligations and liabilities herefore belonging to, exercised by, or assumed by the state board of aeronautics, pursuant to statutory authority herefore existing and as changed or modified by the provisions of this article. The commission shall have general supervision and control over all airports used for commercial purposes, all state and municipal airports, all air schools, and over all phases of aeronautics within this state. It may enter into any contracts necessary to the execution of the powers granted to it by this act. It is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government, the municipalities of this state, and other persons in the development of aeronautics, and shall act to coordinate the aeronautical activities of these bodies and persons. Municipalities are authorized to cooperate with the commission in the development of aeronautics and aeronautics facilities in this state. The commission is hereby given the power and authority to make such rules and regulations as it may deem
necessary and advisable for the public safety, governing
the designing, laying out, locating, building, equipping,
and operating of all airports, the establishment and op-
eration of all air schools, and the conduct of all other
phases of aeronautics. The commission is given the power
and authority to make different ratings of airports and
to prescribe the proper uses for which the different
classes of ratings are given. The commission is given
power and authority to make rules and regulations gov-
erning the personnel and operation of all air schools,
for the purpose of protecting the health and safety of
students therein and insuring, so far as may be, the pub-
lic safety through the proper training and instruction
of student aviators and mechanics. It shall adopt and en-
force the provisions of the federal air commerce act, now
in effect or as hereafter amended, so as to make applicable
as far as possible the provisions of that act to the state of
West Virginia, but the commission shall not make or
promulgate any rules, regulations or orders applicable
to persons engaged in interstate air commerce, in con-
travention of or inconsistent with the laws of the United
States, or the rules, regulations or orders of the civil aero-
autics board, the civil aeronautics administration, or
other competent agency of the United States: Provided,
however, That nothing in this act shall be construed to
deprive the public service commission of West Virginia
of the power to regulate air transportation for compen-
sation.

The commission shall keep on file with the secretary
of state, and at the principal office of the commission,
a copy of all its rules and regulations and orders having
general effect, for public inspection. It shall provide for
the publication and general distribution of all its orders,
rules, regulations and procedures having general effect.
Copies of any such orders, rules, or regulations shall be
delivered to any person interested, free of charge, upon
request. The publication and distribution of any such
order, rule, or regulation as provided herein, shall be
sufficient notice to the public of the provisions, require-
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-
mission, who shall serve for an indefinite term at the
pleasure of the commission. He shall be appointed with
due regard to his fitness, by aeronautical education and
by knowledge of and recent practical experience in aero-
autics, for the efficient dispatch of the powers and duties
vested in and imposed upon him by this act. He shall
hold or have held a federal commercial pilot's license.
He shall devote his entire time to the duties of his office
as required and prescribed by this act, and shall not be
actively engaged or employed in any other business, vo-
cation or employment, nor shall he have any pecuniary
interest in, or any stock in, or bonds of, any civil aero-
autical enterprise. He shall receive such compensation
as the commission may determine, which said compen-
sation shall, however, conform in general to the comp-
ensation received by persons occupying positions of
similar importance and responsibility with other agen-
cies of this state. He shall be reimbursed for all travel-
ing and other expenses incurred by him in the discharge
of his official duties. The director shall be the executive
officer of the commission and under its supervision shall
administer the provisions of this act and the rules, reg-
ulations and orders established thereunder, and all other
laws of the state relative to aeronautics. The director
shall attend, but not vote, at all meetings of the com-
mission. He shall act as secretary of the commission and
shall be in charge of its offices and responsible to the
commission for the preparation of reports and the col-
lection and dissemination of data and other public in-
formation relating to aeronautics. At the direction of
the commission he shall, together with the chairman of
the commission, execute all contracts entered into by
the commission which are legally authorized and for
which funds are provided in any appropriations act.
The commission may, by written order filed in its office,
delegate to the director any of the powers or duties vest-
ed or imposed upon it by this act. Such delegated powers
and duties may be exercised by such director in the name
of the commission. The commission may also employ
such administrative, engineering, technical and clerical
assistance as may be required. The director and such other assistants may, under the supervision of the commission, insofar as is reasonably possible, make available the engineering and other technical services of the commission, without charge to any municipality, and with or without charge to any other person desiring them, in connection with the construction, maintenance or operation, or proposed construction, maintenance or operation of any airport. The commission, the director, and such other assistants as may be designated by the commission shall see that the state and federal laws governing aviation and the rules and regulations of the commission are carried out. They shall have police powers and may make arrests for the violation of this article, or the rules and regulations of the commission.

Sec. 6. State Financial Assistance for Municipal Airports.—The commission, out of any appropriation made to it by the Legislature or out of any funds at its disposal, may make funds available by grant or otherwise to municipalities for the planning, acquisition, construction, improvement, maintenance, or operation of airports owned or operated or to be owned or operated by such municipalities. Acceptance of any moneys so made available to any municipality shall constitute consent by the recipient that a reasonable use of such airport may be made, upon request of the commission, by the United States government, the state, or any of their respective agencies, including the state aeronautics commission and the national guard of West Virginia for state purposes related or incidental to aeronautics. Such financial assistance may be furnished in connection with federal or other financial aid for the same purpose.

Sec. 7. Federal Aid.—(a) The commission is authorized to cooperate with the government of the United States, and any agency or department thereof, in the planning, acquisition, construction, improvement, maintenance and operation of airports and other air navigation facilities in this state, and is authorized to accept
federal aid either outright or by way of matching the same in whole or in part as may be required, and when funds for matching are available to the commission, and to comply with the provisions of the laws of the United States and any regulations made thereunder for the expenditure of federal moneys upon such airports and other air navigation facilities.

(b) The commission is authorized to accept, receive, and receipt for federal moneys and other moneys, either public or private, for and in behalf of this state, or any municipality thereof, for the planning, acquisition, construction, improvement, maintenance, and operation of airports and other air navigation facilities, whether such work is to be done by the state or by such municipality, or jointly, aided by grants of aid from the United States, upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder, and it is hereby designated as the agency of the state, and is authorized to and may act as agent of any municipality of this state upon the request of such municipality, in accepting, receiving and receipting for such moneys in its behalf for airports or other air navigation facility purposes, and in contracting for the planning, acquisition, construction, improvement, maintenance, or operation of airports or other air navigation facilities, financed either in whole or in part by federal moneys; and any such municipality is authorized to and may, and the state hereby does designate the commission as its agent for such purposes and any such municipality may enter into an agreement with the commission prescribing the terms and conditions of such agency in accordance with federal laws, rules and regulations and with this act. Such moneys as are paid over by the United States government shall be retained by the state or paid over to said municipalities under such terms and conditions as may be imposed by the United States government in making such grants.

(c) All contracts for the planning, acquisition, construction, improvement, maintenance, and operation of airports, or other air navigation facilities made by the
commission, either as the agent of the state or as the 
agent of any municipality therein, shall be made pur-
suant to the laws of this state governing the making of 
like contracts: *Provided, however, That where the plan-
ing, acquisition, construction, improvement, mainten-
ance, and operation of any airport or other air naviga-
tion facility is financed wholly or partially with federal 
moneys, the commission, as agent of the state or of any 
municipality thereof, may let contracts in the manner 
prescribed by the federal authorities, acting under the 
laws of the United States, and any rules or regulations 
made thereunder, notwithstanding any other state law to 
the contrary.

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

(e) The state or any municipality therein is author-
ized to cooperate with the government of the United 
States, and any agency or department thereof, in the 
acquisition, construction, improvement, maintenance and 
operation of airports and other air navigation facilities 
in this state, and is authorized to accept federal aid, either 
by way of outright grant or by matching the same in 
whole or in part as may be required, and to comply with 
the provisions of the laws of the United States and any
regulations made thereunder for the expenditure of federal moneys upon such airports and other navigation facilities.

(f) No political subdivision of this state, whether acting alone or jointly with another political subdivision or with the state, shall submit to the administrator or civil aeronautics of the United States any project application under the provisions of section nine-a of the act of Congress approved on the thirteenth day of May, one thousand nine hundred forty-six, being public law three hundred seventy-seven, seventy-ninth Congress, known and hereinafter designated as the "Federal Airport Act", or any amendment thereof, unless the project and the project application have been first approved by the commission. No such political subdivision shall directly accept, receive, receipt for, or disburse any funds granted by the United States under the federal airport act, but it shall designate the commission as its agent in its behalf to accept, receive, receipt for and disburse such funds. It shall enter into an agreement with the commission prescribing the term and conditions of such agency in accordance with federal laws, rules and regulations and applicable laws of this state. Such moneys as are paid over by the United States government shall be retained by the state or paid over to the municipality under such terms and conditions as may be imposed by the United States government in making such grant.

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

The commission is authorized on behalf of and in the name of the state, out of appropriations and other moneys made available for such purposes, to plan, establish, construct, maintain, and operate airports and air navigation facilities within the state. For such purposes the commission may, by purchase, gift, devise, lease, condemnation or otherwise, acquire such property, real or personal, as is necessary to permit safe and efficient operation of the airports and air navigation facilities. In like manner, the commission may acquire existing airports and air navigation facilities: Provided, however, That it
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. 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.

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.

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

Sec. 12. Operation of Aircraft at Low Altitude or in
Careless and Reckless Manner; Penalty.—No person shall
operate an aircraft at an altitude of less than one thou-
sand feet over any city, town, or village, or public gath-
ering elsewhere, except at a duly established airport or
when necessary to make a safe and proper landing or
take-off in an emergency or at a duly established airport.
No person shall operate an aircraft in the air over, or
on the ground or water within this state in a careless and
reckless manner in wilful or wanton disregard of the
rights or safety of others, or without due caution and
circumspection and in a manner so as to endanger or be
likely to endanger any person or property.
A person violating any of the provisions of this sec-
tion shall be guilty of a misdemeanor, and, upon con-
viction 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.

Sec. 13. Unauthorized Taking or Operation of Air-
craft; Penalty.—No person, other than the duly autho-
ized agent, servant or employee of the owner thereof,
shall take, without the knowledge and consent of the
owner, and operate within this state any aircraft owned
by another. Any person who, wilfully and without the
knowledge or consent of the owner or person in lawful
charge thereof, and with the intent to deprive such
owner or person in lawful charge of the possession or
use thereof, either temporarily or permanently, shall
take possession of, enter and operate, or otherwise take
and use, any aircraft belonging to another or in his law-
ful possession; and any person who shall assist, aid and
abet, or be present for the purpose and with the intent to
assist, aid or abet, another person in such taking posses-
Sec. 14. Federal License Required for Operation of Aircraft.—No person shall operate or cause or authorize to be operated any aircraft within this state unless such aircraft has an appropriate effective certificate, permit or license issued by the United States, if such certificate, permit or license is required by the United States; nor shall any person engage in aeronautics as an airman in this state unless he has an appropriate effective airman certificate, permit, rating or license issued by the United States authorizing him to engage in the particular class of aeronautics in which he is engaged, if such certificate, permit, rating or license is required by the United States.

Where a certificate, permit, rating or license is required for an airman by the United States, it shall be kept in his personal possession when he is operating within this state and shall be presented for inspection upon the demand of any peace officer, or any other officer of the state or of a municipality or member, official, or employee of the commission authorized under this act to enforce the aeronautics law of this state, or any official, manager or person in charge of any airport upon which the airman shall land, or upon the reasonable request of any other person. Where a certificate, permit or license is required by the United States for an aircraft, it shall be carried in the aircraft at all times while the aircraft is operating in the state, shall be conspicuously posted in the aircraft where it may readily be seen by passengers or inspectors, and shall be presented for inspection upon the demand of any peace officer, or any other officer of the state or of a municipality or member, official or employee of the com-
mission authorized under this act to enforce the aeronautics laws of this state, or any official, manager or person in charge of any airport upon which the aircraft shall land, or upon the reasonable request of any person.

Sec. 15. Licensing of Air Schools and Aeronautics Instructors.—The commission is authorized to provide for the licensing of air schools and of aeronautics instructors. For each license of an air school it may charge a fee not exceeding twenty dollars, and for each license of an aeronautics instructor it may charge a fee not exceeding five dollars.

The commission may refuse to issue or may suspend or revoke temporarily or permanently, any license of an air school or aeronautics instructor required pursuant to this section when it shall reasonably determine, upon notice and opportunity for hearing, that such air school or aeronautics instructor is not qualified. In arriving at such determination the commission shall consider, among other things, whether the school or instructor has violated the provisions of any statute of this state or the United States relating to aeronautics or the rules and regulations promulgated pursuant thereto, or whether the aeronautics instructor or any aeronautics instructor of the air school is addicted to the use of narcotics or other habit-forming drugs or to the excessive use of intoxicating liquor or has made any false statements of a material nature in connection with an application to the commission under this act, or has been guilty of conduct dangerous to the public safety or to the safety of those engaged in aeronautics.

It shall be unlawful for a person to operate an air school or for any aeronautics instructor to give instruction in aeronautics without an appropriate license as may be duly required by rule or regulation promulgated under the provisions of this section: Provided further, That it shall be unlawful for any aeronautics instructor to give instruction in flying unless such instructor has an appropriate effective instructor's rating, certificate, permit or license as a flight instructor issued by the United States.
Sec. 16. Certificates for Airport Sites; Licensing Airports.—The commission is authorized to provide for the approval of airport sites and the issuance of certificates of such approvals. No charge shall be made for any such approval, and certificates of such an approval shall be issued without charge to all persons requesting them. Upon the promulgation of a rule or regulation providing for such approvals, any municipality or person desiring or planning to construct or establish an airport may, prior to the acquisition of the site or prior to the construction or establishment of the proposed airport, make application to the commission for approval of the site. The commission shall with reasonable dispatch grant approval of a site if it is satisfied: (1) That the site is adequate for the proposed airport; (2) that such proposed airport, if constructed or established, will conform to minimum standards of safety; (3) that safe air traffic patterns could be worked out for such proposed airport and for all existing airports and approved airport sites in its vicinity; and (4) that such airport is reasonably necessary to provide adequate aeronautics facilities for the public or any person having need therefor. An approval of a site may be granted subject to any reasonable conditions which the commission may deem necessary to effectuate the purposes of this section, and shall remain in effect, unless sooner revoked by the commission, until a license for an airport located on the approved site has been issued pursuant to the provisions of this section. The commission may, after notice and opportunity for hearing to holders of certificates of approval, revoke such approval when it shall reasonably determine (1) that there has been an abandonment of the site as an airport site, or (2) that there has been a failure within the time prescribed, or if no time was prescribed, within a reasonable time, to develop the site as an airport or to comply with the conditions of the approval, or (3) that because of change of physical, legal or other conditions or circumstances the site is no longer usable and necessary for the aeronautical purposes for which the approval was granted.

The commission is authorized to provide for the licens-
ing of airports and the periodic renewal of such licenses. It may charge license fees not exceeding twenty-five dollars for each original license, and not exceeding ten dollars for each renewal thereof. Upon the promulgation of a rule or regulation providing for such licensing, the commission shall with reasonable dispatch, upon receipt of an application for an original license and the payment of the duly required fee therefor, issue an appropriate license if a certificate of approval has previously been issued and has not been cancelled by the commission, or, where no such certificate has been issued if it is satisfied that the airport conforms to the standards established herein for the issuance of a certificate of approval. All licenses shall be renewable at such reasonable periodic intervals and upon payment of such fees as may be prescribed by the commission. Licenses and renewals thereof may be issued subject to any reasonable conditions that the commission may deem necessary to effectuate the purposes of this section. The commission may, after notice and opportunity for hearing to the licensee, revoke or suspend any license or renewal thereof, or refuse to issue a renewal, when it shall reasonably determine (1) that there has been an abandonment of the airport as such, or (2) that there has been a failure to comply with the conditions of the license or renewal thereof, or (3) that because of change of physical, legal or other conditions or circumstances the airport has become either unsafe or unusable for the aeronautical purposes for which the license or renewal was issued. It shall be unlawful for any municipality, or officer or employee thereof, or any person to operate an airport without an appropriate license for such, as may be duly required by rule or regulation issued pursuant to this section.

Every licensed airport in this state shall employ an airport manager, who shall be licensed by the commission upon application showing that the person applying for such license is qualified by training and experience to properly perform the duties of airport manager.

In connection with the grant of approval of a proposed airport site or the issuance of an airport license the com-
mission may, on its own motion or upon the request of an
affected or interested person, hold a hearing open to the
public as provided in section seventeen of this article:
Provided, however, That the provisions of this section
shall not apply to airports owned or operated by the
United States. The commission may, from time to time,
to the extent necessary, exempt any other class of air-
ports, pursuant to a reasonable classification or grouping,
from any rule or regulation promulgated under this sec-
tion from any requirement of such a rule or regulation,
if it finds that the application of such rule, regulation or
requirement would be an undue burden on such class
and is not required in the interest of public safety.

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

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.

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.

The commission shall report to the appropriate agency 14 of the United States all accidents in aeronautics in this 15 state of which it is informed, and shall in so far as is prac- 16 ticable preserve, protect and prevent the removal of the
component parts of any aircraft involved in an accident being investigated by it for such reasonable time as may be necessary to give the federal agency adequate opportunity to institute an investigation.

Sec. 20. Enforcement of Aeronautics Laws.—It shall be the duty of the commission, its members, the director, officers and such employees of the commission as may be designated by it, and every state and municipal officer charged with the enforcement of state and municipal laws, to enforce and assist in the enforcement of this act and of all rules, regulations and orders issued pursuant thereto and of all other laws of this state relating to aeronautics; and in that connection each of the aforesaid persons is authorized to inspect and examine at reasonable hours any aircraft, the credentials of any airman or other person engaged in aeronautics required by the laws of this state or of the United States to have in his possession credentials evidencing his authority or permission to engage in aeronautics, any premises, and the buildings and other structures thereon, where airports, air navigation facilities, air schools, or other aeronautical activities are operated or conducted. In aid of the enforcement of this act, the rules, regulations and orders issued pursuant thereto and of all other laws of the state relating to aeronautics, general police powers are hereby conferred upon the commission, each of its members, the director, and such other officers and employees of the commission as may be designated by it to exercise such powers. The commission is authorized in the name of the state to enforce the provisions of this act and the rules, regulations and orders issued pursuant thereto by injunction or other legal process in the courts of this state.

Sec. 21. Use of State and Municipal Facilities and Services.—In carrying out the provisions of this act the commission may use the facilities and services of other agencies of the state and of the municipalities of the state to the utmost extent possible, and such agencies and municipalities are authorized and directed to make available 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
within thirty days of the entry of the order appealed from by the said circuit court: Provided, however, That when either the circuit court or the supreme court of appeals has taken jurisdiction of any such case, such court may, in its sound discretion, refuse a stay of execution or supersedeas to the order of the commission or any portion thereof during the time that the case is pending before the said court, if the court is of the opinion that the order of the commission or a part of such order is reasonable and has been issued for the protection of the public safety.

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

For any violation of sections eleven and twelve of this article, in addition to the penalties provided by the said sections, or as a condition to the suspension of a sentence which may be imposed pursuant thereto, the court in its discretion may prohibit the violator from operating aircraft within the state for such period as it may determine, but not to exceed one year. Violation of the duly imposed prohibition of the court may be treated as a separate offense under this section or as a contempt of court. In no event shall this section be construed as a warrant for the court or any other agency or person to take away, impound, hold or mark any federal airman or aircraft certificate, permit, rating or license.

Sec. 25. Exchange of Violations Information.—The commission is authorized to report to the appropriate federal agencies and agencies of other states all proceedings instituted charging violations of sections eleven, twelve and fourteen of this article and all penalties, of which it has knowledge, imposed upon airmen or the owners or operators of aircraft for violations of the law of this state relating to aeronautics or for violations of the rules, regulations or orders of the commission. The commission is
authorized to receive reports of penalties and other data from agencies of the federal government and other states and, when necessary, to enter into agreements with federal agencies and the agencies of other states governing the delivery, receipt, exchange and use of reports and data. The commission may make the reports and data of the federal agencies, the agencies of other states, and the courts of this state available, with or without request therefor, to any and all courts of this state, and to any officer of the state or of a municipality authorized to enforce the aeronautics laws of this state.

Sec. 26. Severability.—If any provision of this act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or applications of this act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

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

Sec. 28. Short Title.—This act may be cited as the “State Aeronautics Commission Act.”

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 payments to municipalities for the purpose of reimbursing municipalities for their expenditures in enforcing state laws for the protection of life and property.

[Passed March 6, 1947; in effect from passage. Approved by the Governor.]
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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.
All receipts of the commission, not otherwise disposed of by this section, shall, upon requisition of the governor, 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 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 four thousand eight hundred twenty-six dollars thirty-five cents to Achilles T. Robison, to compensate him for loss of a leg and to reimburse him for medical and hospital expense incurred as a result of gun wounds inflicted upon him by an escaped convict from a prison road camp.

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 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 overturning of a truck of the West Virginia conservation commission.

[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.—There is hereby appropriated, it appearing from the budget that there is sufficient revenue available for the purpose, the sum of nine hundred fifty-five dollars, to compensate Charles W. Neville for damages sustained by
Sec. 1. Appropriation for Thelma McFerrin.—It appearing from a statement of the revenues and appropriations of the state of West Virginia, the legislature hereby deems it necessary to make an appropriation of the state fund general revenue, for compensating Thelma McFerrin for losses sustained by her in consequence 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 hospital, 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 appearing from a statement of the revenues and appropriations of the state of West Virginia, the legislature hereby deems it necessary to make an appropriation of the state fund general revenue, for compensating Thelma McFerrin for losses sustained by her in consequence of the wrongful death of her husband, Newsom McFerrin, resulting from the negligence of the Weston state hospital.
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 three thousand dollars to Thelma McFerrin, to compensate her for losses sustained by her in consequence of the wrongful death of her husband, Newsom McFerrin, resulting from the 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 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 17

(Senate Bill No. 335—By Mr. Love)

AN ACT to compensate Lillian Brigade 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 Brigade.
2. Finding of moral obligation.

WHEREAS, On November third, one thousand nine hundred forty-five, Lillian Brigade, 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 Brigade 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 Brigade 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 Brigade, 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 Brigade 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 Brigade was in no sense at fault in the premises; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. Appropriation for Lillian Brigade.—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 Brigade 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.
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.

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 hun-
dred 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
Death Claims to Roy H. Adkins and Others, Administrators, for Six Persons Killed in a Highway Accident.—The Legislature affirms and approves the recommendation of the court of claims that there should be paid the awards listed below; and it likewise affirms the appropriations made by the Legislature at its one thousand nine hundred forty-five session (contained in chapter eleven, acts of the Legislature, regular session, one thousand nine hundred forty-five) to pay the said awards as claims against the state road commission. The Legislature therefore makes the following awards:

1. To Roy H. Adkins, administrator, for the death of Roy Herbert Adkins, Jr., the sum of three thousand five hundred dollars;
2. To J. P. Burgess, administrator, for the death of Edward Sinclair Burgess, the sum of three thousand five hundred dollars;
3. To Edward D. Burdette, administrator, for the death of Edward D. Burdette, Jr., the sum of three thousand five hundred dollars;
4. To C. J. Jones, administrator, for the death of Esther Jones, the sum of three thousand five hundred dollars;
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.

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.

[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.

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 commution. 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 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.—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 treasury, in favor of Lon E. Upton for fifteen hundred dollars, for personal damages sustained by him by falling from a state road bridge which had no side walls, barrier or guard rails, the Legislature finding that this appropriation is necessary to discharge a moral obligation of the state.
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 State College, Four-H Camp.—That in addition to the appropriation made by chapter eleven, acts of the Legislature, regular session, one thousand nine hundred forty-five, there be and is hereby appropriated for the fiscal year ending June thirtieth, one thousand nine hundred forty-seven, the following sum of money for the immediate payment of the claim of the Babcock Coal and Coke Company:

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

Acct. No. 330

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 pay­
ment thereof.

Be it enacted by the Legislature of West Virginia:

Section 1. Finding and Declaring Certain Claims
Against the State and Its Agencies to Be Moral Obliga­
tions of the State, and Directing Payment Thereof.—
The Legislature has considered the findings of fact and
recommendations reported to it by the court of claims
concerning various claims against the state and the agen­
cies thereof, and in respect to each of the following
claims the Legislature adopts those findings of fact as its
own, and hereby declares it to be the moral obligation
of the state to pay each such claim in the amount speci­
fied below, and directs the auditor to issue warrants
for the payment thereof out of any funds appropriated
and available for the purpose.

(a) Claim versus State Auditor.

(1) Berkeley Printing & Publishing Com­
pany .................................................. $ 462.00

(b) Claims versus State Board of Control.

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

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

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

(4) Roberts, Le Roy ______________________ $3,341.52

(c) Claims versus State Conservation Commission.

(1) Anderson, Melvin O .......................... $ 91,27
<table>
<thead>
<tr>
<th></th>
<th>Name</th>
<th>Claim Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25</td>
<td>(2) Davis, Harry E.</td>
<td>Claims versus State Health Department.</td>
<td>$ 29.64</td>
</tr>
<tr>
<td>26</td>
<td>(d) McCuskey, Dr. William C.</td>
<td>Claim versus State Department of Mines.</td>
<td>$ 383.75</td>
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<td>27</td>
<td>(e) McVey, E. Y.</td>
<td>Claim versus State Department of Probation and Parole.</td>
<td>$ 106.71</td>
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<tr>
<td>28</td>
<td>(f) DeMilia, Alfred E., Dr.</td>
<td>Claims versus State Department of Public Assistance.</td>
<td>$ 300.00</td>
</tr>
<tr>
<td>29</td>
<td>(g) Shepherd, Elma</td>
<td>Claims versus State Road Commission.</td>
<td>$ 865.00</td>
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<td>30</td>
<td>(h) Wilson, Virginia</td>
<td>Claims versus State Road Commission.</td>
<td>$ 900.00</td>
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<tr>
<td>31</td>
<td>(1) Aetna Casualty &amp; Surety Co.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 30.28</td>
</tr>
<tr>
<td>32</td>
<td>(2) Appalachian Electric Power Co.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 252.06</td>
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<td>33</td>
<td>(3) Archer, H. D.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 13.60</td>
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<td>34</td>
<td>(4) Baltimore &amp; Ohio Railroad Co.</td>
<td>Claims versus State Road Commission.</td>
<td>$1,850.00</td>
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<tr>
<td>35</td>
<td>(5) Bond, J. F.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 150.00</td>
</tr>
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<td>36</td>
<td>(6) Buchanan, Herman</td>
<td>Claims versus State Road Commission.</td>
<td>$ 85.87</td>
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<td>37</td>
<td>(7) Burke, Leo R.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 9.44</td>
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<tr>
<td>38</td>
<td>(8) Checker White Cab, Inc.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 50.00</td>
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<td>39</td>
<td>(9) Clark, Martha</td>
<td>Claims versus State Road Commission.</td>
<td>$ 200.00</td>
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<td>40</td>
<td>(10) Colonial Glass Co.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 335.35</td>
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<td>41</td>
<td>(11) Clemans, Frances</td>
<td>Claims versus State Road Commission.</td>
<td>$ 300.00</td>
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<td>42</td>
<td>(12) Ellison, Roy L.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 45.90</td>
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<td>43</td>
<td>(13) Frankhouser, Mrs. R. R.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 20.00</td>
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<td>44</td>
<td>(14) Frankhouser, Mrs. R. R., admx. of estate of Russell R. Frankhouser, deceased</td>
<td>Claims versus State Road Commission.</td>
<td>$ 238.05</td>
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<td>(15) Gantzer, William G.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 47.75</td>
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<td>46</td>
<td>(16) Garver, B. F.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 52.94</td>
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<td>47</td>
<td>(17) Halstead, E. H.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 13.01</td>
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<td>48</td>
<td>(18) Hamrick, Elvin</td>
<td>Claims versus State Road Commission.</td>
<td>$ 80.47</td>
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<td>49</td>
<td>(19) Henry, Blaine D.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 196.75</td>
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<td>50</td>
<td>(20) Hudson, Charles A.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 15.30</td>
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<td>51</td>
<td>(21) Jamerson, T. L.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 3.06</td>
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<td>52</td>
<td>(22) Johnson, Mildred, infant by Howard E. Johnson, her next friend</td>
<td>Claims versus State Road Commission.</td>
<td>$ 591.00</td>
</tr>
<tr>
<td>53</td>
<td>(23) King, Bessie L.</td>
<td>Claims versus State Road Commission.</td>
<td>$ 51.00</td>
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<td>54</td>
<td>(24) King, Leah</td>
<td>Claims versus State Road Commission.</td>
<td>$ 76.50</td>
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<td>55</td>
<td>(25) Lemasters, Rose</td>
<td>Claims versus State Road Commission.</td>
<td>$ 72.75</td>
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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 Against the State and Its Agencies to Be Moral Obligations of the State, and Directing Payment Thereof.—The Legislature has considered the findings of fact and recom-
mendations reported to it by the court of claims concerning various claims against the state and the agencies thereof, and in respect to each of the following claims the Legislature adopts those findings of fact as its own, and hereby declares it to be the moral obligation of the state to pay each such claim in the amount specified below, and directs the auditor to issue warrants for the payment thereof out of any funds appropriated and available for the purpose.

(a) Claims versus State Road Commission
(1) Bennett, Jacob F. ........................................... $1,560.00
(To be paid in monthly installments of $52.00 each from 1-1-47 to 6-30-49)
(2) Cabell, N. B. and W. E. Myles ...................... $ 39.75
(3) Davis, Robert .................................................. $ 100.00
(4) Gribble, L. G. .................................................. $ 250.00
(5) Hall, D. Ray ...................................................... $ 57.00
(6) McClung, Alice E. ............................................. $ 720.00
(To be paid in monthly installments of $30.00 each from 1-1-47 to 12-31-48)
(7) Meeker, David .................................................. $ 9.10
(8) O’Conner, George E. ........................................... $ 92.85
(9) Pratt, Effie Savage ............................................. $ 240.00
(To be paid in monthly installments of $10.00 each from 1-1-47 to 12-31-48)
(10) S. G. M. Gas Company ................................. $ 4.50
(11) Weir-Cove Ice & Coal Company ....................... $ 435.19

(b) Claim versus State Auditor
(1) Alt, Grant, Sheriff of Pendleton County................ $ 51.05

(c) Claim versus State Department of Public Safety
(1) King's, Inc. ......................................................... $ 132.77
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.]
obligation of the state of West Virginia to pay the costs herein described, which in good faith and conscience should be paid through an appropriation of public funds in the state treasury.

Sec. 2. Finding the Claims of Deputy Commissioners of Forfeited and Delinquent Lands for Services Performed to Be Moral Obligations of the State.—In recognition of services required and performed by various deputy commissioners of forfeited and delinquent lands, the costs not yet determined, under said article referred to in section one of this article, 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 services, there is here made a finding of a moral obligation of the state of West Virginia to pay the costs herein described, which in good faith and conscience should be paid through an appropriation of public funds in the state treasury.

Sec. 3. Appropriating Funds from the General School Fund to Pay the Moral Obligations Described in Sections One and Two of This Act.—It appearing from a statement of the revenues and appropriations for the fiscal years one thousand nine hundred forty-six—one thousand nine hundred forty-seven and one thousand forty-seven—one thousand nine hundred forty-eight, that there is and will be in the general school fund of the state treasury revenue, in excess of all other appropriations sufficient to pay the amounts hereafter appropriated, there is hereby appropriated from the general school fund of the state treasury for the remainder of the fiscal year one thousand nine hundred forty-six—one thousand nine hundred forty-seven and for the fiscal year one thou-
sand nine hundred forty-seven—one thousand nine hundred forty-eight, an amount sufficient to pay the moral obligations described in sections one and two herein, which moral obligations cannot now be ascertained in 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
2. Appropriations.
3. Administration.

Title 1. General Provisions.

Section
1. Finding and policy.
2. Definitions.
3. Classification of appropriations.
5. Limitations on expenditures.

Be it enacted by the Legislature of West Virginia:

Section 1. Finding and General Policy.—The Legislature finds that estimates of funds in the treasury at the time this act is enacted, and expected revenues to accrue prior to July 1, 1947, and during the biennium 1947-49, 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
(6) Aid to public schools, 
(7) Expenses for other purposes required by the constitution and laws of the state, 
and to meet appropriations herein made, and, in pursuance of such finding, this act is enacted. 
The purpose of this act is to appropriate money necessary for economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal years one thousand nine hundred forty-eight and one thousand nine hundred forty-nine. To give effect to this purpose, the Board of Public Works shall supervise and regulate the expenditures of the agencies of the state.

Sec. 2. Definitions.—For the purpose of this act:
“Board” shall mean the board of public works; 
“Spending unit” shall mean the department, agency, or institution to which an appropriation is made; 
The “fiscal year one thousand nine hundred forty-eight” shall mean the period from July first, one thousand nine hundred forty-seven through June thirtieth, one thousand nine hundred forty-eight, and the “fiscal year one thousand nine hundred forty-nine” shall mean the period from July first, one thousand nine hundred forty-eight through June thirtieth, one thousand nine hundred forty-nine; 
“From collections” shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collection. If the amount collected exceeds the amount designated “from collections” the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine; 
“Collections” shall mean the total amount which must
26 be collected by the spending unit before excess collec-
tions shall be available for expenditure: Provided, how-
ever, That where any appropriation is made entirely from
"collections", if the authorized amount of collections is not
collected, the total appropriation for that spending unit
shall be reduced automatically by the amount of the defi-
ciency in the collection. If the amount collected exceeds
the amount designated "collections" the excess shall be
set aside in a special surplus fund and may be expended
for the purpose of the spending unit as provided by chap-
ter thirty-nine, section thirty-two, acts of the Legislature,
regular session, one thousand nine hundred thirty-nine.
Such excess collections so set aside shall not be deemed
to have expired at the end of any fiscal year.

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

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

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

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

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

"Equipment" shall be expended only for things which
have an appreciable and calculable period of usefulness in
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.
Title 2. Appropriations.

Section 1. Appropriations from general revenue fund.

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</table>

**PAYABLE FROM WORKMEN'S COMPENSATION FUND**

<table>
<thead>
<tr>
<th>Department</th>
<th>Acct. No.</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workmen's compensation commission—Acct. No. 900</td>
<td></td>
<td>157</td>
</tr>
</tbody>
</table>

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.
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 corpora-
16. Appropriations for local governments.
17. Printing costs.
18. Total appropriation.
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

<table>
<thead>
<tr>
<th>Fiscal Years</th>
<th>1947-48</th>
<th>1948-49</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of Members</td>
<td>$16,000.00</td>
<td>$16,000.00</td>
</tr>
<tr>
<td>2 To pay Clerk of the Senate for compiling and publishing the West Virginia Blue Book, including all expenses incurred in the employment of contributors, preparation of matter, clerical hire, stenographic services and proofreading, and for shipping charges in connection with the distribution of the Blue Book; which distribution shall include seventy-five copies each to members of the Legislature</td>
<td>$10,000.00</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>3 To pay cost of printing 1947 and 1948 editions of Blue Book</td>
<td>$32,000.00</td>
<td>$32,000.00</td>
</tr>
<tr>
<td>4 Mileage of Members</td>
<td>$847.00</td>
<td></td>
</tr>
<tr>
<td>5 Compensation and per diem of officers and attaches</td>
<td>$62,500.00</td>
<td></td>
</tr>
<tr>
<td>6 Current Expenses and Contingent Fund</td>
<td>$77,500.00</td>
<td></td>
</tr>
<tr>
<td>7 Of the last above appropriation, not more than $17,500.00 shall</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
be expended for the expenses
of the interim committee
raised under House Concur-
rent Resolution No. 8.
The above appropriations for
the fiscal year 1947-48 are to remain in full
force and effect until
the convening of the
regular session of the Leg-
islature 1949.
The Clerk of the Senate is au-
thorized to draw his war-
rants upon the Auditor, pay-
able out of the contingent
fund of the Senate, for any
bills for supplies and serv-
ices that may have been in-
curred by the Senate and not
included in the appropriation
bill, and for bills for sup-
plies and services incurred
after adjournment, the req-
uisition for same to be ac-
 companied by bills to be filed
with the Auditor.
To aid in the discharge of his
duties, the Clerk may expend
for stenographic services a
sum not exceeding $3,000.00
per annum, and for janitor
services a sum not exceeding
$1,600.00 per annum, both
payable monthly from the
contingent fund of the Sen-
ate.

2—House of Delegates
Acct. No. 102

Salaries of Members.................. $ 47,000.00

$ 47,000.00
### Fiscal Year 1946-47

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mileage of Members</td>
<td>$2,700.00</td>
</tr>
<tr>
<td>Compensation and per diem of attaches and officers</td>
<td>79,000.00</td>
</tr>
<tr>
<td>Current Expenses and Contingent Fund</td>
<td>85,000.00</td>
</tr>
<tr>
<td>Expenses of interim committee created by House Concurrent Resolution No. 8</td>
<td>17,500.00</td>
</tr>
</tbody>
</table>

The above appropriations for the fiscal year 1947-48 are to remain in full force and effect until the convening of the regular session of the Legislature, 1949.

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

For duties imposed by law and by the House of Delegates, including the salary allowed by law as keeper of the rolls, the Clerk of the House of Delegates shall be paid a monthly salary at the rate of $5,000.00 per annum, payable from the contingent fund of the House of Delegates, and
the Clerk may employ a secretary at a salary of not to exceed $2,000.00 per annum, payable monthly from the same fund.

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

3—Joint Expenses
Acct. No. 103

1 To pay the cost of legislative printing and stationery, the appropriation to be available for the year ending June thirty, one thousand nine hundred forty-seven. If this work is not completed prior to June thirty, one thousand nine hundred forty-seven, then the appropriation shall continue in full until completed .............................................. $ 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
<table>
<thead>
<tr>
<th>Account No.</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>114</td>
<td>Virginia Reports</td>
<td>3,750.00</td>
<td>3,750.00</td>
</tr>
<tr>
<td>111</td>
<td>Total</td>
<td>130,850.00</td>
<td>130,850.00</td>
</tr>
<tr>
<td>111</td>
<td>Salaries of Judges of the Circuit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>111</td>
<td>Courts</td>
<td>195,000.00</td>
<td>195,000.00</td>
</tr>
<tr>
<td>111</td>
<td>Current Expenses</td>
<td>30,000.00</td>
<td>30,000.00</td>
</tr>
<tr>
<td>111</td>
<td>Total</td>
<td>225,000.00</td>
<td>225,000.00</td>
</tr>
<tr>
<td>114</td>
<td>State Law Library</td>
<td></td>
<td></td>
</tr>
<tr>
<td>114</td>
<td>Personal Services, including</td>
<td></td>
<td></td>
</tr>
<tr>
<td>114</td>
<td>Salaries of Librarian and Assistants</td>
<td>6,740.00</td>
<td>6,740.00</td>
</tr>
<tr>
<td>114</td>
<td>Current Expenses</td>
<td>700.00</td>
<td>700.00</td>
</tr>
<tr>
<td>114</td>
<td>Equipment</td>
<td>5,000.00</td>
<td>5,000.00</td>
</tr>
<tr>
<td>114</td>
<td>Total</td>
<td>12,440.00</td>
<td>12,440.00</td>
</tr>
<tr>
<td>118</td>
<td>Judicial Council</td>
<td></td>
<td></td>
</tr>
<tr>
<td>118</td>
<td>Personal Services</td>
<td>7,400.00</td>
<td>7,400.00</td>
</tr>
<tr>
<td>118</td>
<td>Current Expenses</td>
<td>3,480.00</td>
<td>3,480.00</td>
</tr>
<tr>
<td>118</td>
<td>Equipment</td>
<td>1,500.00</td>
<td>200.00</td>
</tr>
<tr>
<td>118</td>
<td>Total</td>
<td>12,380.00</td>
<td>11,080.00</td>
</tr>
<tr>
<td>119</td>
<td>Auditor’s Office—Criminal Charges</td>
<td></td>
<td></td>
</tr>
<tr>
<td>119</td>
<td>Criminal Charges</td>
<td>85,000.00</td>
<td>85,000.00</td>
</tr>
<tr>
<td>120</td>
<td>Governor’s Office</td>
<td></td>
<td></td>
</tr>
<tr>
<td>120</td>
<td>Salary of Governor</td>
<td>10,000.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td>120</td>
<td>Other Personal Services, including</td>
<td>23,660.00</td>
<td>23,660.00</td>
</tr>
</tbody>
</table>

EXECUTIVE
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Current Expenses</td>
<td>8,000.00</td>
<td>8,000.00</td>
</tr>
<tr>
<td>7</td>
<td>One hundred dollars annual dues to the Governor's Conference shall be included in this item.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Equipment</td>
<td>5,000.00</td>
<td>5,000.00</td>
</tr>
<tr>
<td>12</td>
<td>Emergency Fund</td>
<td>50,000.00</td>
<td>50,000.00</td>
</tr>
<tr>
<td>13</td>
<td>Civil Contingent Fund</td>
<td>70,000.00</td>
<td>70,000.00</td>
</tr>
<tr>
<td>14</td>
<td>Of this appropriation there may be expended an amount not to exceed $5,000.00 in each year to provide instruction, care and maintenance for persons who are deaf and blind, and for whom the state provides no facilities.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>Any unexpended balance remaining in the Emergency Fund and/or the Civil Contingent Fund at the close of the fiscal year 1947-48 is hereby reappropriated for expenditure during the fiscal year 1948-49.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>Custodial</td>
<td>$23,580.00</td>
<td>$27,730.00</td>
</tr>
</tbody>
</table>

To be used for current general expenses, including compensation of servants and employees, household maintenance, cost of official functions, and any additional household expenses occasioned by such official functions. In the event Napoleon Gardner, now and for many years in the service of the Governor and his predecessors in office, shall become unable to perform such services for which he may earn com-
Pension, an amount not in excess of $50.00 per month may be expended out of this appropriation by the Governor at his discretion, for the use and benefit of the said Napoleon Gardner.

Total $190,240.00 $194,390.00

10—Parole and Probation Investigation and Supervision

11—Auditor’s Office—General Administration

12 Auditor’s Office—Insurance Department
tor's Office, the appropriation made for this account shall be considered to have been made for the use of said Department of Insurance, and shall be used for no other purpose.

13—Treasurer's Office

Acct. No. 160

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of State Treasurer</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$37,140.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$5,955.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$6,630.00</td>
</tr>
<tr>
<td>Total</td>
<td>$55,725.00</td>
</tr>
</tbody>
</table>

14—Sinking Fund Commission

Acct. No. 170

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$9,840.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$600.00</td>
</tr>
<tr>
<td>Total</td>
<td>$10,440.00</td>
</tr>
</tbody>
</table>

15—State Tax Commissioner

Acct. No. 180

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Tax Commissioner</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$326,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$106,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>Legal and Technical Services</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>Total</td>
<td>$459,000.00</td>
</tr>
</tbody>
</table>

This appropriation shall include all expenditures for the operation of the Gasoline Department formerly appropriated from the State Road Fund.
### 16—West Virginia Board of Control

**Acct. No. 190**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries of the three members</td>
<td>$17,999.97</td>
<td>$17,999.97</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>31,300.00</td>
<td>31,300.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>10,000.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
</tr>
</tbody>
</table>

Total: $60,799.97

Of the amount approved for other personal services, $9,000.00 for each year of the biennium may be expended only for the employment of a farm supervisor and a construction engineer on state-owned or leased property.

### 17—Director of the Budget

**Acct. No. 210**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services, including</td>
<td>$44,260.00</td>
<td>$44,260.00</td>
</tr>
<tr>
<td>Salary of the Director of the</td>
<td>4,000.00</td>
<td>6,500.00</td>
</tr>
<tr>
<td>Budget</td>
<td>1,500.00</td>
<td>500.00</td>
</tr>
</tbody>
</table>

Total: $49,760.00

### LEGAL

### 18—Attorney General

**Acct. No. 240**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Attorney General</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>40,500.00</td>
<td>40,500.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>4,000.00</td>
<td>4,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>1,250.00</td>
<td>1,250.00</td>
</tr>
</tbody>
</table>

To protect the resources or tax structure of the State in controversies or legal proceedings affecting same. Any unexpended balance remaining in
10. this fund at the close of the fiscal year 1947-48 is hereby reappropriated for expenditure during the fiscal year 1948-49.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1948-49</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>Total</td>
<td>$61,750.00</td>
</tr>
</tbody>
</table>

19—State Court of Claims
Acct. No. 243

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$16,950.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$3,815.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$600.00</td>
</tr>
<tr>
<td>Total</td>
<td>$21,365.00</td>
</tr>
</tbody>
</table>

INCORPORATING AND RECORDING

21—Secretary of State
Acct. No. 250

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Secretary of State</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$19,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Total</td>
<td>$31,000.00</td>
</tr>
</tbody>
</table>

22—State Election Commission
Acct. No. 256

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

CUSTODIAL AND SERVICE

23—Capitol Building and Grounds
Acct. No. 270

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$86,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$40,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>Total</td>
<td>$151,000.00</td>
</tr>
</tbody>
</table>
The Workmen’s Compensation Commission, Department of Public Assistance and the West Virginia Public Service Commission shall reimburse the Current Expense appropriation of the Central Mailing Office monthly for all meter service. Any spending unit receiving reimbursement for postage costs from the Federal Government shall refund to the Current Expense account of the Central Mailing Office such amounts. Should this appropriation for Current Expense be insufficient to meet the mailing requirements of the State spending units as set out above, any excess postage meter service requirements shall be a proper charge against the units, and each spending unit shall refund to the Current Expense appropriation of the Central Mailing Office any amounts required for that Department for postage in excess of this appropriation.
### 25—Department of Purchases

**Acct. No. 290**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Director of Purchases</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>39,360.00</td>
<td>40,140.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>7,000.00</td>
<td>7,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>1,600.00</td>
<td>1,000.00</td>
</tr>
<tr>
<td>5 For Shelving in Stockroom for State Supreme Court Reports</td>
<td>5,000.00</td>
<td></td>
</tr>
</tbody>
</table>

**Total**                                                                 | $58,960.00 | $54,140.00

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

**Acct. No. 295**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 State Aid to supplement the General School Fund</td>
<td>$34,721,968.00</td>
<td>$34,721,968.00</td>
</tr>
<tr>
<td>2 To be transferred to the General School Fund upon the requisition of the Governor.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 To be distributed according to law except an amount not exceed $40,000.00 for each year of the biennium, which sum shall be available to the State Board of School Finance to aid counties in providing instruction for home-bound crippled children under such rules and regulations for instruction of home-bound crippled children as may be adopted by the State Board of Education as provided by chapter eighteen, article two, section five, of the West Virginia code, one thousand nine hundred thirty-one, as amended</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 28—Department of Education—Textbook Aid

**Acct. No. 297**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Textbooks for Schools</td>
<td>$125,000.00</td>
<td>$125,000.00</td>
</tr>
<tr>
<td>To be distributed according to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chapter 51, Acts of Legislature,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regular Session, 1939.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 29—Teachers Retirement Board

**Acct. No. 298**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benefit Fund—Payments to</td>
<td>$722,000.00</td>
<td>$817,000.00</td>
</tr>
<tr>
<td>Retired Teachers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expense Fund</td>
<td>$34,000.00</td>
<td>$34,000.00</td>
</tr>
<tr>
<td>Employer’s Accumulation Fund—to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Match Contribution of Members</td>
<td>$1,495,800.00</td>
<td>$1,495,800.00</td>
</tr>
<tr>
<td>Reserve Fund</td>
<td>$200,000.00</td>
<td>$200,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$2,451,800.00</td>
<td>$2,546,800.00</td>
</tr>
</tbody>
</table>

### 30—West Virginia University

**Acct. No. 300**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services, including</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salary of President</td>
<td>$2,150,000.00</td>
<td>$2,150,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$285,000.00</td>
<td>$285,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$75,000.00</td>
<td>$75,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$150,000.00</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>State Aid to Medical Students</td>
<td>$40,000.00</td>
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</tr>
<tr>
<td><strong>Total</strong></td>
<td>$2,700,000.00</td>
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<tr>
<td>Collections</td>
<td>$510,000.00</td>
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</table>

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

**Acct. No. 301**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$34,500.00</td>
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<tr>
<td>Current Expenses</td>
<td>$13,250.00</td>
<td>$13,250.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>$13,250.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$1,500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$49,750.00</td>
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</tbody>
</table>
### West Virginia University—Agricultural, Horticultural and Home Economics Extension

**Acct. No. 302**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
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<tr>
<td>Personal Services</td>
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<tr>
<td>Current Expenses</td>
<td>9,250.00</td>
<td>9,250.00</td>
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<tr>
<td>Repairs and Alterations</td>
<td>1,000.00</td>
<td>1,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>2,000.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$61,750.00</strong></td>
<td><strong>$62,750.00</strong></td>
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</table>

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

**Acct. No. 303**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$20,000.00</td>
<td>$20,000.00</td>
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<tr>
<td>Current Expenses</td>
<td>12,000.00</td>
<td>12,000.00</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>15,000.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>4,500.00</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$44,000.00</strong></td>
<td><strong>$51,500.00</strong></td>
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</table>

### West Virginia University—Cooperation with Oglebay Institute

**Acct. No. 304**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Unclassified—Total</td>
<td>$2,500.00</td>
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### West Virginia University—Extension Division

**Acct. No. 305**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>To Pay Salaries and Traveling</td>
<td>$85,000.00</td>
<td>$85,000.00</td>
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<tr>
<td>Expenses of County Agricultural Agents</td>
<td>$44,000.00</td>
<td>$44,000.00</td>
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<td><strong>Total</strong></td>
<td><strong>$129,000.00</strong></td>
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### West Virginia University—Engineering Experiment Station

**Acct. No. 306**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$7,700.00</td>
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<tr>
<td>Current Expenses</td>
<td>1,900.00</td>
<td>2,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>4,200.00</td>
<td>3,300.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$13,800.00</strong></td>
<td><strong>$13,000.00</strong></td>
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West Virginia University—Gas and Petroleum Research
Acct. No. 309

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$11,000.00</td>
<td>$11,000.00</td>
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<td>2 Total</td>
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West Virginia University—Agricultural Experiment Station
Acct. No. 310

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$48,400.00</td>
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</tr>
<tr>
<td>2 Current Expenses</td>
<td>$11,500.00</td>
<td>$11,800.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$6,000.00</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$8,400.00</td>
<td>$6,800.00</td>
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<td>5 Total</td>
<td>$74,300.00</td>
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West Virginia University—Experiment Farm—Kearneysville
Acct. No. 311

<table>
<thead>
<tr>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>1 Current Expenses</td>
<td>$6,400.00</td>
<td>$6,600.00</td>
</tr>
<tr>
<td>2 Equipment</td>
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<td>$2,300.00</td>
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<tr>
<td>3 Total</td>
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West Virginia University—Reymann Memorial Farm
Acct. No. 312

<table>
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<tr>
<th>Description</th>
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<th>Amount</th>
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<tbody>
<tr>
<td>1 Current Expenses</td>
<td>$3,800.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>2 Equipment</td>
<td>$5,000.00</td>
<td></td>
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<tr>
<td>3 Total</td>
<td>$8,800.00</td>
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West Virginia University—Experiment Farm—Reedsville
Acct. No. 314

<table>
<thead>
<tr>
<th>Description</th>
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<th>Amount</th>
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<tr>
<td>1 Current Expenses</td>
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<td>$6,600.00</td>
</tr>
<tr>
<td>2 Total</td>
<td>$6,400.00</td>
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35—Potomac State School of West Virginia University
Acct. No. 315

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1 Personal Services, including</td>
<td></td>
<td>$124,600.00</td>
</tr>
<tr>
<td>2 Salary of President</td>
<td>$124,600.00</td>
<td>$124,600.00</td>
</tr>
<tr>
<td>---</td>
<td>-------------------------------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses...............</td>
<td>20,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations.......</td>
<td>8,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>5,000.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>$ 157,600.00</td>
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<tr>
<td>7</td>
<td>Collections</td>
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<tr>
<td>36</td>
<td>Personal Services, including</td>
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<tr>
<td>2</td>
<td>Salary of President</td>
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<td>3</td>
<td>Current Expenses</td>
<td>70,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations.......</td>
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<tr>
<td>5</td>
<td>Equipment</td>
<td>50,000.00</td>
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<tr>
<td>6</td>
<td>Building, Payment to Fairfield</td>
<td>5,000.00</td>
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<td>7</td>
<td>Stadium Corporation</td>
<td>2,600.00</td>
</tr>
<tr>
<td>8</td>
<td>Flood Wall Assessment</td>
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<td>9</td>
<td>Total</td>
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<td>Collections</td>
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<td>37</td>
<td>Personal Services, including</td>
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<td>2</td>
<td>Salary of President</td>
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<td>3</td>
<td>Current Expenses</td>
<td>18,500.00</td>
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<tr>
<td>4</td>
<td>Repairs and Alterations.......</td>
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<tr>
<td>5</td>
<td>Equipment</td>
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<tr>
<td>6</td>
<td>Total</td>
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<tr>
<td>7</td>
<td>Collections</td>
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### 39—West Liberty State College
**Acct. No. 323**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td>$122,500.00</td>
<td>$122,500.00</td>
</tr>
<tr>
<td>2 Salary of President</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$5,000.00</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$5,000.00</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$147,500.00</td>
<td>$143,500.00</td>
</tr>
<tr>
<td>6 Total</td>
<td>$147,500.00</td>
<td>$143,500.00</td>
</tr>
<tr>
<td>7 Collections</td>
<td>$30,000.00</td>
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### 40—Shepherd College
**Acct. No. 324**

<table>
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<tr>
<th>Item</th>
<th>Amount</th>
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</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td>$90,000.00</td>
<td>$90,000.00</td>
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<tr>
<td>2 Salary of President</td>
<td>$15,400.00</td>
<td>$15,400.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$4,800.00</td>
<td>$4,800.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$115,200.00</td>
<td>$115,200.00</td>
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<td>6 Total</td>
<td>$115,200.00</td>
<td>$115,200.00</td>
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<tr>
<td>7 Collections</td>
<td>$24,000.00</td>
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### 41—Concord College
**Acct. No. 325**

<table>
<thead>
<tr>
<th>Item</th>
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<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td>$175,000.00</td>
<td>$175,000.00</td>
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<tr>
<td>2 Salary of President</td>
<td>$22,400.00</td>
<td>$22,400.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$7,500.00</td>
<td>$7,500.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
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<td>$219,900.00</td>
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<td>6 Total</td>
<td>$219,900.00</td>
<td>$219,900.00</td>
</tr>
<tr>
<td>7 Collections</td>
<td>$45,000.00</td>
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### 42—West Virginia Institute of Technology
**Acct. No. 327**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td>$224,600.00</td>
<td>$224,600.00</td>
</tr>
<tr>
<td>2 Salary of President</td>
<td>$29,000.00</td>
<td>$29,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$10,000.00</td>
<td>$7,000.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$30,000.00</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$293,600.00</td>
<td>$290,600.00</td>
</tr>
<tr>
<td>6 Total</td>
<td>$293,600.00</td>
<td>$290,600.00</td>
</tr>
<tr>
<td>7 Collections</td>
<td>$48,000.00</td>
<td>$48,000.00</td>
</tr>
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</table>
43—West Virginia State College  
Acct. No. 328

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>1950</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of President</td>
<td>$280,000.00</td>
<td>$280,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$66,000.00</td>
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<tr>
<td>3 Repairs and Alterations</td>
<td>$40,000.00</td>
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<td>4 Equipment</td>
<td>$25,000.00</td>
<td>15,000.00</td>
</tr>
<tr>
<td>5 Extension Service</td>
<td>$19,500.00</td>
<td>19,500.00</td>
</tr>
</tbody>
</table>

| 7 Total                                   | $430,500.00   | $400,500.00|
| 8 Collections                             | $60,000.00    | 60,000.00  |

44—Bluefield State College  
Acct. No. 329

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>1950</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of President</td>
<td>$125,000.00</td>
<td>$125,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$30,000.00</td>
<td>30,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$10,000.00</td>
<td>7,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$13,000.00</td>
<td>8,000.00</td>
</tr>
</tbody>
</table>

| 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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>1950</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$7,500.00</td>
<td>$7,500.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$3,750.00</td>
<td>3,750.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$1,500.00</td>
<td>1,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$2,000.00</td>
<td>2,000.00</td>
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</table>

| 5 Total                                   | $14,750.00    | $14,750.00|

46—West Virginia Schools for the Deaf and Blind  
Acct. No. 333

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>1950</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of Superintendent</td>
<td>$165,000.00</td>
<td>$165,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$75,000.00</td>
<td>75,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$10,000.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$10,000.00</td>
<td>6,000.00</td>
</tr>
</tbody>
</table>

| 6 Total                                   | $260,000.00   | $256,000.00|
### 47—West Virginia School for the Colored Deaf and Blind

**Acct. No. 334**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services, including</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Salary of Superintendent</td>
<td>$25,000.00</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$16,250.00</td>
<td>$16,250.00</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>$4,000.00</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>$3,500.00</td>
<td>$2,500.00</td>
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<tr>
<td><strong>6</strong></td>
<td>Total</td>
<td><strong>$48,750.00</strong></td>
<td><strong>$46,750.00</strong></td>
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### 48—State Board of Education—Storer College

**Acct. No. 338**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>To Pay Storer College for use</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>of Plant and Facilities for</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>West Virginia students</td>
<td>$15,000.00</td>
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### 49—Department of Archives and History

**Acct. No. 340**

<table>
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<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services, including</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Salary of State Archivist and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Historian</td>
<td>$11,000.00</td>
<td>$11,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses</td>
<td>$3,000.00</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td><strong>6</strong></td>
<td>Total</td>
<td><strong>$15,500.00</strong></td>
<td><strong>$15,500.00</strong></td>
</tr>
</tbody>
</table>

7 All revenues from sales of the above spending unit, including periodicals, magazines, etc., shall be deposited to State Fund—General Revenue.

### 50—West Virginia Library Commission

**Acct. No. 350**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$11,200.00</td>
<td>$11,200.00</td>
</tr>
<tr>
<td>2</td>
<td>Current Expenses</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>4</td>
<td>Books and Periodicals</td>
<td>$7,000.00</td>
<td>$7,000.00</td>
</tr>
<tr>
<td><strong>5</strong></td>
<td>Total</td>
<td><strong>$20,700.00</strong></td>
<td><strong>$20,700.00</strong></td>
</tr>
</tbody>
</table>
### CHARITIES AND CORRECTION

**51—West Virginia Industrial School for Boys**  
Acct. No. 370

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Salary of Superintendent</td>
<td>$90,000.00</td>
<td>$90,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$65,000.00</td>
<td>$65,000.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$10,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$10,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$175,000.00</strong></td>
<td><strong>$166,000.00</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>From Collections</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td><strong>$175,000.00</strong></td>
<td><strong>$166,000.00</strong></td>
</tr>
</tbody>
</table>

6 Out of the appropriation for  
7 Personal Services, $600.00  
8 shall be paid each year in  
9 monthly installments to each  
10 of the following persons:  
11 Lelia Arnett, widow of U. G. Arnett, killed by an inmate  
12 while on duty.  
13 George A. Barnard, employee,  
14 permanently disabled by an  
15 inmate while on duty.

### 52—West Virginia Industrial School for Colored Boys**  
Acct. No. 371

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Salary of Superintendent</td>
<td>$18,000.00</td>
<td>$18,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$20,000.00</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$3,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$10,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$51,000.00</strong></td>
<td><strong>$42,000.00</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>From Collections</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td><strong>$51,000.00</strong></td>
<td><strong>$42,000.00</strong></td>
</tr>
</tbody>
</table>

### 53—West Virginia Industrial Home for Girls**  
Acct. No. 372

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Salary of Superintendent</td>
<td>$44,500.00</td>
<td>$44,500.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$40,000.00</td>
<td>$40,000.00</td>
</tr>
</tbody>
</table>
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 Warden...$ 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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$65,000.00</td>
<td>$65,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$81,500.00</td>
<td>$81,500.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$10,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$12,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$168,500.00</td>
<td>$157,500.00</td>
</tr>
</tbody>
</table>

58—West Virginia Children's Home
   Acct. No. 380

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of Superintendent</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$16,000.00</td>
<td>$16,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$3,000.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$2,000.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$36,000.00</td>
<td>$33,000.00</td>
</tr>
<tr>
<td>7 From Collections</td>
<td>$3,500.00</td>
<td>$3,500.00</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of Superintendent</td>
<td>$8,160.00</td>
<td>$8,160.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$12,000.00</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$4,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$4,525.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$23,685.00</td>
<td>$23,660.00</td>
</tr>
</tbody>
</table>

60—West Virginia Home for Aged and Infirm Colored Men and Women
   Acct. No. 382

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of Superintendent</td>
<td>$16,500.00</td>
<td>$16,500.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$25,000.00</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>4 Repairs and Alterations</td>
<td>$3,500.00</td>
<td>$3,500.00</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>From Collections</td>
<td></td>
</tr>
</tbody>
</table>

**61—West Virginia Training School**  
Acct. No. 383

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

**62—Andrew S. Rowan Memorial Home**  
Acct. No. 384

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

**HEALTH AND WELFARE**

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Commissioner</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
</tr>
<tr>
<td>5</td>
<td>Cancer Control and Treatment</td>
</tr>
<tr>
<td>6</td>
<td>Hospitalization of Needy Tubercular</td>
</tr>
<tr>
<td>7</td>
<td>Tuberculosis Field Clinic and Nursing Service—To be expended in cooperation with West Virginia Tuberculosis</td>
</tr>
<tr>
<td>Account Description</td>
<td>Amount</td>
</tr>
<tr>
<td>----------------------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>12 and Health Association</td>
<td>10,000.00</td>
</tr>
<tr>
<td>13 Total</td>
<td>628,000.00</td>
</tr>
<tr>
<td>14 From Collections</td>
<td>20,000.00</td>
</tr>
</tbody>
</table>

64—State Water Commission

Acct. No. 401

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>19,200.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>6,300.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>2,300.00</td>
</tr>
<tr>
<td>4 For cooperation with the U. S. Geological Survey for a program of stream gauging</td>
<td>1,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>28,800.00</strong></td>
</tr>
</tbody>
</table>

65—State Committee of Barbers and Beauticians

Acct. No. 402

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of Director</td>
<td>19,540.00</td>
<td>19,540.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>10,460.00</td>
<td>10,460.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>30,000.00</strong></td>
<td></td>
</tr>
<tr>
<td>From Collections</td>
<td><strong>30,000.00</strong></td>
<td></td>
</tr>
</tbody>
</table>

66—Bureau of Negro Welfare and Statistics

Acct. No. 403

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Director</td>
<td>3,600.00</td>
<td>3,600.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>5,000.00</td>
<td>5,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>3,000.00</td>
<td>4,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>150.00</td>
<td>100.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>11,750.00</strong></td>
<td></td>
</tr>
</tbody>
</table>

67—West Virginia Department of Veterans Affairs

Acct. No. 404

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services, including Salary of Director</td>
<td>100,000.00</td>
<td>100,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>50,000.00</td>
<td>50,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>10,000.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td>5 To Provide Educational Opportunities for Children of</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Description</td>
<td>Amount</td>
</tr>
<tr>
<td>---</td>
<td>-----------------------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>7</td>
<td>War Veterans as provided by Chapter 39, Acts of the Legislature, 1943</td>
<td>5,000.00</td>
</tr>
<tr>
<td>10</td>
<td>Total</td>
<td>$165,000.00</td>
</tr>
</tbody>
</table>

68—Department of Public Assistance
Acct. No. 405

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Public Assistance Grants</td>
<td>$3,873,970.00</td>
<td>$3,873,970.00</td>
</tr>
<tr>
<td>3</td>
<td>General Relief Grants</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Aid to Crippled Children</td>
<td>300,000.00</td>
<td>300,000.00</td>
</tr>
<tr>
<td>5</td>
<td>General Medical and Hospitalization</td>
<td>450,000.00</td>
<td>450,000.00</td>
</tr>
<tr>
<td>7</td>
<td>Conservation of Vision and Prevention of Blindness</td>
<td>25,000.00</td>
<td>25,000.00</td>
</tr>
<tr>
<td>9</td>
<td>Child Welfare Services</td>
<td>300,000.00</td>
<td>300,000.00</td>
</tr>
<tr>
<td>10</td>
<td>Direct Relief</td>
<td>345,000.00</td>
<td>345,000.00</td>
</tr>
<tr>
<td>12</td>
<td>To Pay Expenses for Distribution of Government Donated</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Food</td>
<td>15,000.00</td>
<td>15,000.00</td>
</tr>
<tr>
<td>14</td>
<td>Total</td>
<td>$5,308,970.00</td>
<td>$5,308,970.00</td>
</tr>
</tbody>
</table>

The totals of the various items of this appropriation shall include cost of administration thereof: Provided, however, that none of the funds so appropriated for administrative items of any nature whatsoever shall be available for expenditure except and unless the spending unit comply fully with the provisions of sections 25, 26 and 27, article 5, chapter 39, Acts of the Legislature, 1939.

The unexpended balance, if any, remaining in the appropriation for this department...
as of June 30, 1947, is hereby reappropriated for expenditure in the fiscal years 1947-48 and 1948-49.

Of the total funds from all sources, state, county and federal, for classified aid and direct relief for each fiscal year made available to the Department of Public Assistance for all programs, not more than seven per cent thereof shall be used for the combined overhead expenses of the state and county departments for each fiscal year. The term "overhead" shall include all "administration" and "service" costs and all other charges and expenses incidental to the distribution of net grants and awards in classified and general relief assistance.

Provided further, That in cases involving children and in which the restrictions, of the Standard Budget or Guide, work a distinct and distressing hardship on persons trying, through employment, to help themselves, and which come to the Director of the state department on appeal, the sum of $5,000.00 a year may be used to correct inequities at the discretion of the Director, but in no case shall 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**

<table>
<thead>
<tr>
<th>1 Personal Services, including</th>
<th>2 Salary of Superintendent</th>
<th>3 Current Expenses</th>
<th>4 Repairs and Alterations</th>
<th>5 Equipment</th>
<th>6 Total</th>
<th>7 From Collections</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$320,000.00</td>
<td>$290,000.00</td>
<td>$20,000.00</td>
<td>$20,000.00</td>
<td>$650,000.00</td>
<td>$100,000.00</td>
</tr>
</tbody>
</table>

**70—Spencer State Hospital**

**Acct. No. 421**

<table>
<thead>
<tr>
<th>1 Personal Services, including</th>
<th>2 Salary of Superintendent</th>
<th>3 Current Expenses</th>
<th>4 Repairs and Alterations</th>
<th>5 Equipment</th>
<th>6 Total</th>
<th>7 From Collections</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$100,000.00</td>
<td>$137,500.00</td>
<td>$12,000.00</td>
<td>$6,500.00</td>
<td>$256,000.00</td>
<td>$25,000.00</td>
</tr>
</tbody>
</table>

**71—Huntington State Hospital**

**Acct. No. 422**

<table>
<thead>
<tr>
<th>1 Personal Services, including</th>
<th>2 Salary of Superintendent</th>
<th>3 Current Expenses</th>
<th>4 Repairs and Alterations</th>
<th>5 Equipment</th>
<th>6 Total</th>
<th>7 From Collections</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$125,000.00</td>
<td>$200,000.00</td>
<td>$12,000.00</td>
<td>$10,000.00</td>
<td>$347,000.00</td>
<td>$110,000.00</td>
</tr>
</tbody>
</table>

**72—Lakin State Hospital**

**Acct. No. 423**

<table>
<thead>
<tr>
<th>1 Personal Services, including</th>
<th>2 Salary of Superintendent</th>
<th>3 Current Expenses</th>
<th>4 Repairs and Alterations</th>
<th>5 Equipment</th>
<th>6 Total</th>
<th>7 From Collections</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$45,000.00</td>
<td>$68,750.00</td>
<td></td>
<td></td>
<td>$45,000.00</td>
<td>$68,750.00</td>
</tr>
</tbody>
</table>
### Ch. 27]  
**GENERAL APPROPRIATIONS**

<table>
<thead>
<tr>
<th></th>
<th>4 Repairs and Alterations</th>
<th>5 Equipment</th>
<th>6 Total</th>
<th>7 From Collections</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>15,000.00</td>
<td>6,000.00</td>
<td>134,750.00</td>
<td>18,000.00</td>
</tr>
<tr>
<td></td>
<td>5,000.00</td>
<td>6,000.00</td>
<td>124,750.00</td>
<td>18,000.00</td>
</tr>
</tbody>
</table>

#### 73—Huntington State Hospital—Barboursville Unit  
Acct. No. 424

<table>
<thead>
<tr>
<th></th>
<th>1 Personal Services, including</th>
<th>2 Salary of Superintendent</th>
<th>3 Current Expenses</th>
<th>4 Repairs and Alterations</th>
<th>5 Equipment</th>
<th>6 Total</th>
<th>7 From Collections</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>45,000.00</td>
<td>75,000.00</td>
<td>6,000.00</td>
<td>10,000.00</td>
<td>136,000.00</td>
<td>132,000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>45,000.00</td>
<td>75,000.00</td>
<td>6,000.00</td>
<td>10,000.00</td>
<td>136,000.00</td>
<td>132,000.00</td>
</tr>
</tbody>
</table>

#### 74—Fairmont Emergency Hospital  
Acct. No. 425

<table>
<thead>
<tr>
<th></th>
<th>1 Personal Services, including</th>
<th>2 Salary of Superintendent</th>
<th>3 Current Expenses</th>
<th>4 Repairs and Alterations</th>
<th>5 Equipment</th>
<th>6 Total</th>
<th>7 From Collections</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>48,000.00</td>
<td>45,000.00</td>
<td>2,000.00</td>
<td>3,000.00</td>
<td>103,500.00</td>
<td>98,000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>48,000.00</td>
<td>45,000.00</td>
<td>2,000.00</td>
<td>3,000.00</td>
<td>103,500.00</td>
<td>98,000.00</td>
</tr>
</tbody>
</table>

#### 75—Welch Emergency Hospital  
Acct. No. 426

<table>
<thead>
<tr>
<th></th>
<th>1 Personal Services, including</th>
<th>2 Salary of Superintendent</th>
<th>3 Current Expenses</th>
<th>4 Repairs and Alterations</th>
<th>5 Equipment</th>
<th>6 Total</th>
<th>7 From Collections</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>44,800.00</td>
<td>42,000.00</td>
<td>5,000.00</td>
<td>4,000.00</td>
<td>95,800.00</td>
<td>95,800.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>44,800.00</td>
<td>42,000.00</td>
<td>5,000.00</td>
<td>4,000.00</td>
<td>95,800.00</td>
<td>95,800.00</td>
</tr>
</tbody>
</table>

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
<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Budget 1</th>
<th>Budget 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>70,000.00</td>
<td>70,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>6,000.00</td>
<td>6,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>7,000.00</td>
<td>7,000.00</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>133,000.00</td>
<td>133,000.00</td>
</tr>
<tr>
<td>7</td>
<td>From Collections</td>
<td>36,000.00</td>
<td>36,000.00</td>
</tr>
</tbody>
</table>

79—West Virginia Board of Control—West Virginia Foundation for Crippled Children—“Pines”
Acct. No. 433
1. For use of plant and facilities for West Virginia patients...$ 2,500.00
2. For use of plant and facilities for West Virginia patients...$ 10,000.00

81—West Virginia Board of Control—Morris Memorial Hospital
Acct. No. 435
1. For use of plant and facilities for West Virginia patients...$ 10,000.00

82—Berkeley Springs Sanitarium
Acct. No. 436
1. Personal Services, including Salary of Superintendent...$ 10,000.00
2. Repairs and Alterations...$ 5,000.00
3. Equipment...$ 750.00
4. Total...$ 17,250.00
5. From Collections...$ 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
2. Other Personal Services...$ 90,000.00
3. Current Expenses...$ 50,000.00
4. Equipment...$ 2,500.00
5. Total...$ 148,500.00
### 84—Department of Mines

Acct. No. 460

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Chief</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$340,000.00</td>
<td>$340,000.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$100,000.00</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$456,000.00</strong></td>
<td><strong>$456,000.00</strong></td>
</tr>
</tbody>
</table>

### 85—Public Service Commission

Acct. No. 470

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of three members of the Public Service Commission</td>
<td>$13,500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$13,500.00</strong></td>
</tr>
</tbody>
</table>

### 86—Commission on Interstate Cooperation

Acct. No. 472

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Total</td>
<td>$6,500.00</td>
</tr>
<tr>
<td>2 Out of the above appropriation</td>
<td></td>
</tr>
<tr>
<td>3 the sum of $4,000.00 may be made available for West Virginia's membership in the Council of State Governments</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$6,500.00</strong></td>
</tr>
</tbody>
</table>

### 87—Interstate Commission on Potomac River Basin

Acct. No. 473

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 West Virginia's contribution to Potomac River Basin Interstate Commission</td>
<td>$2,700.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,700.00</strong></td>
</tr>
</tbody>
</table>

### 89—Department of Banking

Acct. No. 480

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Commissioner</td>
<td>$6,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$37,080.00</td>
<td>$37,580.00</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$18,000.00</td>
<td>$18,000.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$61,580.00</strong></td>
<td><strong>$62,080.00</strong></td>
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</table>

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount 1</th>
<th>Amount 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 From Collections</td>
<td>$45,000.00</td>
<td>$45,000.00</td>
</tr>
</tbody>
</table>
Ch. 27] GENERAL APPROPRIATIONS 141

90—Board of Aeronautics
Acct. No. 485

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$10,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$5,000</td>
<td>$5,000</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$3,000</td>
<td>$3,000</td>
</tr>
<tr>
<td>4 Airport Development</td>
<td>$5,000</td>
<td>$5,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$23,000</strong></td>
<td><strong>$23,000</strong></td>
</tr>
</tbody>
</table>

91—West Virginia Industrial and Publicity Commission
Acct. No. 486

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$25,000</td>
<td>$25,000</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$40,000</td>
<td>$40,000</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$2,500</td>
<td>$2,500</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$67,500</strong></td>
<td><strong>$65,000</strong></td>
</tr>
</tbody>
</table>

92—West Virginia Non-Intoxicating Beer Commission
Acct. No. 490

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$64,500</td>
<td>$64,500</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$41,000</td>
<td>$41,000</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$500</td>
<td>$500</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$106,000</strong></td>
<td><strong>$106,000</strong></td>
</tr>
</tbody>
</table>

93—West Virginia Racing Commission
Acct. No. 495

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 To pay per diem of members</td>
<td>$20,000</td>
<td>$20,000</td>
</tr>
</tbody>
</table>

AGRICULTURE

95—Department of Agriculture
Acct. No. 510

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of Commissioner</td>
<td>$6,000</td>
<td>$6,000</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$105,000</td>
<td>$105,000</td>
</tr>
<tr>
<td>3 Current Expenses</td>
<td>$65,000</td>
<td>$65,000</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$6,000</td>
<td>$6,000</td>
</tr>
<tr>
<td>5 For the Eradication and Prevention of Livestock Diseases</td>
<td>$6,000</td>
<td>$6,000</td>
</tr>
<tr>
<td>Item</td>
<td>Fiscal Year 1</td>
<td>Fiscal Year 2</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------</td>
<td>--------------</td>
</tr>
<tr>
<td>8  rection of the Commissioner</td>
<td>65,000.00</td>
<td>65,000.00</td>
</tr>
<tr>
<td>9  of Agriculture</td>
<td>25,000.00</td>
<td>25,000.00</td>
</tr>
<tr>
<td>10 Aid to Dairy Development Program</td>
<td>25,000.00</td>
<td>25,000.00</td>
</tr>
<tr>
<td>12 Total</td>
<td>272,000.00</td>
<td>272,000.00</td>
</tr>
<tr>
<td>13 From Collections</td>
<td>35,000.00</td>
<td>35,000.00</td>
</tr>
</tbody>
</table>

96—Department of Agriculture—Soil Conservation Committee

Acct. No. 512

1 To pay per diem and travel expenses of District Supervisors and Other General Expenses of the Soil Conservation Committee

- $35,000.00

98—Department of Agriculture—Agricultural Awards

Acct. No. 515

1 Incorporated County and District Fairs, 4-H Fairs and Exhibits and Vocational Agriculture Fairs and Exhibits

- $11,000.00

5 State Agricultural Fairs and Agricultural and Industrial Exhibits

- $22,000.00

8 Total

- $33,000.00

9 To be expended at the direction of the Commissioner of Agriculture for awards to prize winners at Agricultural Fairs and Exhibits.

CONSERVATION AND DEVELOPMENT

99—West Virginia Geological Survey

Acct. No. 520

1 Personal Services, including Salary of State Geologist

- $50,000.00

3 Current Expenses

- $20,000.00
**GENERAL APPROPRIATIONS**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 Equipment</td>
<td>$5,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>$75,000.00</td>
<td>$82,000.00</td>
</tr>
<tr>
<td>6 From Collections</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
</tr>
</tbody>
</table>

Of the above appropriation for Current Expenses not more than $3,200.00 may be used each year of the biennium to cooperate with the United States Geological Survey in Ground Waters Resources Study.

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

**Acct. No. 521**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$27,500.00</td>
<td>$27,500.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$3,000.00</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>4 Buildings</td>
<td>$6,000.00</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>5 White Pine Blister Rust Control</td>
<td>$5,500.00</td>
<td>$5,500.00</td>
</tr>
<tr>
<td>7 For Soil Conservation, Prevention of Soil Erosion, Forestry Service and Private Forestry Service Programs, any part of which may be used for the purpose of matching Federal Funds</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>14 Total</td>
<td>$60,000.00</td>
<td>$58,000.00</td>
</tr>
</tbody>
</table>

101—Conservation Commission—Division of State Parks

**Acct. No. 522**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$51,000.00</td>
<td>$51,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$34,000.00</td>
<td>$34,000.00</td>
</tr>
<tr>
<td>3 Repairs and Alterations</td>
<td>$17,500.00</td>
<td>$17,500.00</td>
</tr>
<tr>
<td>4 Equipment</td>
<td>$17,500.00</td>
<td>$17,500.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>$120,000.00</td>
<td>$120,000.00</td>
</tr>
</tbody>
</table>
103—Conservation Commission—Clarke-McNary
   Acct. No. 523
   1 For cooperation with the United States Department of Agriculture in Fire Prevention
   2 and Control $75,000.00 $75,000.00

104—Droop Mountain Battlefield Monument
   Acct. No. 560
   1 For Maintenance of Historical Monument $100.00
   2 $100.00

105—Point Pleasant Battle Monument Commission
   Acct. No. 561
   1 For Maintenance of Historical Monument $1,800.00 $1,500.00
   2 $1,500.00

106—Rumseyan Society
   Acct. No. 562
   1 For Maintenance of Historical Monument $200.00
   2 $200.00

107—Morgan Morgan Memorial
   Acct. No. 563
   1 For Maintenance of Historical Monument $25.00
   2 $25.00

108—Grafton G. A. R. Post
   Acct. No. 564
   1 In aid of Memorial Day Patriotic Exercises $500.00
   2 $500.00
   3 To be expended subject to the approval of the Board of Public Works upon presentation of satisfactory plans by the Grafton G. A. R. Post, American Legion, Veterans of Foreign Wars and Sons of Veterans.
**PROTECTION**

109—Department of Public Safety  
Acct. No. 570

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Superintendent</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>$602,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$461,500.00</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>$18,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>$65,000.00</td>
</tr>
</tbody>
</table>

Total: $1,152,500.00

Out of the appropriation for "Current Expenses" there may be expended not to exceed $255,500.00 for each year of the biennium for subsistence only for officers and enlisted men.

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Salary of Adjutant General</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Other Personal Services</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>$100,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>$4,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>$1,300.00</td>
</tr>
<tr>
<td>6</td>
<td>Compensation of Commanding Officers, Clerical Services and Care of Property</td>
<td>$54,525.00</td>
</tr>
</tbody>
</table>

Total: $184,825.00

111—West Virginia Board of Control—Insurance  
Acct. No. 585

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Fire Insurance Premiums</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Boiler Insurance Premiums</td>
<td>$8,000.00</td>
</tr>
</tbody>
</table>

Total: $58,000.00

To pay insurance premiums on buildings and contents and
6 boilers of state institutions:

7 Provided, however, That in-

8 surance 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-
<table>
<thead>
<tr>
<th></th>
<th>General Appropriations</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ch. 27]</td>
<td>147</td>
</tr>
<tr>
<td>3</td>
<td>penses $5,000.00 $5,000.00</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>From Collections 5,000.00 5,000.00</td>
<td></td>
</tr>
</tbody>
</table>

117—State Board of Osteopathy
Acct. No. 591
1 To pay the per diem of members and other general expenses
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 members and other general expenses
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 members and other general expenses
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 members and other general expenses
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 members and other general expenses
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 members and other general expenses
3 penses $2,000.00 $2,000.00
4 From Collections 2,000.00 2,000.00
148

GENERAL APPROPRIATIONS

[Ch. 27

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>penses $500.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>4</td>
<td>From Collections $500.00</td>
<td>$500.00</td>
</tr>
</tbody>
</table>

123—State Board of Law Examiners
Acct. No. 597

1 To pay the per diem of members and other general expenses $1,500.00 $1,500.00

124—Treasurer’s Office—Bonded Obligations
Acct. No. 599

1 To pay the principal and interest requirements of refunding bonds authorized under Chapter 58, Acts of the Legislature, First Extraordinary Session, 1933, to pay non-bonded debts existing at the time of the adoption of the 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 cent of premium receipts of fire insurance companies collected by the Insurance Commissioner as provided by Chapter 29, Article 3, Section 24, Code of West Virginia, 1931 is hereby appropriated for the purpose of paying the operating expenses of the Fire Marshal’s Office, including salaries, compensation, costs and expenses of employees, and all other expenses necessary for administering such law.
### 126—Public Service Commission
#### Acct. No. 661-a

**TO BE PAID FROM SPECIAL REVENUE FUND**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$167,280.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$22,320.00</td>
</tr>
<tr>
<td>3 Equipment</td>
<td>$5,400.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$195,000.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from Special Revenue Fund out of collections for special license fees from public service corporations as provided by law.

Out of the above appropriation, not more than $800.00 may be expended annually for the maintenance of the office of the General Solicitor of the National Association of Railroads and Utilities Commissioners, and for representation in matters before the Interstate Commerce Commission and other Federal Departments at Washington, D.C.

Out of the above appropriation, $5,000.00 may be transferred annually to the U.S. Geological Survey in a program of stream gauging.

---

### 126-a—Public Service Commission—Motor Carrier Division
#### Acct. No. 662

1 All special assessment fees or other receipts collected for or by the Public Service Commission pursuant to and in
the exercise of regulatory authority over motor carriers, to be paid into the special fund designated "Public Service Commission Motor Carrier Fund", as authorized by law, are hereby appropriated for the purpose of paying the expenses of the Commission, salaries of the Commissioners and the salaries, compensation, costs and expenses of its employees in administering such law, and for the expenditures by the Public Service Commission for the administration of such regulation, as authorized and provided by law: Provided, however, That no expenditure shall be made from moneys hereby appropriated except in compliance with and in conformity to the provisions of chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine; and the Public Service Commission shall, by proper minute order, file with the Director of the Budget on July 1, 1947, an exact schedule of all encumbrances against the Public Service Commission—Motor Carrier Division Fund as of that date, and shall thereafter submit to the Director of the Budget for approval all payrolls, requisitions for pur-
chases, contracts and other prospective encumbrances.

The unexpended balance remaining in the “Public Service Commission Motor Carrier Fund” as of June thirty, one thousand nine hundred forty-seven, accruing from any and all collections there- tofore made by or for the Public Service Commission is hereby reappropriated for expenditure in fiscal years 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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Director</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$32,400.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$3,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$71,400.00</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from the Special Revenue Fees collected by the Conservation Commission. Above items are for administration purposes only and shall not be construed as a limit upon the expenditures from the Special Revenue collections of said department, except for administration. In addition to the above appropriation for administration the sum of $5,000.00 may be
transferred annually from the special revenue collections of said department to the State Water Commission for use in cooperation with the U. S. Geological Survey in a program of stream gauging.

128—West Virginia Liquor Control Commission

Acct. No. 667

TO BE PAID FROM SPECIAL REVENUE FUND

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries of three members of the Commission</td>
<td>$18,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$345,000.00</td>
</tr>
<tr>
<td>4 Current Expenses</td>
<td>$35,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$398,000.00</strong></td>
</tr>
</tbody>
</table>

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

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

There is hereby appropriated from liquor revenues, in addition to the above appropriation, the necessary amounts to pay salaries of store personnel, store inspectors, store operating expenses, purchase of liquor and transportation thereof, and purchase of administration equipment, including expenses deemed necessary by the commission in
connection with its liquor rationing program. Provided, however, That no expenditures shall be made from moneys hereby appropriated, except in compliance with and in conformity to the provisions of chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine. The State Liquor Control Commission shall, by proper minute order, file with the Director of the Budget, on July 1, 1947, an exact schedule of all encumbrances against the liquor revenues as of that date, and shall thereafter submit to the Director of the Budget for approval all payrolls, requisitions for purchases, contracts and other prospective encumbrances.

129—State Road Commission—General Administration and Engineering

TO BE PAID FROM THE STATE ROAD FUND

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary of Commissioner</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>Other Personal Services</td>
<td>$420,000.00</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>Equipment</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>Materials and Supplies</td>
<td>$75,000.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$546,000.00</td>
</tr>
</tbody>
</table>

In addition to the foregoing appropriations and any other appropriations or claims, as authorized by this act or by
law to be paid from the state road fund, the balance or residue of the annual receipts of the state road fund are hereby appropriated first for the payment of interest on and principal of outstanding road bonds, and thereafter for maintenance, construction and reconstruction of state roads, in accordance with the provisions of chapter seventeen, code of West Virginia, 1931, as amended: Provided, however, that no funds from the blanketed appropriations in lines 7 to 25, inclusive, shall be available for expenditure except in compliance with and in conformity to the provisions of chapter thirty-nine, acts of the Legislature, regular session, one thousand nine hundred thirty-nine. The State Road Commission shall, by proper minute order, file with the Director of the Budget, on July 1, 1947, an exact schedule of all encumbrances against the state road fund as of that date, and shall thereafter submit to the Director of the Budget for approval all payrolls, requisitions for purchases, contracts, right-of-way acquisitions, debt service requirements and other prospective encumbrances. And the Direc-
Chapter 27]

**General Appropriations**

51 The Director of the Budget shall have
52 the right to allocate expenditures under prospective encumbrances.
53
54 In the event the Legislature
55 creates a Department of Motor Vehicles there shall be
56 expended from this account
57 such amounts as the Board of
58 Public Works may deem necessary for the operation of
59 such department for each
60 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 State Board of Education ........ $ 8,000.00 $ 8,000.00
2 Such portion of the above not required by payment of salaries of members of the State Board of Education may, if required, be expended for other personal services.
3 Other Personal Services .................................. 7,500.00 7,500.00
4 Current Expenses ........................................... 4,000.00 4,500.00
5 Equipment ................................................... 300.00 300.00
6 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
### General Appropriations

#### Vocational Aid

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 Vocational Aid</td>
<td>$165,000.00</td>
</tr>
<tr>
<td>5 Total</td>
<td>$192,800.00</td>
</tr>
</tbody>
</table>

#### State Board of Education—Rehabilitation Division

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Vocational Rehabilitation Serv-</td>
<td>$150,000.00</td>
</tr>
<tr>
<td>ices</td>
<td></td>
</tr>
</tbody>
</table>

#### Department of Education

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salary of State Superintendent of Free Schools</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>2 Other Personal Services</td>
<td>$90,000.00</td>
</tr>
<tr>
<td>4 Current Expenses</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$1,950.00</td>
</tr>
<tr>
<td>6 Salaries of County Superintendents</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>8 Total</td>
<td>$182,950.00</td>
</tr>
</tbody>
</table>

#### State Board of School Finance

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$12,000.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>3 Total</td>
<td>$17,000.00</td>
</tr>
</tbody>
</table>

#### Department of Education—Hot Lunches

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$12,500.00</td>
</tr>
<tr>
<td>2 Current Expenses</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>3 Aid to Counties—Includes hot</td>
<td>$90,000.00</td>
</tr>
<tr>
<td>4 lunches and canning for hot</td>
<td></td>
</tr>
<tr>
<td>6 Total</td>
<td>$105,500.00</td>
</tr>
</tbody>
</table>
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-
vide Instruction for Home-
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

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

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

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
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
   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
   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
   3 Total $ 10,000.00

150—West Virginia Colored Children’s Home
   Acct. No. 381
   1 Current Expenses $ 2,500.00

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
   3 Total $ 4,500.00

152—West Virginia Department of Veterans Affairs
   Acct. No. 404
   1 Unclassified—Total $ 7,500.00

153—Spencer State Hospital
   Acct. No. 421
   1 Current Expenses $ 10,000.00
### General Appropriations

<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>154</td>
<td>Huntington State Hospital</td>
<td>$15,000.00</td>
</tr>
<tr>
<td></td>
<td>Acct. No. 422</td>
<td></td>
</tr>
<tr>
<td>155</td>
<td>Lakin State Hospital</td>
<td>$10,000.00</td>
</tr>
<tr>
<td></td>
<td>Acct. No. 423</td>
<td></td>
</tr>
<tr>
<td>156</td>
<td>Huntington State Hospital—Barboursville Unit</td>
<td>$7,500.00</td>
</tr>
<tr>
<td></td>
<td>Acct. No. 424</td>
<td></td>
</tr>
<tr>
<td>157</td>
<td>Welch Emergency Hospital</td>
<td>$14,500.00</td>
</tr>
<tr>
<td></td>
<td>Acct. No. 426</td>
<td></td>
</tr>
<tr>
<td>158</td>
<td>Pinecrest Sanitarium</td>
<td>$18,500.00</td>
</tr>
<tr>
<td></td>
<td>Acct. No. 431</td>
<td></td>
</tr>
<tr>
<td>159</td>
<td>Andrew S. Rowan Memorial Home</td>
<td>$10,000.00</td>
</tr>
<tr>
<td></td>
<td>Acct. No. 437</td>
<td></td>
</tr>
<tr>
<td>161</td>
<td>State Road Commission</td>
<td>$1,000,000.00</td>
</tr>
<tr>
<td></td>
<td>Acct. No. 6406</td>
<td></td>
</tr>
</tbody>
</table>

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.
162—Department of Agriculture
Acct. No. 510

1 Aid to Dairy Development .......... $ 8,800.00

162a—Conservation Commission
Clarke-McNary
Acct. No. 523

1 For cooperation with the United
2 States Department of Agricul-
3 ture 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

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

   Sec. 4. Awards for Claims Against the State.—Approp-
          rations to pay awards for claims against the state as
          approved and certified by the State Court of Claims are
          for the remainder of the fiscal year 1946-47, and to remain
          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

   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
<table>
<thead>
<tr>
<th>Claim Versus State Board of Control</th>
<th>Marshall College</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Reynolds, James</td>
<td>$ 550.00</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Claim Versus State Board of Control</th>
<th>Concord State College</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Roberts, LeRoy</td>
<td>$ 3,341.52</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Claim Versus State Conservation Commission</th>
<th>Division of State Parks</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Anderson, Melvin O</td>
<td>$ 91.27</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Claim Versus State Conservation Commission</th>
<th>Division of Forestry</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Davis, Harry E</td>
<td>$ 29.64</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Claim Versus State Health Department</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 McCuskey, Dr. William C</td>
<td>$ 383.75</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Claim Versus State Department of Mines</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 McVey, E. Y</td>
<td>$ 106.71</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Claim Versus State Department of Probation and Parole</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 DeMilia, Alfred E., Dr.</td>
<td>$ 300.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Claims Versus State Department of Public Assistance</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Shepherd, Elma</td>
<td>$ 865.00</td>
</tr>
<tr>
<td>2 Wilson, Virginia</td>
<td>$ 900.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Claims Versus State Road Commission</th>
<th>TO BE PAID FROM STATE ROAD FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Aetna Casualty &amp; Surety Co.</td>
<td>$ 30.28</td>
</tr>
<tr>
<td>2 Appalachian Electric Power Co.</td>
<td>$ 252.06</td>
</tr>
<tr>
<td>3 Archer, H. D.</td>
<td>$ 13.60</td>
</tr>
<tr>
<td></td>
<td>Name of Party</td>
</tr>
<tr>
<td>---</td>
<td>---------------------------------------------------</td>
</tr>
<tr>
<td>4</td>
<td>Baltimore &amp; Ohio Railroad Co.</td>
</tr>
<tr>
<td>5</td>
<td>Bond, J. F.</td>
</tr>
<tr>
<td>6</td>
<td>Buchanan, Herman</td>
</tr>
<tr>
<td>7</td>
<td>Burke, Leo R.</td>
</tr>
<tr>
<td>8</td>
<td>Checker White Cab, Inc.</td>
</tr>
<tr>
<td>9</td>
<td>Clark, Martha</td>
</tr>
<tr>
<td>10</td>
<td>Colonial Glass Co.</td>
</tr>
<tr>
<td>11</td>
<td>Cremeans, Frances</td>
</tr>
<tr>
<td>12</td>
<td>Ellison, Roy L.</td>
</tr>
<tr>
<td>13</td>
<td>Fankhouser, Mrs. R. R., admx. of estate of Russel R. Fankhouser, deceased</td>
</tr>
<tr>
<td>14</td>
<td>Fankhouser, Mrs. R. R., admx. of estate of Russel R. Fankhouser, deceased</td>
</tr>
<tr>
<td>15</td>
<td>Gantzer, William G.</td>
</tr>
<tr>
<td>16</td>
<td>Garver, B. F.</td>
</tr>
<tr>
<td>17</td>
<td>Halstead, E. H.</td>
</tr>
<tr>
<td>18</td>
<td>Hamrick, Elvin</td>
</tr>
<tr>
<td>19</td>
<td>Henry, Blaine D.</td>
</tr>
<tr>
<td>20</td>
<td>Hudson, Charles A.</td>
</tr>
<tr>
<td>21</td>
<td>Jamerson, T. L.</td>
</tr>
<tr>
<td>22</td>
<td>Johnson, Mildred, infant by Howard E. Johnson, her next friend</td>
</tr>
<tr>
<td>23</td>
<td>King, Bessie L.</td>
</tr>
<tr>
<td>24</td>
<td>King, Leah</td>
</tr>
<tr>
<td>25</td>
<td>Lemasters, Rose</td>
</tr>
<tr>
<td>26</td>
<td>Main Street News</td>
</tr>
<tr>
<td>27</td>
<td>Marks, Jimmie, infant, by Charlie Marks, his next friend</td>
</tr>
<tr>
<td>28</td>
<td>Mylius, L. C.</td>
</tr>
<tr>
<td>29</td>
<td>McClure, Earl C.</td>
</tr>
<tr>
<td>30</td>
<td>Neal, William H., Jr.</td>
</tr>
<tr>
<td>31</td>
<td>Neel, W. C.</td>
</tr>
<tr>
<td>32</td>
<td>Pappalardo, Lui</td>
</tr>
<tr>
<td>33</td>
<td>Queen, Clarence</td>
</tr>
<tr>
<td>34</td>
<td>Randolph, Russell</td>
</tr>
<tr>
<td>35</td>
<td>Ronk, Francis</td>
</tr>
<tr>
<td>36</td>
<td>Shafer, Hazel M.</td>
</tr>
<tr>
<td>37</td>
<td>Smith, Cleo</td>
</tr>
<tr>
<td>38</td>
<td>Stukey, Charles A.</td>
</tr>
</tbody>
</table>
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.
<table>
<thead>
<tr>
<th></th>
<th>Claim Versus State Board of Control</th>
<th>West Virginia Penitentiary</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Burch, C. L.</td>
<td>$ 80.78</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Robison, Achilles T.</td>
<td>$ 4,826.35</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Claim Versus Adjutant General—State Militia</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>Butcher, Oscar E.</td>
<td>$ 700.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Claim Versus Board of Education</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>Brigode, Lillian</td>
<td>$ 710.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Claim Versus State Board of Control</th>
<th>Huttonsville Medium Security Prison</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>Davis Trust Company, adm. of estate of Lucy Ward, deceased</td>
<td>$ 2,500.00</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Claim Versus State Auditor</th>
<th>TO BE PAID FROM GENERAL SCHOOL FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>24</td>
<td>Gain, Charles G.</td>
<td>$ 1,000.00</td>
</tr>
<tr>
<td>25</td>
<td>Thrift, R. J. Jr.</td>
<td>$ 1,500.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Claim Versus State Board of Control</th>
<th>West Virginia Industrial School for Boys</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>29</td>
<td>Lambert, O. D.</td>
<td>$ 162.20</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Claim Versus State Conservation Commission</th>
<th>TO BE PAID FROM SPECIAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>32</td>
<td>Morgan, Mae</td>
<td>$ 233.00</td>
</tr>
<tr>
<td>33</td>
<td>Neville, Charles W.</td>
<td>$ 955.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Claim Versus State Board of Control</th>
<th>Weston State Hospital</th>
<th>TO BE PAID FROM GENERAL REVENUE FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>37</td>
<td>McFerrin, Thelma</td>
<td>$ 3,000.00</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Claim Versus State Road Commission</th>
<th>TO BE PAID FROM STATE ROAD FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>40</td>
<td>Peters, Eva</td>
<td>$ 219.30</td>
</tr>
</tbody>
</table>
41 Claim Versus State Road Commission
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
undertaken an overall decrease in the preceding twelve months. It is further suggested that if, during the biennium, the cost of construction, in the opinion of said Board, is excessive, the Board should, prior to releasing any of said appropriations, examine carefully the need for the expenditure sought, and, if reasonably possible, postpone the release of said appropriation until the cost of construction has declined to a figure considered by it to be reasonable.

(b) The order in which the items of this section are named does not indicate a preference in order of expenditure. The Board of Public Works may authorize the expenditure of any one or more of said items without regard to the order in which they are here listed.

(c) The amounts of the several items are suggestive, and are not to be considered as absolute. The board may revise or reduce any item downward, without restriction, or eliminate it entirely, and may increase any one or more of the items by not more than twenty-five per cent, so long as such increases, if any, as to items so increased and released do not exceed the total amount made available under this section, and corresponding decreases or eliminations are made to offset increases.

(d) Expenditures authorized, which are for construction purposes, shall be for a complete and usable unit or project etc., and in any case where additional funds are available, by aid from a federal agency or other source, such fact may be considered by the board in determining what items should at any time be encumbered or released for expenditure: Provided, That in making such release the board shall first determine that all funds available will provide for completion of a complete and usable project or unit.

(e) Any of the items under this section may be released or encumbrances made therefor at any time after the first day of July, 1947, as the board may deem proper, subject to the limitations of subsection (a) herein.

Subject to the foregoing conditions, the following appropriations are made for the construction, maintenance and repair of secondary roads, and for the acquisition, construction, including, if necessary, needed land acquisition,
Ch. 27] General Appropriations

77 preparation of sites for buildings, and equipment of buildings, and for the purposes named in this section.
79 Item 1: Capitol Building and Grounds, for landscaping, building sidewalks, and for such other improvements as may be designated by the Board of Public Works $ 300,000.00
80 Item 2: Capitol Building and Grounds, for repairs to Capitol Building and Mansion 250,000.00
83 Item 3: West Virginia University, for such building or buildings as may be designated by the Board of Public Works, upon recommendation by the Board of Governors of West Virginia University 1,000,000.00
84 Item 4. West Virginia University, for redemption of West Virginia University Stadium Bonds in pursuance of the provisions, conditions and limitations of House Concurrent Resolution No. 11 336,750.00
85 Item 5: West Virginia University, to equip Chemistry Building 60,000.00
86 Item 6: West Virginia University—Jackson’s Mill 4-H Camp, for Health Center and Auditorium, or for such building or buildings as may be designated by the Board of Public Works 17,500.00
87 Item 7. West Virginia University—Agricultural Experiment Station for such building or buildings as may be designated by the Board of Public Works 6,000.00
117 Item 8: West Virginia University - Agricultural Experiment Station for purchase of land—Agronomy Farm .......... 7,700.00
118 Item 9: West Virginia University - Kearneysville Farm, for such building or buildings as may be designated by the Board of Public Works .......... 10,000.00
119 Item 10. West Virginia University - Reymann Memorial Farm for such building or buildings as may be designated by the Board of Public Works ........ 10,000.00
120 Item 11: Potomac State School of West Virginia University, for such building or buildings as may be designated by the Board of Public Works upon recommendation of the Board of Governors of West Virginia University .......... 191,000.00
121 Item 12: Marshall College, for such building or buildings as may be designated by the Board of Public Works .......... 1,000,000.00
122 Item 13: Fairmont State College, for such building or buildings as may be designated by the Board of Public Works, except that no more than $20,000.00 of this appropriation may be spent for the President's home .......... 230,000.00
123 Item 14: Glenville State College, for such building or buildings as may be designated by the Board of Public Works .......... 29,500.00
124 Item 15: West Liberty State College, to be used only for
one or more of the following purposes:
1. To purchase mineral and mining rights under the property now owned by the state and used by this spending unit;
2. To purchase surface rights necessary to insure control of a watershed adequate for water supply of this spending unit;
3. To construct an adequate sewerage disposal system for the use of this spending unit

Item 16: Shepherd College, for purchase of land for library site or for such building or buildings as may be designated by Board of Public Works

Item 17: Concord College, for such building or buildings, including repairs and alterations to swimming pool, as may be designated by the Board of Public Works

Item 18: West Virginia Institute of Technology, for such building or buildings as may be designated by the Board of Public Works

Item 19: West Virginia State College, for such building or buildings as may be designated by the Board of Public Works

Item 20: Bluefield State College, for such building or buildings as may be designated by the Board of Public Works

Item 21: West Virginia Schools for Deaf and Blind, for such building or buildings as may be designated by the Board of Public Works

75,000.00
105,000.00
100,000.00
307,000.00
200,000.00
100,000.00
197 designated by the Board of Public Works _____________ 150,000.00
198 Item 22: West Virginia School for Colored Deaf and Blind, for alteration of building _______ 6,000.00
201 Item 23: West Virginia Industrial School for Boys, for such building or buildings including, if necessary, fireproofing of buildings, as may be designated by the Board of Public Works upon recommendation of the Board of Control ---------------
208 Item 24: West Virginia Industrial School for Colored Boys, for Annex to main building_____ 5,000.00
212 Item 25: West Virginia Industrial School for Colored Girls, for hog house and cold storage room ________________ 3,300.00
217 Item 26: West Virginia Penitentiary, for such building or buildings as may be designated by the Board of Public Works upon recommendation of the State Board of Control. Out of the above appropriation the sum of $10,000.00 may be expended for the acquisition of coal lands ________________ 110,000.00
222 Item 27: West Virginia Penitentiary — Medium Security Prison, for purchase of such lands and mineral as may be designated by the Board of Public Works upon recommendation of the State Board of Control _______ 25,000.00
234 Item 28: West Virginia Training 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 tions 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
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
of all physical property of the state, the sum of $50,000.00;
(h) For any other contingencies or needs arising during
the period in which the Legislature is not in session, which
are deemed necessary or essential to the efficient and eco-
nomical operation of the state government.
Upon a showing by the Tax Commissioner that addi-
tional amounts are needed for these purposes, outlined in
subsection “a” of this item, the Board of Public Works
shall make available from any unencumbered balances in
said appropriation the amounts so required.
In the discretion of the Board of Public Works an amount
not in excess of ten per cent of any of the foregoing items
may be released at any time within the biennium for the
purpose or purposes of covering the expense of prelimin-
ary studies and surveys, for comprehensive overall plan-
ing of buildings and grounds of the state institutions,
filling applications for federal aid, and the preparation of
bidding documents for the construction of any building
or buildings covered by the item.
Sec. 6. Special Revenue Appropriations.—There is
hereby appropriated for expenditure during the fiscal years
one thousand nine hundred forty-eight and one thousand
nine hundred forty-nine: Appropriations made by general
law from special revenue which is not paid into the state
fund as general revenue under the provisions of section
two, article two, chapter twelve of the code of West Vir-
ingia, one thousand nine hundred thirty-one and excess
special revenue of the specific state education institution
mentioned in the definition of “collections” in this act.
Provided, however, That collections from the sale of farm
and dairy products shall be expended only for the im-
provement and operation of the farm on which such prod-
ucts were raised and for such of the operating and mainte-
nance expenses of the institution making the sales as are
customarily paid out of its current expense account: Pro-
vided, further, That none of the moneys so appropriated by
this section shall be available for expenditure except in
compliance with and in conformity to the provisions of
Articles 2 and 3, of Chapter 12, Code of West Virginia, and
Chapter 39, Acts of the Legislature, Regular Session, one
thousand nine hundred thirty-nine, and unless the spend-
ing unit has filed with the State Director of the Budget
and the State Auditor prior to the beginning of each fiscal
year:

(a) An estimate of the amount and sources of all reve-
ues accruing to such fund;
(b) A detailed expenditure schedule showing for what
purposes the fund is to be expended.

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

Sec. 8. Specific Statutory Appropriations.—Whenever
the specific payment of a definite sum of money is required
by general law such sum shall be paid from the proper item
appropriated by this act.

Sec. 9. Specific Funds and Collection Accounts.—A fund
or collection account, which by law is dedicated to a
specific use is hereby appropriated in sufficient amount to
meet all lawful demands upon the fund or collection ac-
count, and shall be expended according to the provisions
of article three, chapter twelve of the code of West Vir-
ginia, one thousand nine hundred thirty-one.

Sec. 10. Appropriations for Refunding Erroneous Pay-
ments.—Money that has been erroneously paid into the
state treasury is hereby appropriated out of the fund into
which it was paid for refund to the proper person.
When the officer authorized by law to collect money for
the state finds that a sum has been erroneously paid he
shall issue his requisition upon the auditor for the refund-
ing of the proper amount. The auditor shall issue his
warrant to the treasurer and the treasurer shall pay the
warrant out of the fund into which the amount was orig-
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.—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:
1. For the redemption of lands;
2. By public service corporations;
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 three.

Sec. 19. General School Fund.—The balance of the proceeds of the general school fund remaining after the pay-
ment of the appropriations made by this act is appropriated for expenditure in accordance with section six, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

Sec. 20. Reappropriations.—The date of expiration of the unencumbered or unexpended parts of any appropriations made by section three-a, title two, chapter eleven, (Budget Bill) acts of the Legislature, 1945, as amended by Senate Engrossed Bill No. 4, Special Session of the Legislature, 1946, is hereby extended to June 30, 1949, and such unencumbered or unexpended parts are hereby reappropriated from the date of expiration to June 30, 1949, for the purposes for which they were originally appropriated: Provided, however, That Item No. 26 of the above mentioned section may be expended for construction, maintenance, and repair of secondary farm-to-market roads without regard to matching federal funds. It is further provided that within the discretion of the Board of Public Works a part of these items so reappropriated may be used for the purpose of comprehensive overall planning of buildings and grounds of the state institutions. The provisions of sub-sections c, d, and e of section 3-a, title two, chapter eleven, acts of the Legislature, 1945, shall be applicable to the items to which they originally applied.

In view of the adoption by the Legislature of H.C.R. No. 6, it is suggested that the Board of Public Works, prior to the release of building construction items pertaining to the state mental hospitals, give consideration to the possibility of a grant by the federal government of Newton D. Baker Hospital and, if such grant be tendered, give consideration to the possible use thereof as a state mental institution.

It is suggested that, in the absence of extraordinary circumstances giving rise to a pressing need for the immediate release of any of the appropriations, for the construction of building or buildings, the Board of Public Works should not approve and release any of said appropriations during a period in which the general revenues of the state 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.

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
Chapter 28

(Composed 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.

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 O. D. Lambert.—The state board of control is hereby
authorized and empowered to pay to the said O. D. Lam-
bert the sum of one hundred sixty-two dollars and twenty
cents ($162.20) to cover repairs, storage and haulage
caused as a result of his automobile being stolen by an
inmate of the West Virginia Industrial School for Boys.
The sum herein authorized shall be paid from any moneys
now or hereafter appropriated to the state board of con-
trol.

Sec. 2. Finding of Moral Obligation.—It is hereby de-
clared 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 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.

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 Buildings and Grounds.*—The state board of control shall be charged with full responsibility for the care, control and custody of the capitol buildings and grounds, and in this connection the board shall:

1. Furnish guards and janitors for the capitol buildings and grounds, together with all the apartments therein, or connected therewith, and shall furnish janitorial supplies, light, heat and ventilation for all the rooms and corridors of the building. Under the direction of the president of the Senate and speaker of the House of Delegates, the board of control shall have charge of the halls and committee rooms of the two Houses and keep the same properly cleaned, warmed and in good order, and shall do and perform such other duties in relation thereto as either house may require;

2. Furnish part-time messenger service to the various state departments. Department heads shall be consulted with reference to the amount of messenger service required for their departments and an agreed amount for such service shall be paid by the department directly to the board of control. Janitor-messengers, or part-time messengers, shall receive from the board of control compensation for total services in the same manner as other employees are paid. Any state department shall, however, have authority to furnish its own messenger service without using employees of the board of control;

3. Have immediate control and direction of the switchboard telephone service for the various departments of the state capitol. Changes in telephone instruments or equipment in the various departments of the state capitol shall be referred to the board of control and payment for any such changes will not be honored by the state
34 auditor unless such changes have been approved by the board of control. A simple accounting system shall be installed and maintained by the board of control for all 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 alterations of the capitol buildings and grounds. Major repairs and alterations shall be made under the supervision of the board of control, subject to the direction of the board of public works.

The board of control shall appoint such assistants and employees as may be necessary for the performance of the duties imposed upon it by this section, subject to the provisions of law and regulations pertaining to the classification and uniform compensation of personnel.

The offices of such employees shall be located where designated by the board of public works, except that they shall not be located in any of the legislative chambers, offices, rooms or halls. Office hours shall be so arranged that emergency or telephone service shall be available at all times. The hours of employment shall be so arranged that janitorial service shall not interfere with other employment during regular office hours.

CHAPTER 34
(Senate Bill No. 307—By Mr. Eddy)

AN ACT to amend and reenact section six, article one-a, chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the revenue accruing from coal stripping at the West Virginia Industrial School for boys.

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


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.

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:

1. 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.

2. 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.]


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.

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
of this article are hereby authorized to promote and en-
courage reciprocity with other licensed hospital or medi-
cal plans, both within and without this state, in expanding
their services to subscribers. In the event that a sub-
scriber to a plan requires emergency hospital or medical
service, or, in the event that the particular services that
he receives are not available through the plan to which
he subscribes, such plan is hereby authorized to make
payment on behalf of such subscriber for such service on
a basis not to exceed its schedule of fees to be paid hos-
pitals or physicians, previously approved by the insurance
commissioner and on file in his office.

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 thou-
sand 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.]


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 Corpora-
tions.—The auditor of this state is hereby constituted the
attorney in fact for and on behalf of every stock corpora-
tion created by virtue of the laws of this state and of
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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.

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.
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
and such other employees as may be necessary in the performance of duties required of it by this section.

All purchases of food, bedding, and other supplies shall whenever practicable be made at wholesale. Invoices or itemized statements of account from each vendor of food, bedding, and other supplies shall be obtained, and payment of such statements or invoices shall not be authorized by the county court unless and until the county court has ascertained that the merchandise has been received and that the terms of the purchase have been complied with on the part of the vendor. The county court shall not provide for the feeding of prisoners on a contract or fee basis.

The county court shall keep or cause to be kept a daily record showing the total number of prisoners confined in the jail of the county, the number of prisoners admitted, the number released, and the time of each such admittance and of each such release. Such record shall show such information separately as to the prisoners of the county, of each municipality, and of the United States. The county court shall also keep or cause to be kept such other accounts and records as will enable it to show the per capita daily cost of the feeding and care of prisoners in each calendar month.

The county court shall require to be kept a daily record of foods served prisoners and, in all counties having a county health officer, said health officer shall, at least once a month, inspect such lists and make such recommendations and suggestions as he may deem proper regarding daily diets and foods.

All actual costs incurred by the county court for salaries and for the purchase of food, bedding and other supplies shall be paid out of the same funds as payments to sheriffs of fees for the feeding and care of prisoners were made immediately prior to the effective date of this act.

Sec. 8. Federal Prisoners.—The jail of any county may be used for the confinement of persons committed thereto under the laws of the United States. The jailer thereof shall receive, keep and discharge such persons pursuant
to the commitment, as provided in the laws of the United States. For a failure of duty as to any such prisoner, the jailer shall be liable to the United States, or to the creditor at whose suit the prisoner is in custody, in like manner as in the case of a prisoner committed under the authority of the state. No person arrested on civil process shall, under this section, be committed to any other jail than that of the county within which such person may reside or be found.

The United States or the creditor, as the case may be, shall be responsible to the county court for payment of the costs for the maintenance of any person confined in a county jail as provided in this section.

All provisions of this section which were in effect immediately prior to the passage of this act shall continue in full force and effect until the thirty-first day of December, one thousand nine hundred forty-eight.

Sec. 9. Prisoners Under Civil Process.—The party at whose suit any person is confined in jail under civil process shall be responsible to the county court for the maintenance of such person during such confinement, and payment therefor shall be due monthly. Upon failure of such party to make payment when due, the jailer may discharge the prisoner when ordered to do so by the county court unless the prisoner is held under other process, but the county court shall have the right to sue for the amount due as for other money due on contract. The jailer may require a bond payable to the county court as security for the payment of such maintenance before receiving a person on civil process. Any party who shall have paid for such maintenance of such a prisoner may, upon motion before the circuit court of such county, or by action before any justice having jurisdiction, obtain judgment against the person who was so confined, or his personal representative, for the amount so paid, with interest thereon, from the time of such payment.

All provisions of this section which were in effect immediately prior to the passage of this act shall continue in full force and effect until the thirty-first day of December, one thousand nine hundred forty-eight.
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 county court, or tribunal in lieu thereof, of every county shall in addition to the salary herein provided allow to the sheriff for keeping and feeding each prisoner, other than federal prisoners or prisoners held under civil process as provided by law, an amount to be computed in accordance with the following schedule, based on the population figures appearing in the latest official census:

1. In counties having a population of more than seventy-five thousand, forty-seven cents per day while such prisoner is actually in jail, and fifty-seven cents per day while such prisoner is working outside the jail under the authority of the county court;
2. In counties having a population of more than thirty-five thousand but not more than seventy-five thousand, fifty-two cents per day while such prisoner is actually in 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-
der 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: Provided, That the allowance to sheriffs for expenses in the keeping of prisoners shall be effective only through December thirty-first, one thousand nine hundred forty-eight.

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

Section 5. Annual Salary of Assessors.—The annual salary of the assessor in each county shall, on and after January one, one thousand nine hundred forty-nine, be in the amounts set forth in sections one-(one) to one-(fifty-five), inclusive, of this article.
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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.
Sec. 5-(17). Harrison County.—For the county of Harrison, four thousand dollars.

Sec. 5-(18). Jackson County.—For the county of Jackson, one thousand five hundred dollars.

Sec. 5-(19). Jefferson County.—For the county of Jefferson, two thousand six hundred dollars.

Sec. 5-(20). Kanawha County.—For the county of Kanawha, five thousand dollars.

Sec. 5-(21). Lewis County.—For the county of Lewis, two thousand six hundred dollars.

Sec. 5-(22). Lincoln County.—For the county of Lincoln, two thousand three hundred dollars.

Sec. 5-(23). Logan County.—For the county of Logan, four thousand dollars.

Sec. 5-(24). Marion County.—For the county of Marion, three thousand dollars.

Sec. 5-(25). Marshall County.—For the county of Marshall, three thousand dollars.

Sec. 5-(26). Mason County.—For the county of Mason, one thousand eight hundred dollars;

Sec. 5-(27). McDowell County.—For the county of McDowell, three thousand nine hundred dollars.

Sec. 5-(28). Mercer County.—For the county of Mercer, four thousand eight hundred dollars.

Sec. 5-(29). Mineral County.—For the county of Mineral, two thousand dollars.

Sec. 5-(30). Mingo County.—For the county of Mingo, three thousand three hundred dollars.

Sec. 5-(31). Monongalia County.—For the county of Monongalia, two thousand six hundred dollars.

Sec. 5-(32). Monroe County.—For the county of Monroe, one thousand five hundred dollars.
Sec. 5-(33). Morgan County.—For the county of Morgan, one thousand two hundred dollars.

Sec. 5-(34). Nicholas County.—For the county of Nicholas, one thousand eight hundred twenty dollars.

Sec. 5-(35). Ohio County.—For the county of Ohio, three thousand eight hundred dollars.

Sec. 5-(36). Pendleton County.—For the county of Pendleton, one thousand five hundred dollars.

Sec. 5-(37). Pleasants County.—For the county of Pleasants, one thousand eight hundred dollars.

Sec. 5-(38). Pocahontas County.—For the county of Pocahontas, one thousand two hundred dollars.

Sec. 5-(39). Preston County.—For the county of Preston, two thousand eight hundred dollars.

Sec. 5-(40). Putnam County.—For the county of Putnam, two thousand four hundred dollars.

Sec. 5-(41). Raleigh County.—For the county of Raleigh, three thousand six hundred dollars.

Sec. 5-(42). Randolph County.—For the county of Randolph, two thousand seven hundred dollars.

Sec. 5-(43). Ritchie County.—For the county of Ritchie, one thousand eight hundred dollars.

Sec. 5-(44). Roane County.—For the county of Roane, one thousand eight hundred dollars.

Sec. 5-(45). Summers County.—For the county of Summers, one thousand eight hundred dollars.

Sec. 5-(46). Taylor County.—For the county of Taylor, two thousand two hundred fifty dollars.

Sec. 5-(47). Tucker County.—For the county of Tucker, one thousand eight hundred dollars.

Sec. 5-(48). Tyler County.—For the county of Tyler, two thousand four hundred dollars.
Sec. 5-(49). Upshur County.—For the county of Upshur, two thousand dollars.

Sec. 5-(50). Wayne County.—For the county of Wayne, three thousand three hundred dollars.

Sec. 5-(51). Webster County.—For the county of Webster, two thousand dollars.

Sec. 5-(52). Wetzel County.—For the county of Wetzel, two thousand six hundred dollars.

Sec. 5-(53). Wirt County.—For the county of Wirt, one thousand one hundred dollars.

Sec. 5-(54). Wood County.—For the county of Wood, two thousand eight hundred dollars.

Sec. 5-(55). Wyoming County.—For the county of Wyoming, three thousand dollars.

Sec. 5-(56). Additional Compensation; Salaries Paid Out of County Fund.—In addition to the above salary each assessor shall receive a commission of ten per cent on all state school, road and municipal capitation taxes collected by him. The salaries of assessors and their deputies, assistants and employees shall be paid out of the county fund at the time and in the manner now provided by law 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.]


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
undue deterioration thereof; to supervise and control the purchase of furniture, fixtures and equipment, and janitors' and other supplies, for their county; to attend the annual meeting of county assessors, and such district meetings as may be called by the state tax commissioner, on matters pertaining to the work of the county assessors and county courts as boards of review and equalization; to review and equalize the assessments made by the assessors; to inspect and review the lists of property, both real and personal, made up by the assessor and his deputies for taxable purposes, and to point out to the assessor any property, real or personal, which the said assessors of their respective counties may have overlooked or omitted to place on said tax lists; to call to the attention of the assessor all real estate or personal property belonging to churches, lodges, schools or other charitable institutions which may have been overlooked or omitted by the assessor or his deputies in making up his lists of property for entry on the land and personal property books, to cooperate with the county public assistance council and supervise the general management of the fiscal affairs and business of each county.

Compensation shall be allowed and paid out of the county treasury, in the same manner as salaries are paid, to each county commissioner of each county (except as otherwise provided by law for the county of Ohio), for services performed for such county concerning the visiting of the poor, inspection of jails, bridges and bridge approaches, and for visiting detention homes for children; and for providing for and supervising the repair and maintenance of the county courthouse, jails, houses for the poor, and other county property, and for supervising and controlling the purchase of furniture, fixtures and equipment and janitors’ and other supplies of their county; and for attending the annual meeting of assessors and such district meetings as may be called by the state tax commissioner, on matters pertaining to the work of assessors and county courts as boards of review and equalization; for reviewing and equalizing the assessments made by the assessor; for inspecting and review-
ing the lists of property, both real and personal, made
up by the assessor and his deputies for taxable purposes,
and for pointing out to the assessor any property, real
or personal, which the said assessors of their respective
counties may have overlooked or omitted to place on said
tax lists; for calling to the attention of the assessor all
real estate or personal property belonging to churches,
lodges, schools or other charitable institutions which may
have been overlooked or omitted by the assessor or his
deputies in making up his lists of property for entry on
the land and personal property books; and for duties of
the county commissioners in cooperating with the county
public assistance council, and for supervising and gen-
eral management of the fiscal affairs and business of
each county, within their counties, and other business
by such commissioners, in addition to compensation for
services in court, the sums of money hereinafter provided
in the following sections five-(one) to five-(fifty-four),
inclusive.

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

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

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

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

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

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

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

Sec. 5-(8). Clay County.—For the county of Clay,
fty-five dollars per month.
Sec. 5-(9). *Doddridge County.*—For the county of Doddridge, thirty-five dollars per month.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 5-(24). *Marion County.*—For the county of Marion, two hundred dollars per month.
Sec. 5-(25). *Marshall County.*—For the county of Marshall, one hundred dollars per month.

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

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

Sec. 5-(28). *Mercer County.*—For the county of Mercer, the president of the court two hundred dollars and the other members of the court one hundred seventy-five dollars per month.

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

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

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

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

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

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

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

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

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

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

Sec. 5-(39). *Putnam County.*—For the county of Putnam, forty-five dollars per month.
Sec. 5-(40). Raleigh County. — For the county of Raleigh, the president of the county court one hundred seventy-five dollars per month and other members of the court one hundred sixty dollars per month.

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

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

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

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

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

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

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

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

Sec. 5-(49). Wayne County. — For the county of Wayne, one hundred fifty dollars per month.

Sec. 5-(50). Webster County. — For the county of Webster, fifty dollars per month.

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

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

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

Sec. 5-(54). Wyoming County. — For the county of 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.—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, two thousand six hundred dollars.

Sec. 1-(6) **Cabell County.**—For the county of Cabell, seven thousand five hundred dollars.

Sec. 1-(7) **Calhoun County.**—For the county of Calhoun county, two thousand dollars.

Sec. 1-(8) **Clay County.**—For the county of Clay, two thousand dollars.

Sec. 1-(9) **Doddridge County.**—For the county of Doddridge, two thousand five hundred dollars.

Sec. 1-(10) **Fayette County.**—For the county of Fayette, seven thousand five hundred dollars.

Sec. 1-(11) **Gilmer County.**—For the county of Gilmer, two thousand four hundred dollars.

Sec. 1-(12) **Grant County.**—For the county of Grant, two thousand dollars.

Sec. 1-(13) **Greenbrier County.**—For the county of Greenbrier, three thousand two hundred dollars.

Sec. 1-(14) **Hampshire County.**—For the county of Hampshire, two thousand four hundred dollars.

Sec. 1-(15) **Hancock County.**—For the county of Hancock, three thousand eight hundred dollars.

Sec. 1-(16) **Hardy County.**—For the county of Hardy, one thousand eight hundred dollars.

Sec. 1-(17) **Harrison County.**—For the county of Harrison, six thousand dollars.

Sec. 1-(18) **Jackson County.**—For the county of Jackson, two thousand dollars.

Sec. 1-(19) **Jefferson County.**—For the county of Jefferson, three thousand two hundred dollars.

Sec. 1-(20) **Kanawha County.**—For the county of Kanawha, seven thousand five hundred dollars.
Sec. 1-(21) Lewis County.—For the county of Lewis, two thousand dollars.

Sec. 1-(22) Logan County.—For the county of Logan, six thousand five hundred dollars.

Sec. 1-(23) Lincoln County.—For the county of Lincoln, three thousand dollars.

Sec. 1-(24) Marion County.—For the county of Marion, six thousand five hundred dollars.

Sec. 1-(25) Marshall County.—For the county of Marshall, three thousand eight hundred dollars.

Sec. 1-(26) Mason County.—For the county of Mason, two thousand dollars.

Sec. 1-(27) Mercer County.—For the county of Mercer, six thousand dollars.

Sec. 1-(28) Mineral County.—For the county of Mineral, three thousand dollars.

Sec. 1-(29) Mingo County.—For the county of Mingo, five thousand dollars.

Sec. 1-(30) Monongalia County.—For the county of Monongalia, five thousand dollars.

Sec. 1-(31) Monroe County.—For the county of Monroe, one thousand eight hundred dollars.

Sec. 1-(32) McDowell County.—For the county of McDowell, seven thousand dollars.

Sec. 1-(33) Morgan County.—For the county of Morgan, one thousand five hundred dollars.

Sec. 1-(34) Nicholas County.—For the county of Nicholas, two thousand eight hundred dollars.

Sec. 1-(35) Ohio County.—For the county of Ohio, five thousand dollars.

Sec. 1-(36) Pendleton County.—For the county of Pendleton, one thousand six hundred dollars.
Sec. 1-(37) Pleasants County.—For the county of Pleasants, two thousand four hundred dollars.

Sec. 1-(38) Pocahontas County.—For the county of Pocahontas, two thousand five hundred dollars.

Sec. 1-(39) Preston County.—For the county of Preston, three thousand five hundred dollars.

Sec. 1-(40) Putnam County.—For the county of Putnam, two thousand four hundred dollars.

Sec. 1-(41) Raleigh County.—For the county of Raleigh, seven thousand dollars.

Sec. 1-(42) Randolph County.—For the county of Randolph, three thousand six hundred dollars.

Sec. 1-(43) Ritchie County.—For the county of Ritchie, three thousand dollars.

Sec. 1-(44) Roane County.—For the county of Roane, two thousand four hundred dollars.

Sec. 1-(45) Summers County.—For the county of Summers, three thousand dollars.

Sec. 1-(46) Taylor County.—For the county of Taylor, two thousand four hundred dollars.

Sec. 1-(47) Tucker County.—For the county of Tucker, two thousand seven hundred dollars.

Sec. 1-(48) Tyler County.—For the county of Tyler, two thousand seven hundred dollars.

Sec. 1-(49) Upshur County.—For the county of Upshur, two thousand seven hundred dollars.

Sec. 1-(50) Wayne County.—For the county of Wayne, four thousand eight hundred dollars.

Sec. 1-(51) Webster County.—For the county of Webster, three thousand dollars.

Sec. 1-(52) Wetzel County.—For the county of Wetzel, 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.

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.
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-
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ary of such assistant shall not be less than one thousand
two hundred dollars nor more than one thousand eight
hundred dollars; in Ohio county for the first assistant, three
thousand dollars, and for the second assistant not to exceed
two thousand four hundred dollars; in Kanawha county
for the first assistant, not less than five thousand and not
more than six thousand dollars, and for the second as-
sistant not less than five thousand nor more than six
thousand dollars; in Cabell county for the first assistant,
not less than twenty-four hundred and not more than
thirty-six hundred dollars, and for the second assistant
not more than twenty-four hundred dollars; in McDowell
county, not less than three thousand dollars nor more
than three thousand six hundred dollars for each assis-
tant; in Marion county, not less than three thousand nor
more than three thousand six hundred dollars; in Raleigh
county, not more than three thousand dollars; in Mingo
county, not to exceed three thousand dollars; in Harrison
county, not less than one thousand five hundred nor more
than four thousand five hundred dollars; in Mercer county,
four thousand two hundred dollars; in Summers and Wood
counties, not less than one thousand nor more than two
thousand dollars; in Logan county, not less than three
thousand dollars nor more than three thousand six hun-
dred dollars; in Fayette county for the first assistant, not
less than three thousand six hundred nor more than four
thousand two hundred dollars, and for the second assistant
not to exceed two thousand eight hundred dollars; in Boone
and Wyoming counties, not less than one thousand two
hundred nor more than two thousand four hundred dol-
lars; in Barbour county, one thousand dollars; in Mononga-
lia county, two thousand four hundred dollars; in Wayne
county, two thousand five hundred dollars; in Berkeley
county, not to exceed one thousand eight hundred dollars;
in Lewis, Lincoln, Marshall, Mason, Mineral, Nicholas and
Upshur counties, not to exceed twelve hundred dollars, and
in Randolph county not to exceed one thousand five hun-
dred dollars; in Webster and Wetzel counties, not less
than six hundred nor more than nine hundred dollars;
in Taylor county, not to exceed six hundred dollars; in
Putnam and Calhoun counties, three hundred dollars. In each case such compensation shall include the compensation provided by law for such assistant's services as attorney for boards of education and other administrative boards and officers of the county.

In any case in which it would, in the opinion of the court, be improper for the prosecuting attorney and his assistant (if he has one) to act, or if the prosecuting attorney and his assistant be unable to act, such court shall appoint some competent practicing attorney to prosecute such cases; and upon the performance of the service for which he was appointed, the court shall certify that fact, with its opinion of what would be a reasonable allowance to such attorney for the service rendered, to the county court of the county, and such sum, or a different sum, when allowed by the county court, shall be paid out of the county treasury: Provided, That nothing in this section shall be construed to prohibit the employment by any person of a competent attorney or attorneys to assist in the prosecution of any person or corporation charged with crime.

In each of the counties herein named, except Harrison and Fayette and including Greenbrier, Lewis, Hampshire, Pocahontas, Putnam, Ritchie, Roane and Upshur, the prosecuting attorney may employ a stenographer for his office at a salary, payable out of the county treasury, of not less than nine hundred nor more than two thousand dollars per annum; except, the annual salary of such stenographer in Barbour, Lewis, Pocahontas, Taylor and Roane counties shall not exceed one thousand two hundred dollars; in Calhoun, Putnam, Ritchie and Upshur counties, shall not exceed nine hundred dollars; in Hampshire county shall not be less than one thousand dollars nor more than twelve hundred dollars; in Berkeley county, shall not be less than six hundred dollars nor exceed one thousand five hundred dollars; in Boone county, shall be one thousand eight hundred dollars; and in Braxton county, shall be twelve hundred twenty dollars; in Webster county, shall be nine hundred dollars; in Jefferson, Tyler and Gilmer counties, shall not exceed nine hundred dollars: Provided, That in each
of the last four named counties the prosecuting attorney
may not employ a stenographer except with the consent of
the county court entered of record.

In the county of Harrison, the prosecuting attorney may
employ two stenographers for his office at a salary for
each stenographer of not less than nine hundred nor more
than one thousand two hundred dollars per annum, pay-
able out of the county treasury.

In the counties of Clay and Wetzel, the prosecuting
attorney may employ a clerk or stenographer for his
office at a salary of one thousand two hundred dollars
per annum, payable out of the county treasury; except,
that in the county of Clay, in lieu of the appointment of
such clerk or stenographer, the prosecuting attorney may
employ a practicing attorney of said county as his assist-
ant at a salary of not less than one thousand nor more
than one thousand five hundred dollars per annum, pay-
able out of the county treasury.

In the counties of Mingo and Preston, the prosecuting
attorney may employ one stenographer for his office at
a salary not to exceed two thousand four hundred dollars
per annum for the county of Mingo and one thousand
eight hundred dollars per annum for the county of Pres-
ton, payable out of the county treasury.

In the county of Jackson, the prosecuting attorney may
employ one stenographer or clerk for his office at a sal-
ary of six hundred dollars per annum, payable out of the
county treasury.

In the county of Mercer, the prosecuting attorney may
employ one stenographer or clerk for his office at a salary
of not to exceed the sum of two thousand four hundred
dollars per annum, payable out of the county treasury.

In the counties of Hardy and Grant, the prosecuting
attorney may employ one stenographer or clerk for his
office with the consent of the county court, at a salary
not to exceed five hundred dollars per annum, payable
out of the county treasury as salaries of county officials
are paid. The amount of said salary for one thousand
nine hundred forty-five for Hardy and Grant counties,
shall be fixed by the county court of each of said counties
at its first regular meeting after the effective date of this act and annually thereafter at its first regular meeting in each year.

In the counties of Mason and Wyoming, the prosecuting attorney may employ one stenographer at a salary to be fixed by the county court and payable out of the treasury of said county.

In the county of Kanawha the prosecuting attorney may employ one stenographer at a salary not to exceed two thousand five hundred dollars per annum to be fixed by the county court and payable out of the treasury of said county.

In the county of Hancock the prosecuting attorney may employ one stenographer at a salary of not more than two thousand four hundred dollars per annum, payable out of the treasury of said county.

In the county of Randolph the prosecuting attorney may employ one stenographer at a salary of not less than one thousand five hundred dollars nor more than two thousand four hundred dollars per year to be fixed by the county court and payable out of the treasury of said county.

In the county of Fayette the prosecuting attorney may employ one stenographer at a salary of not to exceed twenty-four hundred dollars per year to be fixed by the county court and payable out of the treasury of said county.

In the county of McDowell, the prosecuting attorney may employ one stenographer at a salary of not less than one thousand five hundred dollars nor more than two thousand four hundred dollars per year to be fixed by the county court and payable out of the treasury of such county.
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-(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.
Sec. 2-(1). Barbour County.—For the county of Barbour, two thousand two hundred dollars.

Sec. 2-(2). Berkeley County.—For the county of Berkeley, two thousand eight hundred dollars.

Sec. 2-(3). Boone County.—For the county of Boone, two thousand seven hundred dollars.

Sec. 2-(4). Braxton County.—For the county of Braxton, two thousand eight hundred dollars.

Sec. 2-(5). Brooke County.—For the county of Brooke, two thousand four hundred dollars.

Sec. 2-(6). Cabell County.—For the county of Cabell, five thousand dollars.

Sec. 2-(7). Calhoun County.—For the county of Calhoun, one thousand seven hundred dollars.

Sec. 2-(8). Clay County.—For the county of Clay, one thousand nine hundred dollars.

Sec. 2-(9). Doddridge County.—For the county of Doddridge, two thousand dollars.

Sec. 2-(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. 2-(11). Gilmer County.—For the county of Gilmer, two thousand one hundred dollars.

Sec. 2-(12). Greenbrier County.—For the county of Greenbrier, three thousand dollars.

Sec. 2-(13). Hampshire County.—For the county of Hampshire, two thousand dollars.

Sec. 2-(14). Hancock County.—For the county of Hancock, three thousand dollars.

Sec. 2-(15). Harrison County.—For the county of Harrison, four thousand dollars.
Sec. 2-(16). *Jackson County.*—For the county of Jackson, one thousand eight hundred dollars.

Sec. 2-(17). *Jefferson County.*—For the county of Jefferson, two thousand two hundred dollars.

Sec. 2-(18). *Kanawha County.*—For the county of Kanawha, seven thousand five hundred dollars.

Sec. 2-(19). *Lewis County.*—For the county of Lewis, two thousand five hundred dollars.

Sec. 2-(20). *Lincoln County.*—For the county of Lincoln, two thousand seven hundred dollars.

Sec. 2-(21). *Logan County.*—For the county of Logan, four thousand five hundred dollars.

Sec. 2-(22). *Marion County.*—For the county of Marion, four thousand eight hundred dollars.

Sec. 2-(23). *Marshall County.*—For the county of Marshall, three thousand six hundred dollars.

Sec. 2-(24). *Mason County.*—For the county of Mason, two thousand five hundred dollars.

Sec. 2-(25). *McDowell County.*—For the county of McDowell, four thousand five hundred dollars.

Sec. 2-(26). *Mercer County.*—For the county of Mercer, five thousand dollars.

Sec. 2-(27). *Mineral County.*—For the county of Mineral, three thousand dollars.

Sec. 2-(28). *Mingo County.*—For the county of Mingo, three thousand six hundred dollars.

Sec. 2-(29). *Monongalia County.*—For the county of Monongalia, three thousand six hundred dollars.

Sec. 2-(30). *Monroe County.*—For the county of Monroe, one thousand eight hundred dollars.

Sec. 2-(31). *Morgan County.*—For the county of Morgan, one thousand nine hundred dollars.
Sec. 2- (32). Nicholas County.—For the county of Nicholas, two thousand four hundred fifty dollars.

Sec. 2- (33). Ohio County.—For the county of Ohio, four thousand five hundred dollars.

Sec. 2- (34). Pleasants County.—For the county of Pleasants, two thousand dollars.

Sec. 2- (35). Pocahontas County.—For the county of Pocahontas, two thousand four hundred dollars.

Sec. 2- (36). Preston County.—For the county of Preston, three thousand dollars.

Sec. 2- (37). Putnam County.—For the county of Putnam, two thousand four hundred dollars.

Sec. 2- (38). Raleigh County.—For the county of Raleigh, four thousand five hundred dollars.

Sec. 2- (39). Randolph County.—For the county of Randolph, three thousand two hundred dollars.

Sec. 2- (40). Ritchie County.—For the county of Ritchie, two thousand five hundred dollars.

Sec. 2- (41). Roane County.—For the county of Roane, two thousand two hundred dollars.

Sec. 2- (42). Summers County.—For the county of Summers, one thousand eight hundred dollars.

Sec. 2- (43). Taylor County.—For the county of Taylor, two thousand two hundred fifty dollars.

Sec. 2- (44). Tucker County.—For the county of Tucker, two thousand four hundred dollars.

Sec. 2- (45). Tyler County.—For the county of Tyler, two thousand four hundred dollars.

Sec. 2- (46). Upshur County.—For the county of Upshur, three thousand dollars.

Sec. 2- (47). Wayne County.—For the county of Wayne, three thousand dollars.
Sec. 2-(48). Webster County.—For the county of Webster, two thousand six hundred dollars.

Sec. 2-(49). Wetzel County.—For the county of Wetzel, two thousand eight hundred dollars.

Sec. 2-(50). Wirt County.—For the county of Wirt, one thousand two hundred dollars.

Sec. 2-(51). Wood County.—For the county of Wood, three thousand six hundred dollars.

Sec. 2-(52). Wyoming County.—For the county of Wyoming, three thousand six hundred dollars.

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.

Sec. 3-(1). Barbour County.—For the county of Barbour, two thousand dollars.

Sec. 3-(2). Berkeley County.—For the county of Berkeley, two thousand two hundred dollars.

Sec. 3-(3). Boone County.—For the county of Boone, two thousand seven hundred dollars.

Sec. 3-(4). Braxton County.—For the county of Braxton, two thousand six hundred dollars.

Sec. 3-(5). Brooke County.—For the county of Brooke, two thousand four hundred dollars.

Sec. 3-(6). Cabell County.—For the county of Cabell, five thousand dollars.

Sec. 3-(7). Calhoun County.—For the county of Calhoun, one thousand two hundred dollars.

Sec. 3-(8). Clay County.—For the county of Clay, one thousand six hundred dollars.
Sec. 3-(9). Doddridge County.—For the county of Doddridge, one thousand seven hundred dollars.

Sec. 3-(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. 3-(11). Gilmer County.—For the county of Gilmer, one thousand eight hundred dollars.

Sec. 3-(12). Greenbrier County.—For the county of Greenbrier, two thousand two hundred dollars.

Sec. 3-(13). Hampshire County.—For the county of Hampshire, one thousand four hundred forty dollars.

Sec. 3-(14). Hancock County.—For the county of Hancock, two thousand seven hundred dollars.

Sec. 3-(15). Harrison County.—For the county of Harrison, four thousand dollars.

Sec. 3-(16). Jackson County.—For the county of Jackson, one thousand five hundred dollars.

Sec. 3-(17). Jefferson County.—For the county of Jefferson, two thousand six hundred dollars.

Sec. 3-(18). Kanawha County.—For the county of Kanawha, seven thousand five hundred dollars.

Sec. 3-(19). Lewis County.—For the county of Lewis, two thousand two hundred dollars.

Sec. 3-(20). Lincoln County.—For the county of Lincoln, two thousand three hundred dollars.

Sec. 3-(21). Logan County.—For the county of Logan, four thousand five hundred dollars.

Sec. 3-(22). Marion County.—For the county of Marion, four thousand eight hundred dollars.

Sec. 3-(23). Marshall County.—For the county of Marshall, three thousand dollars.
Sec. 3- (24). *Mason County.*—For the county of Mason, one thousand eight hundred dollars.

Sec. 3- (25). *McDowell County.*—For the county of McDowell, four thousand five hundred dollars.

Sec. 3- (26). *Mercer County.*—For the county of Mercer, five thousand dollars.

Sec. 3- (27). *Mineral County.*—For the county of Mineral, three thousand dollars.

Sec. 3- (28). *Mingo County.*—For the county of Mingo, three thousand six hundred dollars.

Sec. 3- (29). *Monongalia County.*—For the county of Monongalia, three thousand six hundred dollars.

Sec. 3- (30). *Monroe County.*—For the county of Monroe, one thousand three hundred twenty dollars.

Sec. 3- (31). *Morgan County.*—For the county of Morgan, one thousand dollars.

Sec. 3- (32). *Nicholas County.*—For the county of Nicholas, two thousand dollars.

Sec. 3- (33). *Ohio County.*—For the county of Ohio, five thousand five hundred dollars.

Sec. 3- (34). *Pleasants County.*—For the county of Pleasants, one thousand eight hundred fifty dollars.

Sec. 3- (35). *Pocahontas County.*—For the county of Pocahontas, two thousand one hundred dollars.

Sec. 3- (36). *Preston County.*—For the county of Preston, two thousand seven hundred dollars.

Sec. 3- (37). *Putnam County.*—For the county of Putnam, two thousand dollars.

Sec. 3- (38). *Raleigh County.*—For the county of Raleigh, four thousand two hundred dollars.

Sec. 3- (39). *Randolph County.*—For the county of Randolph, three thousand dollars.
Sec. 3-(40). *Ritchie County.* — For the county of Ritchie, two thousand one hundred dollars.

Sec. 3-(41). *Roane County.* — For the county of Roane, one thousand eight hundred dollars.

Sec. 3-(42). *Summers County.* — For the county of Summers, one thousand eight hundred dollars.

Sec. 3-(43). *Taylor County.* — For the county of Taylor, two thousand two hundred fifty dollars.

Sec. 3-(44). *Tucker County.* — For the county of Tucker, two thousand two hundred dollars.

Sec. 3-(45). *Tyler County.* — For the county of Tyler, two thousand two hundred dollars.

Sec. 3-(46). *Upshur County.* — For the county of Upshur, two thousand seven hundred dollars.

Sec. 3-(47). *Wayne County.* — For the county of Wayne, two thousand seven hundred dollars.

Sec. 3-(48). *Webster County.* — For the county of Webster, two thousand four hundred dollars.

Sec. 3-(49). *Wetzel County.* — For the county of Wetzel, two thousand four hundred dollars.

Sec. 3-(50). *Wirt County.* — For the county of Wirt, nine hundred dollars.

Sec. 3-(51). *Wood County.* — For the county of Wood, three thousand dollars.

Sec. 3-(52). *Wyoming County.* — For the county of Wyoming, three thousand six hundred dollars.

Sec. 4. Salaries of Joint Clerks of County and Circuit Courts. — The annual compensation of the clerks of the courts in the counties where both the office of the clerk of the county court and clerk of the circuit court are held by the same person, including the compensation for new duties imposed by acts of the Legislature, sessions of one thousand nine hundred forty-five and one thousand nine
hundred forty-seven, on and after July one, one thousand nine hundred forty-seven, shall be as follows: Hardy county, two thousand two hundred dollars; Grant county, two thousand four hundred dollars; Pendleton county, two thousand two hundred dollars.

Sec. 5. Salaries of Prosecuting Attorneys.—The annual compensation of the prosecuting attorney in each county, including the compensation provided by law for his services as attorney for boards of education and other administrative boards and officers in the county, shall, on and after January one, one thousand nine hundred forty-nine, be in the amounts set forth in sections five-(one) to five-(fifty-five), inclusive, of this article.

Sec. 5-(1). Barbour County.—For the county of Barbour, two thousand dollars.

Sec. 5-(2). Berkeley County. — For the county of Berkeley, two thousand two hundred 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 one hundred dollars.

Sec. 5-(5). Brooke County.—For the county of Brooke, two thousand five hundred dollars.

Sec. 5-(6). Cabell County.—For the county of Cabell, four thousand eight hundred 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 six hundred dollars.

Sec. 5-(9). Doddridge County. — For the county of Doddridge, one thousand two 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 five hundred dollars.

Sec. 5-(12). **Grant County.**—For the county of Grant, one thousand dollars.

Sec. 5-(13). **Greenbrier County.**—For the county of Greenbrier, two thousand five hundred dollars.

Sec. 5-(14). **Hampshire County.**—For the county of Hampshire, one thousand four hundred forty 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 dollars.

Sec. 5-(17). **Harrison County.**—For the county of Harrison, four thousand dollars.

Sec. 5-(18). **Jackson County.**—For the county of Jackson, one thousand two hundred dollars.

Sec. 5-(19). **Jefferson County.**—For the county of Jefferson, two thousand four hundred dollars.

Sec. 5-(20). **Kanawha County.**—For the county of Kanawha, seven thousand five hundred dollars.

Sec. 5-(21). **Lewis County.**—For the county of Lewis, not less than two thousand dollars nor more than two thousand four hundred dollars.

Sec. 5-(22). **Lincoln County.**—For the county of Lincoln, two thousand four hundred dollars.

Sec. 5-(23). **Logan County.**—For the county of Logan, four thousand eight hundred dollars.

Sec. 5-(24). **Marion County.**—For the county of Marion, four thousand eight hundred dollars.

Sec. 5-(25). **Marshall County.**—For the county of Marshall, three thousand dollars.

Sec. 5-(26). **Mason County.**—For the county of Mason, two thousand dollars.
Sec. 5-(27). McDowell County.—For the county of McDowell, six thousand dollars.

Sec. 5-(28). Mercer County.—For the county of Mercer, five thousand dollars.

Sec. 5-(29). Mineral County.—For the county of Mineral, two thousand dollars.

Sec. 5-(30). Mingo County.—For the county of Mingo, four thousand eight hundred dollars.

Sec. 5-(31). Monongalia County.—For the county of Monongalia, four thousand dollars.

Sec. 5-(32). Monroe County.—For the county of Monroe, one thousand two hundred dollars.

Sec. 5-(33). Morgan County.—For the county of Morgan, one thousand dollars.

Sec. 5-(34). Nicholas County.—For the county of Nicholas, two thousand two hundred dollars.

Sec. 5-(35). Ohio County.—For the county of Ohio, four thousand seven hundred dollars.

Sec. 5-(36). Pendleton County.—For the county of Pendleton, one thousand dollars.

Sec. 5-(37). Pleasants County.—For the county of Pleasants, one thousand two hundred dollars.

Sec. 5-(38). Pocahontas County.—For the county of Pocahontas, two thousand dollars.

Sec. 5-(39). Preston County.—For the county of Preston, three thousand dollars.

Sec. 5-(40). Putnam County.—For the county of Putnam, two thousand one hundred dollars.

Sec. 5-(41). Raleigh County.—For the county of Raleigh, not less than three thousand nor more than four thousand eight hundred dollars.

Sec. 5-(42). Randolph County.—For the county of Randolph, three thousand dollars.
Sec. 5-(43). Ritchie County.—For the county of Ritchie, one thousand two hundred dollars.

Sec. 5-(44). Roane County.—For the county of Roane, one thousand five hundred dollars.

Sec. 5-(45). Summers County.—For the county of Summers, two thousand dollars.

Sec. 5-(46). Taylor County.—For the county of Taylor, two thousand two hundred fifty dollars.

Sec. 5-(47). Tucker County.—For the county of Tucker, one thousand seven hundred dollars.

Sec. 5-(48). Tyler County.—For the county of Tyler, one thousand five hundred dollars.

Sec. 5-(49). Upshur County.—For the county of Upshur, one thousand five hundred dollars.

Sec. 5-(50). Wayne County.—For the county of Wayne, three thousand dollars.

Sec. 5-(51). Webster County.—For the county of Webster, two thousand four hundred dollars.

Sec. 5-(52). Wetzel County.—For the county of Wetzel, two thousand dollars.

Sec. 5-(53). Wirt County.—For the county of Wirt, six hundred dollars.

Sec. 5-(54). Wood County.—For the county of Wood, three thousand six hundred dollars.

Sec. 5-(55). Wyoming County.—For the county of Wyoming, not less than three thousand dollars, nor more 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 all instances where the county court of a county is by law authorized to sell or dispose of any property, either real or personal, belonging to the county or held by it for the use of any district thereof, the same shall be sold at public auction, at the front door of the courthouse of the county, and such sale shall be conducted by the president of the county court, but before making any such sale, notice of the time, terms and place of sale shall be given by publication thereof once each week for two consecutive weeks in some newspaper of general circulation in said county, which notice shall contain a brief description of the property to be sold: Provided, however, That this section shall not apply to the sale of any one item of property of less value than one thousand dollars: Provided, further, That the provisions of this section concerning sale at public auction shall not apply to a county court selling or disposing of its property for a public use 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, chap­
ter 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 allow­
ances to circuit judges for stationery, postage and steno-
graphic 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 steno-
graphic 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 amend­
ed and reenacted by chapter thirty-eight, acts of the Legisla­
ture, 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 cir­
cuit court shall be reimbursed out of the state treasury
for the actual amounts expended by him for the procure­
ment of necessary stationery, the payment of postage, and
the payment for stenographic work necessary in the dis­
charge of the duties of his office, not to exceed one hun­
dred 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 thou-
sand 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.]

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 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
court of the county wherein the accused person was con-
19 victed and shall be paid out of the county treasury there-
of, and in cases of felony convictions the cost of such tran-
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.

CHAPTER 53

(Senate Bill No. 102—By Mr. Vickers, Mr. President)

AN ACT to amend and reenact chapter twenty, acts of the Leg-
islature of West Virginia, regular session, one thousand nine
hundred forty-three, relating to the recording by county
clerks of discharges other than dishonorable, and certifi-
cates of satisfactory service held by veterans and to the
furnishing by county clerks to veterans and their depend-
ents of copies of certain public records, and providing that
such chapter, as hereby amended, shall be designated sec-
tion twelve-a, article four, chapter fifty-one of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended.

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


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 Vir-
ginia, regular session, one thousand nine hundred forty-three,
be amended and reenacted, and as amended be designated sec-
tion 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.

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.
Article 1. Supreme Court of Appeals.

Section 15. Administrative office of the supreme court; director; salary; seal.

Section 16. Employees; appointment; compensation; prohibiting practice in state courts.

Section 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:
(a) All administrative matters relating to the offices of the clerks of the circuit and intermediary courts and of the offices of justice of the peace, and all other clerical and administrative personnel of said courts; but nothing contained in this act shall be construed as affecting the authority of the courts to appoint their administrative or clerical personnel;

(b) Examining the state of the dockets of the various courts and securing information as to their needs for assistance, if any, and the preparation of statistical data and reports of the business transacted by the courts.

(c) The preparation of a proper budget to secure the appropriation of moneys for the maintenance, support and operation of the courts;

(d) The purchase, exchange, transfer and distribution of equipment and supplies, as may be needful or desirable;

(e) Such other matters as may be assigned to him by the supreme court of appeals. The clerks of the circuit courts, intermediate courts and courts of the justices of the peace shall comply with any and all requests made by the director or his assistants for information and statistical data bearing on the state of the dockets of such courts, or such other information as may reflect the business transacted by them;

(f) Annual Report of Activities and Estimates of Expenditures.—The director, when required to do so by the supreme court of appeals, shall submit annually to the court a report of the activities of the administrative office and of the state of business of the courts, together with the statistical data compiled by him, with his recommendations.

All acts or parts of acts in conflict herewith are hereby 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, 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-
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.
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 Braxton on the second Monday in March, July and November.

For the county of Clay on the first Monday in February, June and October.

For the county of Gilmer on the fourth Monday in February, June and October.

For the county of Webster on the second Monday in 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 of Mingo, on the first Monday in January, May and September.
For the county of Wayne, on the second Monday in 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.]

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.
Upon conviction of a female for a felony and subsequent sentence of confinement, the trial court shall sentence her to be confined at the West Virginia state prison for women 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
of the county, be paid out of the treasury of the county. In other cases, all such charges shall be paid out of the estate of the deceased; or, if it prove insufficient, out of the treasury of the county, unless the inquest be upon the body of a convict in the penitentiary, in which case the same shall be paid out of the state treasury, after being allowed by the executive. Each juror impaneled as herein provided shall receive for his services two dollars for each day he shall be necessarily engaged in holding the inquest and making the return thereof; the constable shall receive three dollars for summoning a jury and witnesses for an inquest, and the coroner or justice shall receive for his services five dollars for each day necessarily engaged in holding the inquest and making return thereof, to be allowed and paid as aforesaid. Should the coroner or justice, upon such notice, make a preliminary examination of the facts connected with a death by some probable unlawful act, and ascertain that there was not good cause to believe it was by some unlawful act, he shall not hold an inquest except upon request of the prosecuting attorney, and such coroner or justice, in case an examination is made and no inquest held, shall be allowed a fee of five dollars for such examination, to be paid as herein provided: Provided, further, That a county prosecuting attorney who has investigated the death of any person and reasonably believes that an unlawful act has been committed may request the coroner or justice to hold an inquest or make an autopsy or take a chemical analysis upon the dead body, in which case, the coroner or justice shall, when required by the prosecuting attorney, also summon a physician or physicians to make an autopsy or take a chemical analysis upon the dead body without the necessity of obtaining the consent of the next of kin. A coroner or justice shall not, without the consent of the prosecuting attorney authorize any autopsy or chemical analysis upon a dead body unless the justice or coroner has first obtained the consent, in writing, of the next of kin, and the cost shall be paid by the county court upon the order of the prosecuting attorney.
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.]


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 either felonies or misdemeanors. Such offenses as are punishable with death or confinement in the penitentiary are felonies; all other offenses are misdemeanors.

The word “penitentiary” as used in this section shall mean and include any and all institutions provided by the state for the confinement of persons sentenced to confinement in the penitentiary, notwithstanding that transfers of such persons from any one of such institutions to 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 Persons or Mental Defectives Charged with Crime.—Whenever any person charged with or convicted of a crime, or acquitted thereof because of his mental condition, is thought to be mentally ill or mentally defective, the judge of the court of record in which he was so charged, convicted, or acquitted, may on his own motion inquire into the mental condition of such person. The judge of such court or the judge of any other court of record of the county in which such person may be found, shall make such inquiry upon the application of an inferior court not of record in which such person was so charged, convicted, or acquitted, or upon the application of the official in charge of any penitentiary, prison, jail or lockup in which such person may be confined. The judge shall appoint two physicians to examine such person and report in writing on his mental condition. If on the basis of the reports the judge is satisfied that such person is mentally ill or mentally defective, he may order that such person be committed to a state institution. The sheriff or other officer in charge of such person shall immediately
deliver him to the superintendent of the institution to which he was committed, and it shall be the duty of the superintendent to admit and care for him. When any person committed as provided in this section has been found by the superintendent not to be mentally ill or mentally defective, or whenever such person has recovered, the superintendent shall give notice thereof to the judge of the court by whose order he was committed and shall deliver him to the proper officer upon the order of the court. If a person committed as provided in this section is awaiting indictment or trial, or has been arraigned or is being tried, proceedings against him shall be stayed until his recovery. Upon his recovery the court shall order that he be returned for the disposition of the charges against him. Thereupon the court shall proceed to dispose of the case as if there had been no commitment. If the person committed is a prisoner serving sentence, the time during which he is in the institution shall be computed 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, 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, 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,
criminals and motor vehicle accidents, maintaining a system of supplies and accounting and carrying on other necessary services he shall appoint an executive officer with the rank of captain, two lieutenants, and not more than two master sergeants, one supply sergeant, two master technical sergeants, two technical sergeants, four sergeants, seven corporals and ten troopers. Technicians from the ranks of sergeant, corporal and trooper may be appointed and designated by the superintendent. He shall also appoint such civilian employees as may be necessary whose salaries shall be fixed by the board of public works. The inspector, executive officer, lieutenants, master sergeants, supply sergeant, master technical sergeants, technical sergeants, sergeants and sergeant technicians, corporals and corporal technicians, troopers and trooper technicians shall be enrolled and enlisted as members of the department of public safety and shall be entitled to wear the insignia of rank as is provided by law or authorized by department regulations.

Sec. 3. Companies and Platoons and How Constituted; Training of Members and Other Peace Officers; Salaries and Bonds of Members.—The superintendent shall create, appoint and equip a department of public safety which shall, in addition to the personnel provided for in section two of this article, consist of four companies or platoons. Each company or platoon shall be composed of one captain, one lieutenant, one first sergeant, five sergeants, ten corporals and such number of troopers as the superintendent may decide best, but such number of troopers in any company or platoon shall not at any time be less than twenty-five nor more than sixty-five.

The superintendent shall provide adequate facilities for the training of all members of the department and shall prescribe a basic training course for newly enlisted members. He shall also provide advanced or in service training from time to time for all members of the department. The superintendent may, in his discretion, hold training classes for other peace officers in the state with-
out cost to such officers, except actual expenses for food, lodging and school supplies.

Members of the department shall receive salaries, as follows:

The inspector shall receive an annual salary of four thousand two hundred dollars; the executive officer and the captains shall each receive an annual salary of three thousand three hundred sixty dollars; lieutenants shall each receive an annual salary of three thousand dollars; the master sergeants, supply sergeant, master technical sergeants and first sergeants shall each receive an annual salary of twenty-five hundred eighty dollars; technical sergeants shall each receive an annual salary of twenty-five hundred twenty dollars; sergeants and sergeant technicians shall each receive an annual salary of twenty-four hundred dollars; corporals and corporal technicians shall each receive an annual salary of twenty-two hundred eighty dollars; and each newly enlisted trooper shall receive a salary of one hundred dollars monthly during the period of his basic training and upon the satisfactory completion of such training and assignment to active duty each such trooper shall receive, during the remainder of his first year's service, a salary of one hundred fifty dollars monthly. During the second year of his service in the department each trooper shall receive an annual salary of nineteen hundred twenty dollars; during the third year of his service each trooper shall receive an annual salary of twenty hundred forty dollars; and during the fourth year of his service and thereafter as long as he shall remain at the grade of trooper, each trooper shall receive an annual salary of twenty-one hundred sixty dollars.

In applying the foregoing salary schedule where salary increases are provided for continuous service, members of the department in service at the time this article becomes effective shall be given credit for prior service and shall be paid such salaries as the same length of service will entitle them to receive under the provisions hereof. Each member of the department of public safety, except the superintendent and civilian employees, shall,
before entering upon the discharge of his duties, execute
a bond with security in the sum of three thousand five
hundred dollars payable to the state of West Virginia,
conditioned for the faithful performance of his duties as
such, and such bond shall be approved as to form by the
attorney general, and as to sufficiency by the board of
public works and the same shall be filed with the secre­
tary of state and preserved in his office.

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 hun­
dred forty-five, and available in account number five hun­
dred seventy, moneys in excess of two hundred five thou­
sand dollars for subsistence for officers and enlisted men
of said department.

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

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 sessions 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.

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) The retirement board shall retire any member of the department of public safety when such member
(1) Shall have attained the age of fifty-five years and shall have completed twenty-five years of service as a member of said department, or
(2) Has completed twenty-five years of service as a member of said department and shall have attained the age of fifty-five years, or
(3) Has attained the age of fifty-five years, and shall have completed twenty-five years of service as a member of said department.
(b) The retirement board shall retire any member of said department of public safety when such member shall have lodged with the secretary of the retirement board the voluntary petition in writing of such member for retirement, and
(1) Has or shall have completed not less than twenty-five years of service as a member of said department, or
(2) Has or shall have attained the age of fifty years and has or shall have completed not less than twenty years of service as a member of said department, or
(3) Being under the age of fifty years has or shall have completed twenty years of service as a member of said department.
(c) When the retirement board shall retire any member under any of the foregoing provisions of this section, said board shall, by order in writing, make an award directing that such member shall be entitled to receive annually and that there shall be paid to such member from the death, disability and retirement fund in equal monthly installments during the natural lifetime of such member while in status of retirement one or the other of
two amounts, whichever shall be the greater, namely:
(1) Either an amount equal to three per cent of the aggregate of salary paid to such member during the whole period of service as a member of the department of public safety; or
(2) When such period of service has or shall have been more than
(a) Twenty years but less than twenty-one years, the sum of nine hundred sixty dollars;
(b) Twenty-one years but less than twenty-two years, the sum of one thousand eight dollars;
(c) Twenty-two years but less than twenty-three years, the sum of one thousand fifty-six dollars;
(d) Twenty-three years but less than twenty-four years, the sum of one thousand one hundred four dollars.
(e) Twenty-four years but less than twenty-five years, the sum of one thousand one hundred fifty-two dollars;
(f) Twenty-five years, the sum of one thousand two hundred dollars.
It is provided, however, that when a member has or shall have served twenty years or longer but less than twenty-five years as a member of said department and shall be retired under any of the provisions of this section before he shall have attained the age of fifty years, payment of monthly installments of the amount of retirement award to such member shall commence on the date such member shall attain the age of fifty years.

Sec. 28-a. Credit on Service Required for Retirement to be Allowed Members for Time Served in Armed Forces in World War II.—Any member of the department of public safety who has been commissioned, enlisted or inducted into the armed forces of the United States or, being a member of the reserve officers’ corps, has been called to active duty in said armed forces since the first day of September, one thousand nine hundred forty, and prior to the close of hostilities in World War II, shall be entitled to and receive credit on the minimum period of service required by law for retirement on retirement pay from the service of the department of public safety for
a period equal to the full time he has or shall, pursuant
to such commission, enlistment, induction or call, have
served with said armed forces: Provided, That such mem-
ber has been or shall (1) be honorably discharged from
said armed forces, and (2) within ninety days after hon-
orable discharge from said armed forces shall present
himself to the superintendent and offer to resume service
as an active member of the department: Provided, how-
ever, That no such member shall be entitled to any credit,
privilege or benefit under the provisions of this section
who shall by any voluntary act on his part, whether by
reenlistment, waiver of discharge, acceptance of com-
mission or otherwise, extend or participate in extension
of the period of service of such member with such armed
forces beyond the period of service therewith for which
such member was originally commissioned, enlisted, in-
ducted or called: Provided further, That the amount
of retirement pay to which any such member shall be
entitled shall be calculated and determined as if such
member had continued in the active service of the de-
partment at the rank or grade to him appertaining at the
time of such commission, induction, enlistment or call,
during a period coextensive with the time such member
shall have served with said armed forces pursuant to such
commission, induction, enlistment or call. The superin-
tendent of said department is authorized to transfer and
pay over each month into said death, disability and re-
tirement fund from moneys that shall be appropriated
for said department a sum equal to eighteen per cent
of the aggregate of salary which all said members would
have been entitled to receive had they continued in the
active service of said department during a period co-
extensive with the time such members shall have served
with said armed forces pursuant to said commission, in-
duction, enlistment or call. If any member on leave of
absence and while serving with the armed forces of the
United States pursuant to commission, enlistment, in-
duction or call as aforesaid shall die as a result of illness
or injury from any cause while a member of such armed
forces of the United States, all moneys which shall have
been deducted from his salary as a member of the de-
partment and deposited in the death, disability and re-
tirement fund created by section twenty-seven of this
article shall, if such member was not at the time of his
death eligible for retirement benefits under any of the
provisions of this article, be withdrawn from said fund
and paid over to the widow of such member, if any, and
if none, to the children of such member, and if there be
no widow or children, to the dependent parent or parents,
and if there be no widow or children or dependent par-
ents, then the same shall remain in the fund.

Sec. 28-b. Disability Incurred in Performance of Duty;
Awards and Benefits.—Any member of said department
who has been or shall become physically or mentally
permanently disabled by injury, illness or disease result-
ing from any occupational risk or hazard inherent in or
peculiar to the services required of members of said de-
partment and incurred pursuant to or while such mem-
ber was or shall be engaged in the performance of his
duties as a member of said department shall, if, in the
opinion of the retirement board, he is by reason of such
cause unable to perform adequately the duties required
of him as a member of said department, be retired from
active service by the retirement board and thereafter
such member shall be entitled to receive annually and
there shall be paid to such member from the death, dis-
ability and retirement fund in equal monthly install-
ments during the natural lifetime of such member or
until such disability shall sooner terminate, an amount
equal to four per cent of the total salary which would
have been earned by him during twenty-five years of
service in said department based on his average earnings
while employed as a member of said department. If such
disability shall be permanent and total to the extent that
such member is or shall be incapacitated ever to engage
in any gainful employment, such member shall be en-
titled to receive annually and there shall be paid to such
member from the death, disability and retirement fund
in equal monthly installments during the natural life-
The superintendent is authorized to expend moneys from funds appropriated for the department of public safety in payment of medical, surgical, laboratory, x-ray, hospital, ambulance and dental expenses and fees, and reasonable costs and expenses incurred in purchase of artificial limbs and other approved appliances which may be reasonably necessary for any member of said department who has or shall become temporarily, permanently or totally disabled by injury, illness or disease resulting from any occupational risk or hazard inherent in or peculiar to the service required of members of said department and incurred pursuant to or while such member was or shall be engaged in the performance of his duties as a member of said department. Whenever the superintendent shall determine that any disabled member is ineligible to receive any of the aforesaid benefits at public expense the superintendent shall, at the request of such disabled member, refer such matter to the retirement board for hearing and final decision.

Sec. 28-c. Disability From Other Causes; Awards and Benefits.—If any member while in active service of said department has or shall, in the opinion of the retirement board, become permanently disabled to the extent that such member cannot adequately perform the duties required of a member of the department from any cause other than those set forth in the next preceding section and not due to vicious habits, intemperance or wilful misconduct on his part, such member shall be retired by the retirement board and, if such member at the time of such retirement under this section, shall have served less than twenty years as a member of said department, such member shall be entitled to receive annually and 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
determined in the manner provided by paragraphs (1)
37 and (2) of subsection (c) of section twenty-eight of this
38 article.
39
Sec. 28-d. Physical Examinations; Recall to Active
Duty; Termination of Disability Awards.—The superin-
tendent may require any member who has been or who
shall be retired with compensation on account of disability
to submit to a physical and/or mental examination by a
physician or physicians selected or approved by the re-
tirement board and cause all costs incident to such exam-
ination including hospital, laboratory, x-ray, medical and
physicians’ fees to be paid out of funds appropriated to
defray the current expense of said department, and a
report of the findings of such physician or physicians shall
be submitted in writing to the retirement board for its
consideration. If from such report or from such report
and hearing thereon the retirement board shall be of
opinion and find that such disabled member shall have
recovered from such disability to the extent that he is
able to perform adequately the duties of a member of said
department, the superintendent shall order such member
to reassume active duty as a member of said department
and thereupon all payments from the death, disability
and retirement fund shall be terminated.

Sec. 28-e. Retired Member Not to Exercise Police
Authority; Retention of Group Insurance.—A member
who has been or shall be retired shall not while in re-
retirement status exercise any of the powers conferred upon
active members by section eleven of this article; but shall
be entitled to receive free of cost to such member and
retain as his separate property one complete standard
uniform prescribed by section nine of this article: Pro-
vided, That such uniform may be worn by a member in
retirement status only on such occasions as shall be pre-
scribed by the superintendent. The superintendent is
authorized to maintain at public expense for the benefit
of all members in retirement status that group life insur-
ance mentioned in section nine of this article. The super-
intendent, when he shall be of opinion that the public
safety shall require, may recall to active duty during
such period as the superintendent shall determine any
member who shall be retired under the provisions of sec-
tion twenty-eight of this article, provided the consent of
such member to reassume duties of active membership
shall first be had and obtained. When any member in re-
tirement shall reassume status of active membership such
member, during the period he shall remain in active status,
shall not be entitled to receive retirement pay or benefits
but in lieu thereof shall be entitled to receive that rate of
salary and allowance pertinent to the rank or grade held
by such member when retired. When such member shall
be released from active duty he shall reassume the status
of retirement and shall thereupon be entitled to receive
appropriate benefits as provided by this article: Provided,
That the amount of such benefits shall in no event be less
than the amount determined by the order of the retire-
ment board previously made in his behalf.

Sec. 28-f. Death of Member in Performance of Duty; Dependants; 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 result-
ing 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 re-
tired 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 re-
marrriage, 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 de-
partment 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, dis-
ability and retirement fund the sum of twenty dollars
each until such child or children shall respectively at-
tain 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 re-
tirement 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 de-
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.
Sec. 28-g. Death of Member From Non-Service Connected Causes; Dependents; Awards and Benefits.—In any case where a member while in active service of said department, before having completed twenty years of service as a member of said department, has died or shall die from any cause other than those specified in section twenty-eight-f of this article and not due to vicious habits, intemperance or wilful misconduct on his part, there shall be paid annually in equal monthly installments from said death, disability and retirement fund to the widow of such member during a period equal to one-half the time such member served as a member of said department, or until the time during such period said widow shall remarry, a sum equal to one and one-half per cent of the total salary which would have been earned by him during twenty-five years of service in said department based on his average earnings while employed as a member of said department. If there be no widow or during the period aforesaid such widow shall remarry there shall be paid from said fund to each child of said deceased member the sum of twenty dollars monthly until such child or children respectively shall 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 fund to the dependent parents of said deceased member during their joint lifetimes a sum equal to the amount which a widow would have been entitled to receive, provided, when there shall be but one dependent parent surviving then such dependent 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.

Sec. 28-h. Death of Member After Retirement, or After Serving Twenty Years; Dependents; Awards and Benefits.—When any member of said department has here-fore completed or hereafter shall complete twenty years of service or longer as a member of said department and has died or shall die from any cause or causes other than those specified in section twenty-eight-b of this ar-
article before having been retired by the retirement board,
and when a member in retirement status has died or shall
die after having been retired by the retirement board un-
der the provisions of section twenty-eight of this article,
there shall be paid annually in equal monthly installments
from said fund to the widow of said member, commencing
on the date of the death of said member and continuing
during her lifetime or until her remarriage an amount
equal to one-half the retirement benefits said deceased
member was receiving while in status of retirement, or
would have been entitled to receive to the same effect as
if such member had been retired under the provisions of
section twenty-eight of this article immediately prior to
the time of his death; and in addition thereto said widow
shall be entitled to receive and there shall be paid to her
from said fund the sum of ten dollars monthly for each
child under the age of eighteen years until such child or
children respectively shall attain the age of eighteen
years: Provided, That no widow of any member who shall
die after having been retired by the retirement board
shall be entitled to receive any benefits under the terms
of this section unless such widow shall have been mar-
rried to such member during at least one full year prior
to the date such member shall have been retired by the
retirement board and: Provided further, That a child born
to said dependent wife after such member was placed on
retirement shall not be entitled to any benefits nor shall
such dependent wife be entitled to receive benefits for
such child. If such widow shall not be entitled to benefits
or shall die or remarry, or if there be no widow there shall
be paid monthly from said fund to each child under the
age of eighteen years of said deceased member the sum
of twenty dollars until such child or children respectively
attain the age of eighteen years. If there be no widow or
no widow eligible to receive benefits and no child or
children there shall be paid annually in equal monthly
installments from said 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 been entitled to receive: Provided, That when
there shall be but one dependent parent surviving such
parent shall be entitled to receive during his or her life-
time one-half the amount which both parents, if living,
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
receiving or being entitled to receive any benefits under
this article, such widow shall not from the date of such
remarriage, nor shall her estate from the date of her
death, be entitled to receive any benefits hereunder what-
soever: Provided, That in any case where under the terms
of this article benefits are provided for a child or children
surviving the death or remarriage of such widow, pay-
ment of such benefits to such child or children shall be
calculated for payment from the date such widow shall
die or remarry.

Sec. 28-j. Discharge or Resignation of Members; Re-
2 funds to Members.—Any member who shall be discharged
by order of the superintendent after such member has or
shall have served two full years or more as a member of
said department shall, at the request of such member,
be entitled to receive from said fund a sum equal to the
aggregate of the principal amount of moneys deducted
from his salary and paid into said death, disability and
retirement fund as provided and required by section
twenty-seven of this article: Provided, That the superin-
tendent shall forthwith refund to any member that has
or shall have served more than two but less than twenty
years as a member of said department and has resigned
or shall resign or that has been or shall be discharged
from the service for cause in accordance with recommen-
dation of a majority of a board of five officers of the depart-
ment, a sum equal to the aggregate of the principal amount
of all moneys deducted from the salary of such member
and paid into said fund as aforesaid: Provided further,
That if any such refund shall be made to any member such
member shall not be entitled to any benefits provided by
this article, and should any such member thereafter be
again enlisted as a member of said department no credit or
any period of service required of a member as a condition
of retirement shall be allowed to such member on account
of such former service, unless following such reenlist-
ment such member shall redeposit in said fund the am-
ount of the refund, together with interest thereon at the
rate of four per cent per annum from the date of with-
drawal to the date of redeposit, in which case he shall re-
ceive the same credit on account of his former service as
if no refund had been made: And provided further, That
when any member has or shall have served as a member
of said department during twenty years or longer and
shall, in the opinion of the superintendent, become unfit
for any reason for further active service such member
shall, in lieu of being discharged, be retired by the retire-
ment board under the provision or provisions of this ar-
ticle most favorable to such member.

Sec. 28-k. Death of Member Not Eligible for Benefits;
Refund to Dependents.—If any member while in active
status shall die after having served two full years or lon-
ger as a member of said department and the retirement
board shall be of opinion after hearing thereon that the
dependent or dependents of said member are ineligible
under the provisions of this article to receive any of the
benefits provided herein, the superintendent shall refund
to the widow, if surviving, but if not surviving, to the
children of such member, and if there be no widow or
children, to the dependent parents, a sum equal to the
aggregate of the principal amount of all moneys deduct-
ed from the salary of such member and paid into said
fund as aforesaid, and if there be no widow or children
or dependent parent or parents, then the same shall re-
main in the fund. Whenever any such refund shall be
made the widow or other dependents of such deceased
member shall not be entitled to any other rights or bene-
fits on account of said fund under the provisions of this
article.
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 commodities, consisting of office supplies, printing, binding and stationery for the use of all state departments, boards and institutions, and for maintaining a stock of commodities in current use in state departments and institutions, there is hereby created a special revenue fund to be administered by the director of the department of purchases.

3 The amount of the fund shall be fixed by the governor upon the recommendation of the director and if at the end of the fiscal year the cash balance plus inventory value exceeds the amount so fixed, the excess shall be transferred by the auditor to the general revenue fund and become a part of the general revenues of the state.

4 In addition to paying for purchases herein described, there may be paid from the fund all costs of preserving inventories, including storage, equipment and salaries and
wages of employees; such expenditures shall not exceed five thousand dollars annually. The fund shall be accumulated and administered as follows:

(1) The balance of the appropriations, and all accretions thereto, made under chapter nine, acts of the Legislature, one thousand nine hundred thirty-five, and subsequent appropriations, shall be transferred to the special revenue fund.

(2) Charges for commodities sold to the various state departments, boards and institutions at a price to include total cost shall be deposited in the fund.

(3) To provide additional money for volume purchases the director, within his discretion, may require state departments, boards and institutions at the beginning of each fiscal year to transfer from appropriations for current expense to the fund, sums sufficient to purchase inventories for use during the fiscal year. The director shall credit such transfers to the account of each department, board or institution and the cost of products purchased during the fiscal year shall be charged to the accounts of the respective departments, boards or institutions. At the end of the fiscal year the balances of the accounts shall be returned to the appropriations from 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.]


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
of minority of any person otherwise eligible for guaranty or insurance of a loan pursuant to the serviceman's re-adjustment act of one thousand nine hundred forty-four, as amended, (Public Law three hundred forty-six, seventy-ninth Congress, as amended), and of the minor spouse of any eligible veteran irrespective of his or her age, in connection with any transaction entered into pursuant to such act as amended, is hereby removed, for all purposes in connection with such transaction including, but not limited to, incurring of indebtedness or obligations and acquiring, encumbering, selling, releasing, or conveying property, or any interest therein, and litigating or settling controversies arising therefrom, if all or part of any obligations incident to such transaction be guaranteed or insured by the administrator of veterans' affairs pursuant to such act: Provided, however, That this act shall not be construed to impose any other or greater rights or liabilities than would exist if such person and such spouse were under no such disability.

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.
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.
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 a state board of education, to be known as the West Virginia board of education, which shall be a corporation and as such may contract and be contracted with, plead and be impleaded, sue and be sued, and have and use a common seal. The state board shall consist of ten members, of whom one shall be the state superintendent of schools, ex officio, who shall not be entitled to vote. The other nine members shall be citizens of the state, 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 but not more than two members shall be appointed from each congressional district, and at least one member shall be of the Negro race.

No more than five of the appointive members shall belong to the same political party and not more than two members shall be graduates of the same institution of higher education. No person shall be eligible for appointment to membership on the state board who is a member
of any political party executive committee or holds any
other public office or public employment under the fed-
eral government or under the government of this state
or any of its political subdivisions, or who is an appointee
or employee of the board. Members shall be eligible for
reappointment.

The governor shall appoint all members of the state
board as soon after the effective date hereof as is prac-
ticable for respective terms of office beginning on the first
day of July, one thousand nine hundred forty-seven. Any
vacancy on the board shall be filled by the governor by
appointment for the unexpired term. The terms of office
of present members of the state board shall expire on the
thirtieth day of June, one thousand nine hundred forty-
seven.

No member of the state board may be removed from
office by the governor except for official misconduct, in-
competence, 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.

Before exercising any authority or performing any
duties as a member of the state board, each member shall
qualify as such by taking and subscribing to the oath of
office prescribed by section five, article four of the con-
stitution, the certificate whereof shall be filed with the
secretary of state. A suitable office or offices in the state
department of education at the state capitol shall be pro-
vided for the use of the state board.

Sec. 3. Meetings of State Board; Expenses of Members.

—The state board shall hold at least six meetings in every
year at such times and places as it may prescribe. It may
meet at such other times as may be necessary, such meet-
ings to be held upon its own resolution or at the call of
the president of the board. The members shall serve
without compensation, but every member shall be re-
imbursed from the general school fund for actual ex-
penses incident to the performance of his duties, upon
presentation of an itemized sworn statement thereof.
Sec. 4. Organization of State Board; Secretary.—At its first regular meeting in every year, the state board shall elect one of its members as president, who shall not succeed himself as president, and one as vice-president of the board. The state superintendent shall be the chief executive officer of the state board, and subject to its direction shall execute its policies.

The state board shall appoint a secretary and fix his salary, to be paid out of the general school fund upon warrants drawn by the state superintendent. The secretary shall keep a record of the proceedings of the state board and shall perform such other duties as it may prescribe.

Sec. 5. General Powers and Duties.—Subject to and in conformity with the constitution and laws of this state, the state board of education shall determine the educational policies of the state, except as to the West Virginia university and Potomac state school, and shall make rules for carrying into effect the laws and policies of the state relating to education, including rules relating to the physical welfare of pupils, the education of feeble-minded and physically disabled or crippled children of school age, school attendance, evening and continuation or part-time day schools, school extension work, the classification of schools, the issuing of certificates upon credentials, the distribution and care of free textbooks by the county boards of education, the general powers and duties of county boards of education, and of teachers, principals, supervisors and superintendents, and such other matters pertaining to the public schools of the state as may seem to the state board to be necessary and expedient.

Sec. 15. Report to Governor by State Board.—On the first day of October of each year, or as soon thereafter as practicable, the state board, through the state superintendent, shall make to the governor and to the Legislature a full report concerning the public schools and the educational institutions under its control and management, together with its recommendations in respect to needed legislation.
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 West Virginia University, heretofore established and located at Morgantown, in Monongalia county, shall be continued, and shall be known as “West Virginia University.” The business and educational affairs of the university shall be under the control, supervision and management of the board of governors, which shall be a corporation, and as such may contract and be contracted with, sue and be sued, plead and be impleaded, and have and use a common seal. The board of governors shall consist of nine members, all of whom shall be citizens of the state, 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 but not more than two members shall be appointed from each congressional district and at least four members shall be gradu-
ates of West Virginia University. No more than five members shall belong to the same political party. No person shall be eligible for membership on the board of governors who is a member of any political party executive committee, or who holds any other public office or public employment under the federal government or under the government of this state or any of its political subdivisions, or who is an appointee or employee of the board. Members shall be eligible for reappointment.

The governor shall appoint all members of the board of governors as soon after the effective date hereof as is practicable, for respective terms of office beginning on the first day of July, one thousand nine hundred forty-seven. Any vacancy on the board of governors shall be filled by the governor by appointment for the unexpired term. The terms of office of present members of the board of governors shall expire on the thirtieth day of June, one thousand nine hundred forty-seven.

No member 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.

Before exercising any authority or performing any duties as a member of the board of governors, each member shall qualify as such by taking and subscribing to the oath of office prescribed by section five, article four of the constitution, the certificate whereof shall be filed in the office of the secretary of state. A suitable office or offices for the board shall be provided in the buildings of West Virginia University.

The board of governors shall have general control, supervision and management of the business and educational affairs of the university and of Potomac state school, and shall have full authority to employ all officers, teachers and other employees of such institutions and fix their yearly or monthly salaries.

The board of governors shall meet annually in June at the university in the performance of its duties, and may 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.

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 bene-
fits to their respective member-schools of said association
and union for certain injuries and other contingencies sus-
tained by high school students, engaging in high school
athletic activities conducted or sponsored by the high
school in which such students are enrolled, and exempt-
ing 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.
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.
A teacher teaching his first regular term of school shall be paid the basic salary in accordance with his certification classification.

Upon the change of the certification classification of a teacher, the basic salary of that teacher shall be that of the new certification classification.

(B) Advanced salaries shall mean any salaries greater than basic salaries. Advanced salary increments shall be the increments added to the basic salaries of teachers for experience and for such other services as recognized herein. Salary increments for teaching experience shall be those set forth in the following schedule:

(1) For teachers who hold the short course or certificate of lower grade, the rate of salary shall be the basic salary plus at least six dollars a month for the second term, and the basic salary plus an additional annual increase of at least six dollars a month for each year taught thereafter to and including the seventh year.

(2) For teachers who hold the third-class elementary (standard normal) certificate, the rate of salary shall be the basic salary plus at least six dollars a month for the second term; and the basic salary plus an additional annual increase of at least six dollars a month for each year taught thereafter to and including the ninth year.

(3) For teachers who hold the second-class collegiate certificate, the rate of salary shall be the basic salary plus at least six dollars a month for the second term; and the basic salary plus an additional annual increase of at least six dollars a month for each year taught thereafter to and including the eleventh year.

(4) For teachers who hold the collegiate elementary, first-class high school, or other certificates of equal rank, based on a bachelor's degree earned in an approved institution, the rate of salary shall be the basic salary plus at least six dollars a month for the second term; and the basic salary plus an additional annual increase of at least six dollars a month for each year taught thereafter to and including the fourteenth year.

(5) For teachers who have received a master's degree in an institution qualified and approved to do graduate
work, holding a collegiate elementary certificate, first-
class high school, or other certificate of equal rank, the
rate of salary shall be the basic salary plus at least six
dollars a month for the second term; and the basic salary
plus an additional annual increase of at least six dollars
a month for each year taught thereafter to and including
the seventeenth year.

Boards of education may fix higher salaries for high
school and elementary school principals, teachers of one-
teacher schools, and any teacher assigned to or employed
for duties other than or in addition to his regular instruc-
tional duties, by the addition of further increments con-
sistent with the duties performed. Such additional salary
increments shall conform to the regulations of the state
board of education.

Advanced salaries shall be uniform throughout the dis-
trict for teachers holding similar credentials and in the
same classification as to experience and duties.

Upon the change of the certification classification of
the teacher, his advanced salary increments as provided
in this section shall be added to his new basic salary cre-
ated by the change in the certification classification.

In determining the number of regular terms of school
a teacher has taught, boards of education shall credit as
regular teaching, service in the armed forces of the
United States in the World War, and active work in edu-
cational positions other than teaching, but no teacher
shall be given credit for teaching more than one regular
term in any school year.

Any board of education failing to comply with the pro-
visions of this section may be compelled to do so by
mandamus.

All acts and parts of acts inconsistent with this act are
hereby repealed.
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
of the research, extension, administrative or library staffs of the public schools; (h) the state superintendent of schools, heads and assistant heads of the divisions under his supervision, or any other employee thereunder performing services of an educational nature; (i) employees of the state board of education who are performing services of an educational nature; (j) any person employed in a non-teaching capacity by the state board of education, the board of governors of West Virginia university, any county board of education, the state department of education or the teachers' retirement board, if such person was formerly employed as a teacher in the public schools; (k) all classroom teachers, principals, and educational administrators in schools under the supervision of the state board of control.

"Members of the administrative staff of the public schools" shall include deans of instruction, deans of men, deans of women, and financial and administrative secretaries.

"Members of the extension staff" of the public schools shall include every agricultural agent, boys’ and girls’ club agent, and every member of the agricultural extension staff whose work is not primarily stenographic, clerical, or secretarial.

"Retirement system" shall mean the state teachers' retirement system provided for in this article.

"Present teacher" shall mean any person who was a teacher within the seven years beginning July first, one thousand nine hundred thirty-nine, and whose membership in the retirement system has been continuous.

"New entrant" shall mean a member of the retirement system who is not a present teacher.

"Present member" shall mean a present teacher who is a member of the retirement system.

"Total service" shall mean all service as a teacher or a member of the retirement system since last becoming a member and, in addition thereto, all his prior service.

"Prior service" shall mean all service as a teacher completed prior to July first, one thousand nine hundred forty-one.
"Average final salary" shall mean the average annual salary earned as a teacher during the last fifteen years of prior service, or if prior service is less than fifteen years, the average annual salary for that period. If the records for determining each annual salary needed cannot reasonably be established by the retirement board, then the term shall mean the average annual salary of the teacher for years for which records are available.

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

"Regular interest" shall mean interest at three per cent compounded annually, or a higher earnable rate if approved by the retirement board.

"Refund interest" shall mean the interest on refunds of the accumulated contributions and deposits payable to former members, or to the beneficiaries of deceased members, as provided in this article. The rate for refund interest shall be the average annual rate of interest, calculated to one decimal place, earned on retirement board investments in effect at the end of the fiscal year for which the interest is due, according to the sworn statement of the fund custodian required by section nineteen of this article. In no case shall interest be paid on contributions received and withdrawn within the same year.

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

"Contributor" shall mean a member of the retirement system who has an account in the teachers' accumulation fund.

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

"Earnable compensation" shall mean the full compensation actually received by members for service as teachers whether or not a part of such compensation is received from other funds, federal or otherwise, than those provided by the state or its subdivisions.

"Annuities" shall mean the annual retirement payments for life granted beneficiaries in accordance with this ar-
ticle. All annuities shall be paid in twelve monthly pay-
ments 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.
“Member” shall mean a member of the retirement
system.
“Public schools” shall mean all publicly supported
schools, including normal schools, colleges and univer-
sities in this state.
The masculine gender shall be construed so as to in-
clude the feminine.
Age in excess of seventy years shall be deemed to be
seventy years.

Sec. 5. Membership of the Retirement Board.—The re-
tirement board shall consist of the following seven mem-
bers: (a) The governor, who shall be ex officio chairman;
(b) the state superintendent of free schools; (c) the state
director of the budget; (d) the state insurance commis-
ioner; (e) and three members of the retirement system.
The teachers, who are now serving as board members,
shall serve the terms for which they were elected by the
members of the retirement system. The first and second
elections held after the effective date of this section shall
be for the four and five-year term respectively; thereafter,
all elections shall be for six-year terms. The manner and
mode of such election shall be determined by the retire-
ment board. All elective terms shall begin on the first
day of July.
Vacancies occurring in the terms of the elected mem-
ship of the retirement board shall be filled within sixty
days for unexpired periods by the retirement board. If
the retirement board does not fill such vacancy within
sixty days, the chairman shall appoint a member of the
retirement system to serve for the remainder of the un-
expired term.
Before exercising any authority or performing any
duties as a member of the retirement board, each member
shall qualify as such by taking and subscribing to the oath
of office prescribed by section five, article four of the constitution, the certificates whereof shall be filed with the secretary of state. A suitable office or offices for the use of the retirement board shall be provided by the board of public works without cost to the retirement board.

Sec. 13-a. Resumption of Service by Retired Teachers.—For the purpose of this section, reemployment of a former or retired teacher as a teacher shall in no way impair such teacher's eligibility for a prior service pension, or any other benefit provided by this article.

Retired teachers, who qualified for an annuity because of age or service, shall not receive prior service allowance from the retirement board when employed as a teacher and when regularly employed by the state of West Virginia. The payment of such allowance shall be discontinued on the first day of the month within which such employment begins, and shall be resumed on the first day of the month succeeding the month within which such employment ceased. The annuity paid any such teacher on first retirement resulting from the teachers' accumulation fund and the employers' accumulation fund shall continue throughout the governmental service and thereafter according to the option selected by the teacher upon first retirement.

Retired teachers, who qualified for an annuity because of disability, shall receive no further retirement payments, if the retirement board finds that the disability of the teacher no longer exists; payment shall be discontinued on the first day of the month within which such finding is made. If such retired teacher returns to service as a teacher, he shall contribute to the teachers' accumulation fund as a member of the system. His prior service eligibility, if any, shall not be impaired because of his disability retirement. His accumulated contributions and interest which were transferred to the benefit fund upon his retirement shall be returned to his individual account in the teachers' accumulation fund, minus retirement payments received which were not supported by such contributions and interest. Upon subsequent retirement, he
shall receive credit for all of his contributory experience, anything to the contrary in this article notwithstanding. The retirement board is herewith authorized to require of the retired teachers and their employers such reports as it deems necessary to effectuate the provisions of this section.

Sec. 14. Contributions by Members.—At the end of each month, every member of the retirement system shall contribute four per cent of his monthly earnable compensation to the teachers’ accumulation fund, not to exceed one hundred dollars per school year. In the calculation of the contribution, a fraction of a cent shall be deemed to be a cent. The contributions shall be deducted from the salaries of the members as hereinafter prescribed, and every member shall be deemed to have given his consent to such deductions. No deductions, however, shall be made from the earnable compensation of a teacher, who retired because of age or service, and then resumed service as a teacher.

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

Upon request and payment of one dollar service fee by contributor the retirement board shall send the contributor a statement of his accumulated contributions. Membership dues in annual or voluntary organizations shall be disbursed from such service fees, or from interest on member’s loans, upon approval by the retirement board, anything in this code to the contrary notwithstanding.

Each contributor shall file with the retirement board or with the employer to be forwarded to the retirement board an enrollment form showing the date of birth and other data needed by the retirement board for the proper operation of the retirement system. Upon notice from the retirement board to employer that contributor has failed to file such form as prescribed, the employer shall
Sec. 23. Withdrawal and Death Benefits.—Benefits upon death or upon withdrawal from service prior to retirement under the provisions of this article shall be payable as follows:

(a) Four months after a contributor quits service as a teacher, he shall, on demand, be paid his accumulated contributions plus refund interest up to the date of quitting service, if he is then no longer under contract, verbal or otherwise, to serve as a teacher; or

(b) If such contributor has completed twenty years of total service, he may elect to receive at retirement age an annuity which is the actuarial equivalent of his accumulated contributions plus the employer's contributions.

Upon the death of a contributor, his accumulated contributions plus refund interest shall be paid to his estate or to such persons as he shall have nominated by written designation duly executed and filed with the retirement board.

Sec. 24. Disposition of Accumulated Contributions.—When a contributor ceases to be a member because of absence from service as a teacher, his accumulated contributions with refund interest up to the date of quitting service shall be returned to him, or to his legal representative. Five years after cessation of membership, if the contributor or his legal representative cannot be found, his accumulated contributions with refund interest shall be forfeited to the retirement system and credited to the reserve fund.

Sec. 26. Allowance Upon Retirement.—Upon retirement, a member shall be granted an annuity which shall be the sum of the following:

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

(b) The actuarial equivalent of the contributions of the employer up to the time of the member’s retirement.
which shall equal the sum in subsection (a) of this section minus deposits with regular interest on deposits.

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

(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.

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.

For the purposes of subsection (c):

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

(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.

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.

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.
An annuity application shall be cancelled immediately, if applicant dies before the retirement board approves such application.

The provisions of this section shall apply to the computation of all monthly allowances paid to beneficiaries after the effective date hereof.

Sec. 35. Additional Coverage.—Nonteaching employees shall mean all persons, except teachers, regularly employed for full time service by the following educational agencies: (a) any county board of education, (b) the state board of education, (c) the board of governors of West Virginia university, (d) and the teachers' retirement board.

Such non-teaching employees shall be entitled to all the rights, privileges, and benefits provided for teachers by this article, upon the same terms and conditions as are herein prescribed for teachers.

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.

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; Offenses; Penalties; Enumeration of Deaf and Blind.—

Every parent, guardian or other person having control of any mentally normal minor over six years of age, who is defective in sight or hearing to the extent that he cannot be benefited by instruction in the public schools, shall be required to send such minor to the West Virginia schools for the deaf and the blind at Romney. Such minor shall continue to attend such schools for a term of at least thirty-six weeks each year until he has completed the course of instruction prescribed for such schools by the state board of education, or has been discharged by the superintendent of said school: Provided, however, That minors of the Negro race who come under the requirements of this section shall be placed in the West Virginia school for the colored deaf and blind.

Any such deaf or blind minor shall be exempt from attendance at said schools for any of the following reasons: (a) Instruction by a private tutor or in another school approved by the state board of education for a time equal to that required by the first paragraph of this section; (b) physical incapacity for school work; (c) any other reason deemed good and sufficient by the superintendents of such schools, with the approval of the state board of education.

Any parent, guardian or other person in charge of such minor or minors who fails or refuses to comply with the requirements of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than thirty dollars for each offense. Failure for the period of one week within the school year to send such minor to school shall constitute an offense: Provided, That the time necessary for such minor to travel from his home to the school shall not be counted as time absent from school.

Any person who induces or attempts to induce such
blind or deaf minor to absent himself from school, or who
employs or harbors such minor unlawfully, while said
school is in session, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty nor more than fifty dollars for each offense.

It shall be the duty of school attendance officers, prosecuting attorneys, and any special attendance officers appointed by said schools for the deaf and the blind to enforce the provisions of this section.

It shall be the duty of the public school teachers of each county to furnish to the county superintendent of schools of their county the names of deaf or blind persons in their subdistricts between the ages of six and twenty-five years, together with information as to the age, sex and race of each such deaf or blind person. The county superintendent of schools shall certify the names of all such white persons, with the names and addresses of their parents or guardians, to the superintendent of the West Virginia schools for the deaf and the blind, and the names of all such persons of the Negro race, with the names and addresses of their parents or guardians, to the superintendent of the West Virginia school for the colored deaf and blind.

It shall be the duty of the state superintendent of schools to provide suitable blanks for the enumeration of such deaf and blind persons to each county superintendent for distribution among teachers and others responsible for taking the school enumeration. The enumeration of such deaf and blind persons shall be taken at the time the regular school enumeration is taken, and shall be reported to the superintendents of the schools for the deaf and the blind at the time that the regular school enumeration is reported to the state superintendent 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.
10. County request schedule.
11. Inspections and audits.
12. Records and reports.
13. Revenue deficiencies.

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.—

The purpose of this article is to provide for the distribution of state aid for free schools among the several counties of the state. In enacting this method of computation and distribution, the Legislature has the following specific purposes:
1. To provide a method of distribution that will supply each county with the funds reasonably necessary to operate its schools on a basis that accords with the relative educational needs of the several counties;

2. To establish a method of computation and allocation that as far as possible eliminates the need for the exercise of state administrative discretion as to the requirements of the several counties;

3. Give to each county every possible incentive to the constructive development of its school system, and to place with the county boards of education the responsibility for the preservation and improvement of the standards of local education;

4. Coordinate the administration of state aid more closely with the general fiscal policies of the state.

With the foregoing purposes and objectives in view the allocation and administration of state aid is hereby conferred upon the state board of school finance.

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

"State Board of School Finance," "State Board", or "Board" means the state board of school finance except where the context refers to county boards of education.

"County Board" means a county board of education.

"Teacher" shall include principal.

"Average Teacher Salary" for any county means the sum of the basic salaries and the salaries for experience for all teachers employed therein, divided by the total number of said teachers. Basic and salaries for experience shall be those designated by the laws of West Virginia.

"Net Enrollment" means the number of pupils enrolled in grades one to twelve, inclusive, of the public schools of the county for the first four months of the school term:

Provided, That no pupil shall be counted more than once by reason of transfer within the county or from another county within the state.

"Weighted Net Enrollment" means the total net enrollment, plus one-third of the high school enrollment.

"High School Enrollment" means those pupils enrolled 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
such counties for the preceding assessment year from public utilities property divided by the total tax levies for current expense purposes as aforesaid for all counties of the state for such year, said ratio under this paragraph "third" shall be counted as one-third. The ratio under paragraphs first, second and third, shall be reduced to percentage and the average of the respective percentages shall constitute the "Index".

"Enrolled Pupil" means pupils included in the "Net Enrollment."

Sec. 3. The Foundation School Program.—The foundation school program is hereby established as the basic essential of free public education in this state for the purpose of computing the amount of state aid that each county shall receive. So far as funds available from state sources will permit, each county shall receive a sum which, together with the amount of local revenue reasonably to be expected, will pay the cost of the foundation school program as computed in accordance with this article.

Sec. 4. Preliminary Computation.—The state board, the state superintendent of schools, and the various county boards of education may commence preliminary computation of their foundation programs and state aid requirements for the next fiscal year at any time after the first day of March in any calendar year, and communicate with each other with respect to the same.

Sec. 5. Index; Factors to Apply.—The following recognized economic factors shall be used in preparing the "Index":

(a) The amount of retail sales for each county and for the entire state for the last year in which data with respect to same is available.
(b) The most recent registration showing the number of passenger cars licensed by the state road commission from each county and the entire state.
(c) The net buying power of each county or its people and the buying power of the entire state as the same appears in the annual survey published by the "Sales Management Magazine."
(d) The population of each county and of the entire state based upon the latest available United States census figures.

(e) The number of United States income tax returns filed by residents of the respective counties and for the entire state in the latest year available as released by the department of internal revenue.

(f) The total income of the residents of each county and of the state as a whole, including income from salaries, wages, entrepreneurial withdrawals, dividends, interest, net rents and royalties.

(g) The postal receipts from all post offices located in each county and for the state as a whole.

(h) The total amount of consumers sales tax receipts received from each county and collected in the state of West Virginia as a whole.

The data aforesaid shall be the most recent releases of information with respect to these factors, and so far as is possible, information with relation to data under (a), (b), (e), (g) and (h), shall be the data for the preceding fiscal calendar year as the case may be.

For the purpose of securing the above, the board shall be entitled to call upon any state or public agency which may have in its possession data with respect to any of the above items or economic factors, and use such publications or statistical data and information with respect to the same which may be released by any research organization of a public or private nature.

Sec. 6. Computation of Local Share of Revenue.—For the fiscal years one thousand nine hundred forty-seven—one thousand nine hundred forty-eight and one thousand nine hundred forty-eight—one thousand nine hundred forty-nine, the state board shall determine the taxes levied for current expense purposes by all counties under subsection three, section six-c, article eight, chapter eleven of this code, for the preceding year, and total the same. Ninety-five per cent of the total amount of aforesaid levies for the entire state, shall be multiplied by the “Index” for each respective county. The result of such multiplications shall as to the respective counties, consti-
tute their "local share of revenue" for said fiscal years.

Commencing with the first day of July, one thousand nine hundred forty-seven, the tax commissioner shall commence making such surveys, examinations, audits and investigations of the value of the several classes of property in each county which should be listed and taxed under the several tax classifications provided by law and determine the true and actual value thereof. In making such surveys he may use such methods of checking property values and determining the amount of property in each classification, as accepted survey and investigation procedures of like nature employed for the purpose of ascertaining the true and actual value of all such property in each such county. The commissioner may employ such assistance as the appropriation mentioned will permit, and shall be allowed not to exceed fifty thousand dollars in each fiscal year of the biennium beginning on the first day of July, one thousand nine hundred forty-seven, for the purpose, and his expenses shall be charged as an item of operational expense to money appropriated and available for state aid.

On or before the first day of December, one thousand nine hundred forty-eight, the commissioner shall conclude the survey and render to the state board of school finance a report of his conclusions with respect to the true and actual value of the several classes of taxable property in each county of the state based upon said surveys and investigations. For the purposes of state aid the values set forth in said report shall be the true and actual value of the various classes of property in each such county for the fiscal year one thousand nine hundred forty-nine—one thousand nine hundred fifty. Thereafter the tax commissioner shall annually continue such work of survey, examination, audit and investigation and annually revise his reports to the state board of the true and actual value of the several classes of taxable property in any county from time to time as such subsequent investigation may warrant, the same to be made not later than the first day of December of each year, as to all or any counties of the state which have been resurveyed prior to said date.
The tax commissioner shall, at least once every four years, redetermine the true and actual value of property in each county of the state. For the fiscal year one thousand nine hundred forty-nine—one thousand nine hundred fifty, and thereafter, the commissioner shall be allowed annually not to exceed twenty-five thousand dollars in any fiscal year for the purposes hereof, and his expenses shall be charged to money appropriated and available for state aid in the same manner as funds appropriated herein for the original survey.

From the latest revised report of true and actual value which is in its hands the state board shall for each county compute at the maximum rate of levy provided in subsection three, section six-c, article eight, chapter eleven of this code, the amount of revenue which said levies would produce, if levied upon fifty per cent of the true and actual value of each of the several classes of property contained in the latest report or revised report of such value, made to it by the tax commissioner. It shall deduct from such estimated revenue five per cent as an allowance for the usual losses in collection due to discounts, exonerations, delinquencies and the like. The remainder shall constitute the "local share of revenue". The local share of revenue computed from the true and actual value shall apply to all fiscal years after the thirtieth of June, one thousand nine hundred forty-nine: Provided, however, That any findings resulting from the survey provided for in this section shall not be used for any other official purpose than as a base of allocation for state aid for schools: And provided further, That no assessor shall be required to raise any assessment as a result of the findings made by the commissioner pursuant to this section.

Sec. 7. Total of Foundation Program.—The state board shall commence and cause to be determined, as soon after the first day of July in each fiscal year as is possible, the foundation program for each county for such year as follows:

Step A—The average teacher's salary for the preced-
ing fiscal year for each county shall be divided by thirty-three and one-third and the quotient obtained.

Step B—The quotient resolved from step A shall be multiplied by the "Pupil Factor" mentioned in section two of this article and the product obtained. Said product shall for purposes hereof be known as the "Adjusted Pupil Cost."

Step C—The product resulting from step B shall be multiplied by a number composed of the whole number one plus the "Sparsity Factor" mentioned in section two of this article and the product obtained.

Step D—The product resulting from step C shall be divided by seventy-one hundredths and the quotient obtained. This quotient, for the purposes of this article, shall be the total per pupil cost of the foundation program for such county.

Step E—The quotient resulting from step D shall be multiplied by the "Net Enrollment" as the same is defined in section two of this article and the product obtained. This product shall be the foundation program for such county.

For the fiscal year commencing on the first day of July one thousand nine hundred forty-seven, the average teacher’s salary shall be an average based upon the certification, experience and number of teachers employed by each county board during the preceding year, at the minimum rates established by law.

Sec. 8. Allocation of State Aid.—Following computation of the foundation program for each county the state board shall compute and allocate state aid for each county as follows:

The amount of state aid for each county shall be the foundation program of such county minus the local share of revenue: Provided, however, That for the fiscal years one thousand nine hundred forty-seven—one thousand nine hundred forty-eight and one thousand nine hundred forty-eight—one thousand nine hundred forty-nine, if the amount of state aid computed in section seven of this article is less than the product of twenty-two hundred multiplied by the number of teachers approved for such county by the state board on July tenth, one
thousand nine hundred forty-six, the amount of state aid shall be recomputed and shall be as hereinafter computed to-wit:

The product of twenty-two hundred multiplied by the number of teachers approved for such county by the state board, July tenth, one thousand nine hundred forty-six, shall be added to the local share of revenue and the sum so obtained shall then be the adjusted foundation program for such county: Provided further, That for the fiscal years one thousand nine hundred forty-seven—one thousand nine hundred forty-eight and one thousand nine hundred forty-eight—one thousand nine hundred forty-nine, the state aid for any county shall in no case be less than sixty-five per cent of such adjusted foundation program except where further reduced as a result of deficiencies in revenue under the provisions of section thirteen hereof and chapter thirty-nine, acts of the Legislature, one thousand nine hundred thirty-nine.

Sec. 9. Certification of Amount of State Aid.—The state board shall certify to the board of education of each county the amount of state aid allocated to such county as soon after the commencement of each fiscal year as is practicable, such certification to be not later than the twenty-fifth day of July in any event.

Sec. 10. County Request Schedule.—Each county board of education shall file a request schedule with the state board for payments of state aid to which it is entitled in each fiscal year. Following such request the state board shall pay state aid by requisition upon the state auditor in favor of the fiscal officer of the various county boards of education in installments as requested. The state board shall have authority to examine and approve or disapprove the schedule of payments or modify the same so long as its action is not designed to unreasonably curtail the educational program by any such county board.

Sec. 11. Inspections and Audits.—The state board, in connection with its inspection and supervision of school fiscal administration in the several counties, may make such additional inspections and audits as may be
necessary to determine the accuracy of statistical reports
submitted to the state superintendent or to the state
board of education in connection with the computation
and distribution of state aid.

The state board shall cause proper corrections to be
made forthwith in any reports found to be inaccurate
and shall also make such adjustments in the distribution
of state aid to the county concerned as may be occasioned
by the correction of data upon which the allocation of aid
was based.

Sec. 12. Records and Reports.—The state board may,
for the purpose of exercising the powers delegated to it
by this article, require county boards of education and
county superintendents to keep such records and to make
such reports as the board may determine. The state
board shall prescribe the form, content and the time for
making reports. The state board may require that re-
ports be made to the board or to the office of the state
superintendent. A county board of education and a
county superintendent shall keep records and make re-
ports as required by the state board.

Sec. 13. Revenue Deficiencies.—If at any time defici-
encies in the revenue reduce amounts available for state
aid below the amount of appropriations made by the
Legislature for any fiscal year and it becomes necessary
for the state board to reduce the amount of state aid it
shall have the right to do so in such manner that under
this article the equitable rights of the various counties
shall be protected.

Sec. 14. Excess Appropriations.—In any case where
appropriations for state aid are in excess of the founda-
tion program required for all counties of the state, such
excess, if available for expenditure under appropriations
shall be allocated and paid to the respective county
boards of education in the same proportion which the
foundation program of each county bears to the sum of
the foundation programs of all counties of the state.
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 shall be elected by the board to serve for a term of not less than one, nor more than four years, but his appointment shall terminate regardless of the term or terms for which he shall have been appointed no later than four years from the date of his original appointment. Each superintendent shall be eligible for reelection for a term of from one to four years, subject to the same limitations: Provided, however, That at the expiration of his term of service he shall be given the status of a teacher in the system unless dismissed for statutory reasons. Such election shall be held on the first Monday in June, and the person so elected shall take office on the first day of July following. A superintendent who fills a vacancy caused by an incomplete term, shall be appointed to serve until the following first day of July. The president of the board, immediately upon the election of the superintendent, shall certify the election to the state superintendent...
of schools. The superintendent in office on the effective date of this act shall continue in office until the expiration of his term.

CHAPTER 82

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 of Instruction. — The board, subject to the provisions of this chapter and the rules and regulations of the state board, shall have authority to employ such directors or supervisors of instruction as may be deemed necessary, their compensation to be paid from any fund of the board available for the purpose.

The employment of band directors, playground directors, playground supervisors, athletic coaches, and other directors and supervisors may be on a twelve month 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 may provide libraries for its schools and may purchase books, bookcases, and other things necessary therefor, and shall pay the cost of such libraries out of the school funds of the county. The board shall have authority to employ during the vacation period a librarian for any school having a library of one hundred or more volumes, and to pay such librarian out of the school funds of the county an amount to be determined by the board. Any librarian so appointed shall keep the library open at least one day a week, at which time the patrons and pupils of the school may draw books from the library under such rules and regulations for the care and return thereof as the board may prescribe.
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.—Administrative certificates are authorized to include:

1. County superintendents certificates, valid for five years, issued upon compliance with the following requirements:
   a. Completion of the work necessary for a master's degree at an accredited college or university, which work shall include at least sixteen semester hours in school administration and supervision.
   b. At least five years of experience in teaching, administration or supervision, or any combination thereof aggregating five years.
   c. Good character.

2. Elementary principals certificate, valid for five years, issued upon completion of the work necessary for a master's degree at an institution approved to give graduate work in elementary education, provided the requirements of the state board are met.

3. High school principals certificate, valid for five years.
years, issued upon completion of the work necessary for
a master's degree at an institution approved to give grad-
uate work in secondary education, provided the require-
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, chap-
ter 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.—

The board shall ascertain at the beginning of each school
year the buildings and grounds to be retained for school
purposes, and the buildings and grounds which because
of their condition or location should be sold. The board
may sell the undesirable buildings and the land on which
they are located, at public auction, after proper notice,
and on such terms as it orders, to the highest responsible
bidder. But in rural communities the grantor of the lands,
his heirs or assigns, shall have the right to purchase at the
sale, the land, exclusive of the buildings thereon, and the
mineral rights, at the same price for which it was origi-
nally sold. The board by the same method prescribed for
the sale of school buildings and lands, may also lease for oil or gas or other minerals any lands or school sites owned in fee by it. The proceeds of such sales and rentals shall be placed to the credit of such fund or funds of the district as the board may direct: Provided, That the provisions of this section concerning sale at public auction shall not apply to boards of education selling or disposing of its property for a public use to the state of West Virginia, or its political subdivisions, including county courts, for an adequate consideration without considering alone the 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
purpose of capital outlay and which cannot be used within a reasonable time may be transferred to the state sinking fund commission for investment, except as otherwise provided in this chapter.

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-
terial or independent school district remaining after all
of such bonds shall have been retired, if the fact of such
retirement has been certified by the state sinking fund
commission.
When all of such bonds have been retired the state
sinking fund commission shall certify the fact of the re­
retirement of such bonds to the sheriff and to the board of
education of the county. Such funds shall be used in the
same manner as other funds now to the credit of, or
which may hereafter be placed to the credit of, the school
current fund of the respective boards of education, but
such funds hereby authorized and directed to be trans­
ferred shall be expended only for the maintenance and
repair of buildings in the respective magisterial or inde­
pendent school districts from which such funds were col­
lected.

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
date the county unit act became effective, made up of parts of two or more counties and whether or not within its limits now defined is located a municipality or part thereof, but until otherwise provided by the board of the unit of his residence, such pupil shall be considered and treated as transferred, as the case or the situation may be, with the right unimpaired to attend the school or schools now established and maintained (if not discontinued) in such municipality and/or independent school district. Such transfer by operation of law shall cease, when: (a), the board of the unit comprising a part of the municipality or independent school district, has erected or does establish and maintain therein a school or schools of the grade or grades and standing, respectively, equivalent to the school or schools in adjoining unit which the pupil coming within the exceptions above mentioned is given the right to attend; or (b), in the discretion of the board it can transport economically the pupils coming within the exception aforesaid to some school or schools established and maintained in the jurisdiction of the unit of the pupils' residence and elects to so do. The existence of the fact under (a) aforesaid shall be declared by the board and entered of record in its minutes, as well as the entry of the exercise of its discretion and election under the provisions (b) aforesaid, and a copy of the minutes of the board relating to its declaration and/or discretion and election as aforesaid, as the case may be, duly certified by the signature of the president and the secretary of said board, shall be furnished forthwith to the board of the unit comprising the other part of said municipality or independent school district. In all cases of transfer by the act of the board or by operation of law, either to elementary schools or to high schools, the board making the transfer shall pay to the board to which such transfer is made, reasonable tuition fees, which for elementary schools shall not exceed two and one-half dollars a month, and for junior and senior high schools shall not exceed ten dollars a month. The fee, to be paid out of the teachers' fund, shall not exceed the actual cost of the instruction. No parent, guardian or person acting as parent or guardian shall be
required to pay for the transfer or for the tuition of the pupil after the transfer. The board of the district to which the pupil has been transferred shall promptly, at the first of each month, certify to the board of the district from which the pupil was transferred the correct amount of all tuition fees due and payable for the next preceding month. All tuition fees shall be paid within thirty days of certification, to the district maintaining the school by the district to which the fees are certified. All tuition fees shall be paid out of the teachers' fund of the one district to the teachers' fund of the other.

In any district where a high school is maintained, but topography, impassable roads or other conditions prevent the practicable transportation of any pupils to such high school, the board may transfer them to a high school in an adjoining district. In any such case, the board making the transfer shall pay the cost of the transportation of such pupils to and from the school to which they are transferred, and shall also pay the tuition fees as provided above.

In any district where no high school for negro pupils is maintained the board shall provide for the payment of tuition fees, not to exceed ten dollars a month for each pupil, necessary to permit the enrollment of all qualified negro pupils in the nearest available negro high school, negro vocational high school, or in the high school department of a negro institution of higher education, and shall also pay the cost of the daily transportation of the pupils to such high school. If, however, the daily transportation of such pupils is impracticable, necessitating their absence from home overnight, the board shall pay in addition to the tuition fees a maintenance allowance of at least thirty dollars a month to each such pupil, and daily transportation involving a round trip of more than fifty miles shall at the election of the pupil be considered impracticable for the purposes of this requirement.

Transfer of pupils from this state to another shall be upon such terms as shall be mutually agreed upon by the board of the transferring district and the authorities of the school to which the transfer is made, and shall be
based upon the aggregate per capita student cost of the preceding year, of the school to which the transfer is made. For the purposes of computing average daily attendance any pupil transferred as provided in this section shall be counted by the district making the transfer and 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.

Section 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.”
The registration records to be used in municipal elections shall be kept in a separate file and arranged, where possible, according to precinct, street, and sequence of house, apartment or room numbers.

In any case where the county magisterial district and municipal precinct lines coincide in such manner that all the registrants entitled to vote in any county-state election and the registrants entitled to vote in any municipal election in any precinct are the same it shall not be necessary for the registrar to maintain a separate record for municipal elections, unless the governing body of the municipality demands it by formal notice directed to the county court, and offers to defray the expense of maintaining such duplicate set of registration lists.

Sec. 22. Filling of Registration Forms.—Each applicant shall fill only one registration form, except in those cases where a separate record for municipal elections is required, in which case those registrants who are required to be listed in separate municipal record lists shall fill two forms. The signatures of the applicant on 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, seventeen, 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 adding 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.
"Public question" shall mean any issue or proposition, now or hereafter required by the governing body of this state or of any of its subdivisions, to be submitted to the voters of the state or subdivision for decision at elections.

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

"Biennial check-up" shall mean the process by which the registrars, during the year one thousand nine hundred forty-eight and every two years subsequent thereto, proceed to register all persons who are not registered, but who qualify for registration; or to check and, if necessary, alter, amend, correct, or cancel the registration records of those persons previously registered, including the acceptance of applications for the transfer of the registration of any person previously registered at another address within the county, or for the change of party affiliation.

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

"Registrar" shall be construed to include deputy registrar.

In determining or reckoning any period of time mentioned in this act the day upon which the act is done, paper filed, or notice given shall be excluded from, and the date of any election, hearing or other subsequent event, as the case may be, shall be included in the calculation or reckoning; but if the last day upon which any act may be done, paper filed, or notice given, shall fall on a Sunday or legal holiday, the next following ordinary business day shall be considered as the last day for such purpose.

Sec. 5. Permanent and Uniform Registration.—A permanent registration system shall hereby be established which shall be uniform throughout the state and all of its subdivisions. No voter so registered shall be required to register again for any election while he continues to reside at the same address, or, having moved from such address, is properly transferred according to the provi-
sions of section thirty-three of this article, unless his reg-
istration is cancelled as provided in this article. If a voter
fails to vote at least once during a period of three years,
his registration shall be cancelled and he shall, by letter
or postal card, be given proper notice thereof by the
clerk of the county court, to the effect that in order to
vote he must register again.

Sec. 16. Appointment of Registrars; Qualifications and
Duties.—The county court of each county shall, not less
than sixteen nor more than eighteen weeks prior to the
date of each state-wide primary election, appoint a num-
ber of competent persons, not to exceed two for each
voting precinct in the county, to act as registrars for the
purpose of making the biennial check-up required by this
article. No person shall be eligible to appointment as a
registrar, or in any way act as such, if he has been con-
victed of a felony or if he holds any elective or appointive
office, or is a public employee, under the laws of this state
or of the United States; or cannot read or write the Eng-
lish language; or is a candidate to be voted for at such
election. If any such registrar shall fail or refuse to serve
or is properly dismissed, the vacancy shall be filled either
by the county court or by the clerk thereof in vacation,
in the manner provided for the appointment of registrars.
Each registrar before entering upon the discharge of his
duties, shall take an oath that he will perform the duties
of the office to the best of his ability, which oath shall be
filed in the office of the clerk of the county court.

An equal number of such registrars shall be selected
from the two political parties which, at the last preceding
election, cast the highest number and next highest num-
ber of votes in the county in which the election is to be
held. The county court shall, at least four weeks prior
to making such appointment, request the county execu-
tive committee of each of the said two political parties
to submit a list of names, equal to one-half of the total
number to be appointed, of persons qualified to act as
registrars; and the county court shall, if such lists
are submitted, appoint the respective registrars there-
from, and shall notify each registrar of his appointment.

Every such list so presented shall be filed and preserved for one year by the clerk of such court in his office. Any and every act performed by any registrar under the provisions of this article shall be void unless performed in conjunction with a registrar of the opposite political party at the same time and place.

Before acting, all such registrars shall attend a session, or sessions, of instruction by the clerk of the county court, or some person designated by him, concerning the performance of their duties. For his attendance at such session, or sessions, not to exceed two in number, each registrar shall for each day he attends be entitled to one day's compensation, as provided in the following section.

Immediately following such instruction the clerk of the county court shall deliver to the registrars a copy of the laws and regulations with reference to the registering of voters, and all necessary forms and other supplies, including a certified list of all registered voters within the precinct for which such registrars were appointed, upon such form as may be prescribed by the secretary of state.

Such registrars shall thereupon proceed together to make a house-to-house canvass in their precinct for the purpose of making the biennial check-up required by section twenty-five of this article. In making such check-up the registrars shall not again register any person who is already registered in such precinct, but shall determine whether or not such person is duly registered and qualified to vote therein.

For the purpose of making further corrections and of registering or transferring the registration of persons who were missed during the house-to-house canvass or who have since become qualified to register in the precinct, the registrars shall sit together at some public place therein for at least one day during the sixth week preceding each state-wide primary or general election. The county court shall designate the place and fix the date or dates for such sittings in each precinct and shall cause notice thereof to be placed in at least ten conspicuous places in the precinct not less than five days before the date fixed for the
first sitting therein. The clerk of the county court may publish a notice in two newspapers of opposite politics and of general circulation in the county, giving the time and places where such registrars shall sit. The clerk of the county court is also authorized to publish such notices as may be proper in his opinion to advise the electorate of the respective dates after which transfers and registration, and changes of registration, may not be made with respect to any general or primary election.

Upon the completion of the biennial check-up and immediately following the last sitting before each election, the registrars shall return the records and lists to the clerk of the county court, together with an affidavit that the returns, records and lists returned to the clerk are true and correct to the best of their knowledge and belief. The clerk of the county court shall make the necessary changes in his other registration records. The list checked by the registrars in each precinct shall be compared with the register of deaths kept by the clerk of the county court in his office. Each person named in the list whose death has not been recorded shall be given proper notice by the clerk of the county court, that his registration has been cancelled and that in order to vote he must register again. The notice shall be mailed to such person’s last address appearing on the registration record.

Sec. 17. Compensation of Registrars.—As compensation for his services during the house-to-house canvass each registrar shall be paid at a rate, to be fixed by the county court, of not less than five nor more than fifteen cents for each person newly registered; and for each transfer and for each previous registration checked, whether cancelled or not, he shall be paid not less than four nor more than eight cents. Each registrar shall be paid not less than three nor more than seven dollars for each day he attends a session of instruction by the clerk of the county court and for each day he serves at the sittings provided for in the preceding section.

Any part or all of the compensation of any registrar may be withheld by the county court until such time as
the county court shall have agreed that the duties of such registrar have been fulfilled.

Sec. 20. Custody of Registration Records; Public Inspection.—The registration records shall not be removed from the custody of the county court except for use in an election, or by the order of a court of record. The registration records shall be open for public inspection under reasonable regulations prescribed by the county court.

Sec. 25. Biennial Check-up.—During the year one thousand nine hundred forty-eight and every two years subsequent thereto, the registrars, according to directions prescribed by the secretary of state and as provided in section sixteen of this article, shall proceed to register the names of all persons not registered but who are qualified to register, and shall also check and, if necessary, alter, amend, correct or cancel the registration records of the voters of the respective precincts, so as to provide a complete and accurate record of all persons qualified to vote.

Sec. 33. Transfers.—Whenever a voter removes his residence from one place to another within the same county he shall request that the change be made on his registration record. Such request shall be made by filling in, and, if he is able, signing under oath or affirmation the necessary form, which may be procured in person or by mail from the office of the clerk of the county court, or from the registrars during the biennial check-up. The form of such notice shall be prescribed by the secretary of state.

Upon receipt of such notice the clerk of the county court shall cause the signature thereon to be compared with the signature of the applicant upon his registration card and, if such signatures correspond, shall make entry of such change of residence upon all the registration records and the necessary transfers in the files. If the clerk of the county court is not satisfied as to the genuineness of the signature on the notice of change of residence, and
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,
chapter fifty-six of the code, or section seventy-one, article one, chapter thirty-one of the code, or if the holder of such lease be a nonresident of the state or cannot be found within the state after diligent search, service upon him may be had by publication at least once a week for three successive weeks in any newspaper published in the county wherein such oil and/or gas property is situated, in whole or in part, or if no newspaper is published in such county, then in any adjoining county.

A copy of such notice showing the required service or publication thereof shall be filed with the clerk of the county court in which such lease is recorded, or in which such oil and/or gas property is located in whole or in part, and upon payment of a fee of fifty cents for each such lease, said clerk shall permanently file such notice alphabetically under the name of the first lessor appearing in such lease and shall stamp or write upon the margin of the record in his office of such lease hereafter executed the words “cancelled by notice”; and as to any such lease executed before the enactment of this statute said clerk shall file such notice as hereinbefore provided and shall stamp or write upon the margin of the record of such lease in his office the words “enforcement barred by notice”.

The word “lessor” shall include the original lessor, as well as his or its successors in title to the oil and/or gas involved. The word “lessee” shall include the original lessee, his or its assignee properly of record at the time such demand is made, and his or its successors, heirs, or personal representatives. No assignee of such lease whose assignment is not recorded in the proper county shall be heard in any court of this state to attack the validity or sufficiency of the notice hereinbefore mentioned.

The continuation in force of any such lease after demand for and failure to pay such delay rental as hereinbefore set forth is deemed by the Legislature to be opposed to public policy and against the general welfare. If any part of this act shall be declared unconstitutional such 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
reproductions on film have been made and put in conveniently accessible files, and provision has been made for preserving, examining and using the same, the respective heads of the departments, divisions, institutions and agencies of the state may, with the approval of the board of public works, cause the records and papers so photographed, microphotographed or reproduced on film, or any part thereof, to be destroyed; but before any such records, papers or documents are authorized to be destroyed, the board of public works shall obtain the advice and counsel of the state historian and archivist, or his designated representative, as to the desirability of placing the said records, papers and documents in the archives of that department, whereupon the board of public works may cause such records, papers and documents 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


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:

Section 10. Disposition of license fees.

Section 10. Disposition of License Fees.—All moneys received by or paid to any officer or other person of this state for licenses as aforesaid shall be paid to the commission, in the manner and at the times as hereinafter provided, and the commission shall, on receipt of the same, forthwith pay over to the state treasurer such money so received, accompanying it with a statement showing in detail the sources of such money and the purpose for which the same was originally paid, and the same shall be credited forthwith to the game, fish and forestry fund. Such officers and other persons so receiving such money shall, on the first day of each month, pay over to the commission all moneys so paid to them during the preceding month, and each officer and person shall accompany such payment with a report showing, in the case of license money, the name of the county, the class of licenses sold, the name and addresses of the persons paying the same, and the date of the receipt thereof. All such money so paid for licenses shall be credited to the commission, as hereinbefore provided, and shall be further credited to and kept in a separate fund designated "License fund—game, fish and forestry," and shall be used and paid out, upon the order of the commission, solely for the conservation, protection, propagation and distribution of the fish, frogs, wild game and wild birds and fowls in this state, in the enforcement of the fish and game laws of this state, for any of the purposes in this chapter provided; for the operation of the commission, and as provided for by section ten of article nine of this chapter.

All money so credited to and kept separately in "License fund—game, fish and forestry," and applicable as aforesaid, and also all other moneys to the credit of the commission in the state treasury, whether derived from the seventy-five thousand dollar annual appropriation from the general revenue of the state or from financial assistance received from the owners of forest land, or 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 ap-
   propriation.

Section 4. Payment for Services Rendered at Forest
Fires.—Compensation for all services rendered in con-
fining, extinguishing or suppressing forest fires, except
compensation for services rendered by the chief forester,
district foresters and forest protectors, shall be charged
against the state of West Virginia, and shall be paid out
of the sum of seventy-five thousand dollars annually
appropriated under the provisions of section nine, ar-
ticle nine, chapter twenty of the code of West Virginia,
one thousand nine hundred thirty-one, as amended by
chapter twenty-nine, acts of the Legislature, regular ses-
sion, one thousand nine hundred thirty-one. Each forest
protector shall render to the commission at Charleston,
within twenty days after the occurrence of a fire requir-
ing payment for services above mentioned out of said
fund, a sworn statement with the name or names of all
persons who were summoned and assisted in the confin-
ing, extinguishing or suppressing of any such forest fire,
the time spent by each, as well as the names of persons
who furnished subsistence or supplies, or transportation
therefor, and the amount of money due each for such
services, subsistence, supplies or transportation. Requi-
sitions shall be issued and payment of the sums due for the
sums due services above mentioned shall be made in the
same manner as is provided for the making of other ex-
penditures by the commission under section ten, article
seven, chapter twenty of the code of West Virginia, one
thousand nine hundred thirty-one.

Sec. 9. Commission Authorized to Secure Federal Co-
operation; Annual Appropriation.—The commission may
do all things required to meet the conditions and re-
quirements of the federal government in securing federal
cooperation under the provisions of the Weeks law and
the Clarke-McNary law, and any law amendatory thereof
or supplemental thereto, for the purpose of preventing
forest fires and the advancement of forestry practices.
The sum of seventy-five thousand dollars is hereby ap-
propriated annually and the board of public works shall
include said sum of seventy-five thousand dollars for said
purpose in its biennial budget to the Legislature as pro-
vided in section fifty-one, article six of the constitution of
this state and/or in such other budgets as it may present
to the Legislature as may be necessary to provide the
said sum of seventy-five thousand dollars for the purpose
of this section, which sum of seventy-five thousand dol-
ars annually shall be paid into the state treasury to the
credit of game, fish and forestry commission and be ex-
pended and drawn upon by it for the aforesaid purposes,
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.
4. Game and Fur-Bearing Animals.
5. Birds and Fowls.
6. Fish and Other Aquatic Life.

*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 Prosecuting Attorneys; Employment of Other Attorneys.*

3 — The attorney general and his assistants and the prose-
cuting attorneys of the several counties shall render to
the director, without additional compensation, such legal
services as he shall require of them in the discharge of
his duties under the provisions of this chapter. The
director may, in any emergency and with prior approval
of the attorney general, employ an attorney to act in
proceedings wherein criminal charges are brought against
an employee or appointee of the commission because of
action taken in the line of duty. An amount not to exceed
three hundred dollars may be expended by the director
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
other provisions of general law relating to the appoint-
ment and compensations of the personnel of the state
government, appoint conservation officers and fix their
compensation. Conservation officers shall be accorded
rights of tenure and advancement so long as they dis-
charge their duties in a satisfactory manner. The director
may also appoint special conservation officers to serve
for such periods of time as may be necessary.

Preference in making appointments shall be given
wherever possible to honorably discharged soldiers, sail-
ors and marines of the United States Army and Navy.

Persons appointed as conservation officers shall be
men, between the ages of twenty-one and forty years,
at least five feet nine inches (5'9'') tall (barefoot), but
not over six feet six inches (6'6''), weight in proportion
to height, of good physical condition, good moral char-
acter, and shall have passed the necessary written and
oral tests conducted by the West Virginia state merit
system council.

No person shall be barred from being appointed a
conservation officer because of his religious or political
convictions.

All applications shall be accompanied by the certificate
of the judge of the circuit court, the sheriff, and the
prosecuting attorney of the county in which the applicant
resides to the effect that the applicant is a person of
good moral character, not of intemperate habits, and
has never been convicted of a felony and not more than
once of a misdemeanor.

The director shall prescribe the kind, style and material
of uniforms to be worn by conservation officers. Uni-
forms and other equipment furnished to the conserva-
tion officers shall be and remain the property of the
state.

Wherever the words “game protector” or “game pro-
tectors” shall appear or be mentioned in any section of
this chapter, or any other general law relating to con-
servation, game, fish or forestry, the same shall be
deemed to mean and shall mean “conservation officer”
or “conservation officers,” whichever the case may be.

Article 3. General Provisions Respecting Game, Birds, Fish
or Frogs.

Section
1. State ownership of wildlife.
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-
ship of, and the title to, all wild animals, wild birds,
both resident and migratory, and all fish and frogs, and
all other aquatic life, in the state of West Virginia, are
hereby declared to be in the state, as trustee for the
people, and no such wild animals, wild birds, fish or
frogs, or other aquatic life, shall be taken or killed in
any manner, or at any time, except the person so taking
or killing the same shall consent that the title thereto
shall be and remain in the state of West Virginia, for
the purpose of regulating the taking, use and disposition
of the same after such taking or killing; and the taking
or killing of wild animals, birds, fish or frogs, and all
other aquatic life, at any time or in any manner by any person, shall be deemed such consent: Provided, however, That all fish, frogs and other aquatic life in privately owned ponds are, and shall remain, the private property of the owner or owners of such privately owned ponds, and that such fish, frogs and other aquatic life in such privately owned ponds may be caught, taken or killed by such owner or owners at any time. But nothing herein contained shall make unlawful the bringing in of game, fowl or fish acquired lawfully in another state.

Sec. 4. Acts Forbidden on Sunday.—It shall be unlawful on Sunday to:
(1) Carry an uncased gun in any woods, in or on any highway, railroad right-of-way, public road, fields, or streams of this state, except at a regularly used rifle, pistol, skeet, target or trap shooting ground or range;
(2) Hunt, catch, kill, trap, injure or pursue with intent to catch, kill, trap or injure any wild animals, or wild birds: Provided, however, That traps previously, and legally set may be tended on Sunday, if the person or persons so doing, shall not have firearms of any description in their possession.

Sec. 7. Possession of Wild Animals, Wild Birds, Fish or Frogs.—No person shall have in his possession, except during the open season therefor, any wild animals, wild birds, fish or frogs, protected under the provisions of this chapter, unless such possession is in accordance with a permit issued by the director under section seven-a to seven-d inclusive, of this article, or of section three-b of article four: Provided, however, That game animals, game birds, fish or frogs, lawfully taken during the open season, may be had in possession during the open season therefor, and for sixty days thereafter: Provided further, That any person upon application to the director may be issued a permit, authorizing the possession of the flesh of a lawfully-killed deer or bear or any part thereof, for an additional period not to exceed four months. Game animals, game birds, fish or frogs, lawfully taken outside of this state, may be possessed sixty days after
the date such game animals, game birds, fish or frogs were
legally brought into the state, and for an additional period
thereafter by securing a permit issued by the director.
Migratory game shall be possessed only in accordance
with the "Migratory Bird Treaty Act" and regulations
thereunder.
The director, or his duly authorized agents, may hunt,
kill, capture or maintain in captivity, at any time, any wild
animals, wild birds, fish or frogs, for the purpose of sci-
tific research, propagation, protection or distribution.

Sec. 7-f. Sealing Beaver Pelts or Skins.—Each licensee
holding a resident state-wide beaver trapping license
shall present for sealing, within thirty days after the
close of a legal open season, all beaver pelts or skins
taken under said license to a designated representative
of the conservation commission. The resident state-
wide beaver trapping license, countersigned by the
owner, lessee or other person entitled to the possession
of such lands, on which beaver were trapped, shall ac-
company all such pelts or skins. A seal provided by the
conservation commission shall be affixed to each beaver
pelt or skin and shall remain attached to the skin until
such pelt or skin has been tanned and processed into
commercial fur. The sealing fee shall be three dollars
per pelt.

Sec. 8. Open Seasons and Bag Limits; Powers of
the Director; Sectional Meetings.—The director shall,
by regulation fix the open seasons with respect to wild
animals, fur-bearing animals, wild birds, fish and frogs.
He may prescribe different open seasons of varying
length in the several counties, or parts thereof, of the
state. The director shall fix the open seasons for hunting
and fishing in the several counties, or parts thereof, of
the state as soon as possible after the first of each calendar
year. Open seasons so fixed, shall be published, upon
determination, in four newspapers of general circula-
tion throughout the state, at least once each week for
two successive weeks.
The director may:
(1) When he finds such action necessary to protect the forests or the wildlife of the state, change the bag limits on wild animals, wild birds, fur-bearing animals, fish and frogs. Before a change becomes effective, the director shall give notice by publication of the order in two newspapers of general circulation throughout the state, once each week for two successive weeks, with the last publication not later than two weeks prior to the date the change becomes effective;

(2) Omit or suspend for a fixed and definite period, or change the date of open seasons for the catching of fish in a stream or part of a stream in this state. The order shall definitely fix the stream, or part thereof, by a proper description. Before the suspension becomes effective, the director shall give notice by publication of the order once each week for two successive weeks in a newspaper of the county in which the stream is located;

(3) Omit, limit, or suspend for a fixed and definite period, open seasons for the killing of any wild animals or wild birds in any county. The order shall state the species and kinds of birds or animals and the period of limitation or suspension. Before the order becomes effective, the director shall give notice by publication of the order in four newspapers of general circulation throughout the state, once each week for two successive weeks, with the last publication at least two weeks prior to the effective date of the order.

For the purpose of giving the various sections of the state an opportunity to be heard concerning open seasons for their respective areas, the director shall, and before such seasons are fixed for the various counties of the state as soon as practical after the beginning of each calendar year, hold meetings at Beckley, Charleston, Elkins, Martinsburg, Morgantown and Parkersburg.

Sec. 9. *Transportation of Game, Birds, Fish or Frogs Out of State.*—No person shall at any time transport or kill or have in his possession with the intention of transporting beyond the limits of the state, any elk, deer,
raccoon (except the pelt thereof), quail, woodcock, pheasant, ruffed grouse, wild turkey, squirrel, wild duck or wild goose, or any part thereof, or any game, birds, fish or frogs killed, caught or captured within this state: *Provided, however,* That a non-resident licensee may take with him personally, when leaving the state, any game animals, game birds, fish or frogs, that he has lawfully taken or killed, not exceeding, during the season, the number that any person may lawfully take or kill in any two days.

Sec. 10. Sale of Game, Birds, Fish or Frogs.—No person shall purchase or offer to purchase, sell, or offer to sell, expose for sale, or have in his possession for the purpose of sale:

(1) Any, or any part of, elk, deer, raccoon, squirrel, rabbit, wild turkey, ruffed grouse, pheasant, quail, woodcock, wild duck, wild goose, wild swan, wild brant, snipe, sandpiper, or any of the song or insectivorous birds of the state, except as permitted by section twelve-a, article three of this chapter: *Provided, however,* That raccoon pelts taken during the legal season may be sold: *Provided further,* That the hide, head, antlers and feet of a legally killed deer may be sold.

(2) Any, or any part of, trout of any species, black bass of any species, perch of any species (including wall-eyed pike-perch), sunfish of any species, pickerel of any species, muskellunge of any species, catfish of any species, suckers of any species, or any frog, caught or captured within this state, except as permitted by section thirteen, article six of this chapter.

No person, including a common carrier, shall (except as permitted by section thirteen, article six of this chapter) transport, carry or convey, or receive for such purposes, any of the animals or birds, or of the fish or frogs, listed under (1) and (2) above, caught, or killed in this state, if such person knows, or has reason to believe, that such animals, birds, fish or frogs have been or are to be sold.

The selling or exposing for sale, having in possession
for sale, transporting or carrying in violation of this section shall each constitute a separate offense.

The director may extend the application of this section to animals, birds, fish or frogs not listed under (1) and (2) above, if he finds that such additional species require the protection accorded by this section.

The provisions of this section shall not apply to animals, birds, fish or frogs raised under the authority of the license issued in accordance with section twelve-a of this article.

Sec. 12. Serving Game, Birds, Fish or Frogs at Public Eating Place.—No person shall serve for pay, either directly or indirectly, at any hotel, restaurant, or other licensed eating place in this state, or in any public eating place in this state, any game animal, game bird, or game fowl, or any part thereof, whether caught within or without this state, or any game fish or frog caught within this state: Provided, That black bass shall not be served and it shall be unlawful to purchase the same from any source.

Article 4. Game and Fur-Bearing Animals.

Section 1. Game and Fur-Bearing Animals.—For the purpose of this chapter, the following are game animals:

Elk (Cervus canadensis), deer, (Odocoileus virginianus), cottontail rabbit (Sylvilagus spp.), varying hare or snowshoe rabbit (Lepus americanus), gray, black albino and fox squirrel (Sciurus spp.) and raccoon (Procyon lotor); and the following are fur-bearing animals:

Opossum (Didelphis virginiana), beaver (Castor canadensis), otter (Lutra canadensis), mink (Mustela vison), raccoon (Procyon lotor), muskrat (Ondatra zibethica), striped skunk (Mephitis spp.), spotted skunk
Whenever the director finds that the application of this chapter is necessary to the protection and preservation of any other species of wild animals, he may, by formal order, include such other species within the definition of game or fur-bearing animals, as the case may be, for the purposes of this chapter. The director shall give notice of this order by publication once each week for two successive weeks in two newspapers of general circulation throughout the state.

Sec. 4. Hunting Rabbits.—No person shall, in any county of this state, hunt, capture, kill or have in his possession, any cottontail rabbit or varying hare (commonly known as snowshoe rabbit) or any part thereof, including fresh pelts, except as provided in article three, section seven of this chapter: Provided, That it shall be lawful for a bona fide resident landowner of this state, his resident children or his bona fide resident tenant to hunt, capture or kill at any time any rabbit upon his own land or any land of which he may be a bona fide resident tenant.

Sec. 5. Hunting Squirrels.—No person shall, in any county of this state, hunt, capture or kill, gray, black, albino, or fox squirrels, or have in his possession a squirrel or any part thereof, including fresh pelts, except as provided in article three, section seven of this chapter.

Sec. 6. Hunting Fur-Bearing Animals.—No person shall in any county of this state, hunt, capture, trap, or kill any fur-bearing animals as defined by section one of this article, or have in his possession any fur-bearing animal or part thereof, except during the open season for that county. A person shall not have in his possession the fresh skin, or part thereof, of any fur-bearing animal, except beaver, within the period beginning ten days after the end of the open season and ending with the first day of the next succeeding open season for such animal in that county. No person shall disturb the traps 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
time:

(1) Set or maintain more than the number of beaver
traps established as the season limit in any one year by
the director.

(2) Set any trap for beavers within fifteen feet of
the water line on the structure of any beaver dam or
house, or on a beaver dam or house.

(3) Have in his possession an unsealed beaver hide,
or part thereof, within the period beginning thirty days
after the end of the open season and ending with the
first day of the next succeeding open season for beavers.

(4) Destroy, disturb, or in any manner, interfere with
dams, houses or burrows of beavers while trapping for,
or attempting to trap for beavers.

If any person shall unintentionally trap and kill more
beavers than fixed by regulation as the season bag limit,
he shall, within twenty-four hours, deliver said beaver
or beavers to a representative of the conservation com-
mission.

Sec. 12. *Forbidden Methods of Hunting.*—It shall be
unlawful at any time for any person to:

(1) Shoot at, or to shoot for any wild bird or wild
animal unless it is plainly visible to him or to dig out,
cut out, or smoke out, or in any other manner take any
live wild birds or wild animals, other than a predator,
out of its den or place of refuge, except that woodchucks
may be dug out of their dens in cultivated fields or
pastures, under the conditions stipulated in regulations
set up by the director; or to make use of, or take advant-
age of, any artificial light, battery or other contrivance or
device, in hunting for, catching, taking, wounding, or
killing any wild animals or wild birds, except that arti-
ficial lights such as are ordinarily carried in the hand or
on the person, may be used for the purpose of taking
raccoons, opossums and skunks.
(2) It shall be unlawful for any person, or one or
more of a group of persons together, to throw or cast
the rays of a spotlight, headlight, or other artificial
light, from any vehicle, on any highway, or in any field,
woodland, or forest upon any game animal, or game
bird, while having in his or their possession or under
their control, or in any vehicle in which they may be
traveling, a firearm or other implement whereby any
game animal or game bird could be killed, even though
such animal be not shot at, injured or killed. The pro-
visions of this paragraph shall not apply if it shall be
proven that the headlights of a motor vehicle while
traveling on a highway in the usual way, cast a light
upon such animal, on, or adjacent to such highway, and
there was no attempt, or intent to locate such animal.
(3) Kill wild animals or wild birds from an airplane,
automobile, or other land conveyance, or from a motor-
driven craft upon any of the waters of the state.
(4) Kill squirrels from a craft upon any waters of
the state.
(5) Kill or take any beaver or muskrat by any means
other than by trap.

Sec. 14-a. Types of Traps.—The director shall have
the power and authority to regulate the number, kind
and types, of traps to be used in the catching or trapping
of any game or fur-bearing animal.

Sec. 14-b. Marking of Traps.—All traps used for
taking of any game or fur-bearing animal shall be marked
with a metallic plate or tag, attached to the trap, trap
chain, or set, bearing in plain English, the name and
address of the owner of said trap.

Sec. 14-c. Possession of Loaded Firearms in Vehicles.—
(1) Except as otherwise provided by law, it shall be
unlawful for any person, or persons, to have in their pos-
session a loaded firearm or a firearm from the maga-
zine of which all shells and cartridges have not been re-
moved, in or on any vehicle or conveyance, or its attach-
ments, while standing upon or along, or being driven upon
or along, any public highway, or a highway open to use
or used by the public, within this state: *Provided, how-
ever*, That except as hereafter provided, between five
o'clock postmeridian of one day and seven o'clock ante-
meridian, eastern standard time, of the day following,
any unloaded firearm, being lawfully carried in accord-
ance with the foregoing provisions, shall be so carried
only when in a case or taken apart and securely wrapped:
(2) *Provided, however*, That during the period from
July first to September thirtieth, inclusive, of each year,
the foregoing requirements relative to carrying certain
unloaded firearms shall be applicable only from eight-
forty-five o'clock postmeridian to five o'clock antemeridian,
eastern standard time.
(3) The provisions of this section shall not be con-
strued to apply to a conservation officer or to a public
police officer engaged in the performance of his official
duty, or to a paid special officer whose duty it is to enforce
the game, fish and forestry laws of the state of West Vir-
ginia and engaged in the performance of his official duties.

**Article 5. Birds and Fowls.**

Section

1. Game birds and fowls defined.
2. Hunting wood ducks.
3. Hunting ruffed grouse.
4. Hunting quail or bob-white.
5. Hunting ring-necked pheasant.
6. Hunting song or insectivorous birds.
7-a. Hunting wood ducks.
8. Hunting song or insectivorous birds.
9. 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
purpose of this chapter the following are game birds or
game fowls; The anatidae, commonly known as ducks,
geese, brants, and swans; the rallidea, commonly known
as mud hens, rails, coots, and gallinules; the charadrii,
commonly known as shore birds, plovers, snipes, woodcocks, curlews, and sandpipers; and the galli, commonly known as wild turkeys, ruffed grouse or pheasant; ring-necked pheasant and quail or bob-whites.

Sec. 3. *Hunting Wood Ducks.*—No person shall hunt, pursue, catch, capture or kill any wood duck (*Aix sponsa*) at any time within this state.

Sec. 4. *Wild Turkeys; Report.*—No person shall, in any county of this state, hunt, capture, pursue, wound or kill any wild turkey (*Maleagris gallopavo*) or have in his possession any wild turkey, or part thereof, except as provided in article three, section seven of this chapter. No person shall, during the open season, hunt, pursue, catch or kill any wild turkey between sunset of one day and sunrise of the next day or kill more than one wild turkey in any open season.

A person who kills a wild turkey in this state shall report to the director in writing, within ten days after the kill, setting forth the date, time and place where killed, and whether the turkey was male or female.

Sec. 5. *Hunting Ruffed Grouse.*—No person shall hunt, pursue, catch, capture or kill or have in his possession in any county of this state any ruffed grouse (*Bonasa umbellus*) except as provided in article three, section seven of this chapter.

Sec. 6. *Hunting Quail or Bob-White.*—No person shall hunt, pursue, catch, capture, kill or have in his possession in any county in this state, any quail, or bob-white, (*Colinus virginianus*) except as provided in article three, section seven of this chapter.

Sec. 7-a. *Hunting Ring-necked Pheasant.*—No person shall hunt, pursue, catch, capture, kill or have in his possession in any county of this state any ring-necked pheasant (*Phasianus colchicus torquatus*) except as provided in article three, section seven of this chapter. No person shall kill a female ring-necked pheasant in this state.

A person who kills a male ring-necked pheasant in this
state shall report to the director, in writing, within ten
days after the kill, setting forth the date, time and place
where killed.

Sec. 8. Hunting Song or Insectivorous Birds.—No per-
son shall at any time hunt, pursue, catch, capture or kill,
any song or insectivorous birds, unless such person shall
be acting under a permit issued by the director in accord-
ance with section seven-a, article three of this chapter.

Sec. 11. Unlawful to Kill, Possess, Purchase, Sell or
Transport Certain Wild Birds or their Plumage; Birds
Not Protected by Chapter.—No person shall, within this
state, kill, catch, or have in his possession living or dead,
any wild bird, other than a game bird or wild bird for
which a bounty has been offered by the director; or
expose for sale, or transport within or without the state,
any such bird, except as aforesaid. No part of the plum-
age, skin or body of any bird protected by this section
shall be sold or had in possession for sale, except mounted
or stuffed plumage, skin, bodies or heads of such birds
legally taken and stuffed or mounted, irrespective of
whether such bird was captured within or without this
state, except the English or European sparrow (Passer
domesticus), starling (Sturnus vulgaris), sharp-shinned
hawk (Accipiter velox), Cooper's hawk (Accipiter coop-
eri), goshawk (Astur atricapillus), great horned owl (Bubo
virginianus), crow (Corvus brachyrhynchos), fish crow
(Corvus ossifragus), and cowbird (Molothrus ater), which
are not included among the birds protected by this chapter,
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
Fishing.—For the purpose of this chapter the following
are game fish: Brook trout, brown trout, rainbow trout,
large-mouth bass, small-mouth bass, Kentucky or spotted
bass, pickerel, muskellunge, walleyed pike or pike-perch,
The director, for the purpose of protecting and conserving the fish and other aquatic animal life of the state, as provided by section eight, article three of this chapter, may establish open and closed seasons and creel limits on any or all fish, and regulate the taking and use of all other aquatic life. But water dogs and big salamander shall not be protected at any time.

The director may prescribe and enforce special regulations to apply to a stream or any part thereof, that he places under observation for scientific purposes. Regulations may include the filling out and filing of special reports by persons fishing in the stream.

Sec. 5. Unlawful Fishing.—No person shall kill, catch, or attempt to kill or catch any fish at any time by:

1. The use of seines, nets or traps, or devices of like nature without the written consent of the director.
2. A person may use a seine not more than six feet in length, nor more than four feet in depth for securing minnows for angling, other than game fish or protected non-game fish; except any person may use a minnow trap, for the purpose of securing bait, provided the opening is not larger than one inch in diameter. A dip net so used shall not exceed thirty-six square feet in over all area, and its mesh shall not be smaller than one-quarter inch;
3. Draining water out of any pool, pond, or stream with intent to take or injure fish;
4. The use of dynamite, or any like explosive or explosive mixture;
5. The use of a poisonous drug or substance;
6. The use of electricity or lime;
7. The use of firearms;
8. Gigging, spearing, gaffing, snaring or grappling, except the director may permit gigging of non-game fish in a stream under the supervision of a representative of the director, other than during the months of April, May and June;
9. 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.


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
the age of fifteen years, who is a citizen of the United
States, shall at any time hunt, pursue, trap for, kill,
catch or chase for sport any wild animals or wild birds,
or fish for, kill, or catch any frogs, turtles or fish of
any kind whatsoever, without first having secured a
license and then only during the respective open seasons.
A bona fide resident land owner of this state, or his
resident children, or his bona fide resident tenant, may
hunt, kill, pursue, catch, or chase for sport any wild
animals or wild birds, or fish for, capture or kill any of
the fish, frogs or turtles of this state on his own land
during the open season therefore in accordance with
regulations and provisions of law applying to such hunt-
ing or fishing, without obtaining a license so to do; so
long as said land shall not have been designated and
made, in manner provided by law, a state game refuge
or reserve. No person, who is a resident of this state,
under the age of fifteen years, shall hunt upon the lands
of another unless accompanied by a licensed adult. A
resident or non-resident member of any club or or-
ganization or association of persons owning or leasing
a game or fish reserve in this state shall not hunt or fish
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;
4. Persons eligible for class H license shall make application to the clerk of the county court in any county of this state.
5. An alien, making application for a class F license, shall first apply to the director for the issuance of a permit.
to obtain a class F license. The director shall issue the
permit if he is satisfied that the applicant is legally entitled
to a class F license and has bona fide intentions to exercise
the license in accordance with the provisions of this chap-
ter. After issuance of the permit an alien may apply to the
clerk of the county court of any county in the state for the
issuance of a class F license in the same manner as a non-
resident of this state. A permit shall remain in force until
revoked.

Sec. 7. When License to be Exhibited; Display of Bag
and Creel Limits.—No person to whom license is granted
shall hunt, pursue, trap for, kill, catch or chase for sport
any wild animals, or wild birds, or fish for, kill or catch
any frogs, turtles or fish of any kind whatsoever, in this
state, unless at the time thereof, such person shall, on
demand, exhibit such license to any officer of this state,
or to the owner, tenant or lessee of any land on which
such person is hunting, fishing, or chasing for sport.
Any person having in his or her possession, in the fields
or woods, in, on or about the streams or waters of this
state, any gun or hunting paraphernalia or any fishing
rod or other fishing paraphernalia, except he or she be
owner of such fields, woods, streams or waters, or the
child, tenant or lessee of such owner, shall upon demand
of any officer mentioned in this chapter, or of the owner,
tenant, lessee or agent of the owner of such fields or
woods, produce and exhibit his or her proper license
to such officer or person for inspection, and shall give
to such officer or person his or her correct name and
address.
It shall be the duty of any fisherman or hunter, upon
request or demand of any officer mentioned in this
chapter, to exhibit fully to such officer, all game and fish
such hunter or fisherman may have in his coat, game bag,
fishing creel, fish basket or which such hunter or fisher-
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.
thereof as soon after the same was incurred as practicable, and it shall be the duty of such agency to allow the same, and cause it to be paid promptly in the manner that other claims and accounts are allowed and paid, and such total amount shall constitute a debt against the local agency due the state. Whenever there is in the state treasury a sum of money due any such county court, board of education or municipality from any source, upon the application of the chief inspector, the same shall be at once applied on the debt aforesaid against the county court, board of education or municipality, and the fact of such application of such fund shall be reported by the auditor to the said county court, board of education or municipality, which report shall be a receipt for the amount therein named. All money received by the chief inspector from this source shall be paid into the state treasury, shall be deposited to the credit of an account to be known as chief inspector's fund, and shall be expended only for the purpose of covering the cost of such services, unless otherwise directed by the Legislature. The cost of any such examination, service or act by the chief inspector made necessary, or such part thereof as was made necessary, by the wilful fault of any officer or employee, may be recovered by the chief inspector from such person, on motion, on ten days notice in any court having jurisdiction.

For the purpose of permitting payments to be made at definite periods to deputy inspectors and assistants for per diem compensation and expenses, there is hereby created a revolving fund for the chief inspector's office. The fund shall be accumulated and administered as follows:

(1) There shall be appropriated from state fund general revenue the sum of twenty-five thousand dollars to be transferred to this fund to create a revolving fund which, together with other payments into this fund as provided in this article, shall constitute a fund to defray the cost of this service.

(2) Payments received for the cost of services of the chief inspector's office shall be deposited into this revolv-
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:

(1) In circuits having more than one hundred thousand population, eight thousand five hundred dollars;

(2) In circuits having more than eighty thousand and
9 less than one hundred thousand population, eight thousand dollars;
11 (3) In circuits having more than sixty thousand and less than eighty thousand population, seven thousand five hundred dollars;
14 (4) In circuits having more than forty thousand and less than sixty thousand population, seven thousand dollars;
17 (5) In circuits having less than forty thousand population, six thousand dollars.

A county court or the board of county commissioners of Ohio county may pay the judge of the circuit court additional compensation, but the salary and additional compensation or combined contributions of the several county courts and board of commissioners shall not exceed fifteen thousand dollars.

The population shall be according to the United States census, or the estimate of the United States bureau of census, as certified to the state auditor by the United States director of the census, last preceding the beginning of the calendar year in which the salary is payable.

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CHAPTER 99

(Senate Bill No. 280—By Mr. Boreman and Mr. Johnston)

AN ACT to amend and reenact section two, article seven, chapter 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.
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.

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.—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
been committed as provided in article three of this chapter.

Sec. 3-a. Admission on Certificate of One Physician.—Any person alleged to be mentally ill or mentally defective may, if no objection is made by such person or others on his behalf, be admitted to an institution upon presentation to the superintendent of a verified application accompanied by a physicians' certificate dated not more than ten days before the date of admission. The application shall contain a brief statement of the facts upon which the allegation of mental illness or mental defectiveness is based, and such other facts or information as may be required by the board of control. The application may be made by a near relative of a person alleged to be mentally ill or mentally defective, or by a health officer. The certificate may be made by any physician licensed to practice medicine in this state who is not a relative by blood or marriage of the person alleged to be mentally ill or mentally defective or of the person seeking his admission, and who has no direct or indirect interest in or connection with the institution to which application has been made. The physician shall state in the certificate that he has within twenty-four hours of the date of the certificate examined the person alleged to be mentally ill or mentally defective and that in his opinion such person is mentally ill or mentally defective and in need of institutional care. The certificate shall also contain a brief summary of the facts and circumstances upon which the physician bases his opinion. A patient admitted as provided in this section, or a relative acting on his behalf, may at any time give to the superintendent a written notice requesting his discharge. The superintendent shall within fifteen days after receipt of this notice grant the request unless in the meantime the patient has been committed as provided in article three of this chapter.

Sec. 3-b. Admission on Certificate of Health Officer.—Any person alleged to be mentally ill or mentally defec-
tive may, if no objection is made by such person or others on his behalf, be admitted to an institution for a period not to exceed thirty days upon presentation to the superintendent of the certificate of a health officer employed by the state or by one of its political subdivisions, requesting the admission of such person. In addition to such other information as may be required by the board of control, the certificate shall contain a statement that, on the basis of a personal examination made within twenty-four hours of the date of the certificate, it is the opinion of the health officer that the person for whom admission is sought is mentally ill or mentally defective and in need of institutional care.

Every person admitted as provided in this section shall be discharged within thirty days after his admission unless in the meantime he has been admitted as provided in one of the two preceding sections or committed as provided in article three of this chapter.

Sec. 3-c. Report of Admissions; Registration by the Board of Control.—The superintendent of each state mental institution shall, within ten days after the admission of any patient, report the admission to the board of control together with any other information the board of control may require. A copy of said report shall be sent to the state health commissioner. He shall make a similar report of the discharge or death of any patient.

From such reports and other sources the board shall prepare and keep current a register of persons in this state who are suffering from mental illness.

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 board of control or by order of the judge of a court of record.

Sec. 11. Examination and Treatment of Prisoners in Penitentiary.—The director of probation and parole shall have the authority to cause the transfer of any prisoner in any state penitentiary to any state mental institution for examination and observation. Upon request of the director the transfer shall be made by the warden of any
penitentiary. The superintendent of the institution shall receive the prisoner and shall keep him in custody within the institution. After examination and a proper period of observation, the superintendent shall submit to the director a report concerning the mental condition of the prisoner, together with recommendations as to the advisability of care and treatment in a mental institution. If no treatment is recommended, the prisoner shall be returned to such penitentiary. If treatment is recommended, the director shall apply for commitment of the prisoner as provided in article three of this chapter.


Section 1. Maintenance of Patients; Reimbursement.—The cost of the maintenance of patients admitted to the state mental institutions shall be paid out of funds appropriated for the respective institutions, but the institution, through the board of control, shall have a right of reimbursement for all or any part of such maintenance, in no case to exceed two dollars per day, from each patient or from the committee or guardian of the estate of the patient, or if that be insufficient, then from the patient’s husband, wife, children, father and mother, or any of them. If a relative so liable does not reside in this state and has no estate or debts due him within the state by means of which the liability can be enforced against him, the other relatives shall be liable as provided by this section. In exercising this right of reimbursement the board of control may, whenever it is deemed just and expedient to do so, exonerate any person chargeable with such maintenance from the payment thereof in whole or in part, if it finds that he is unable to pay or that payment would work an undue hardship on him or on those dependent upon him.

There shall be no discrimination on the part of the institution as to food, care, protection, treatment or re-
habilitation, between patients who pay for their mainte-
nance and those who are unable to do so.

The provisions of this section apply only to the state
mental hospitals proper, and not to the clinics attached
thereto.

It shall be the responsibility of the board of control to
determine the ability of the patient or of his relatives to
pay for his maintenance.

Sec. 2. **When and How Counties to Pay.**—If the state
mental institution is unable to collect a minimum of fifty
dollars per annum toward the maintenance of a patient,
the county of which the patient is a resident shall an-
nually pay into the state treasury for credit to the appro-
priate institution the difference between the amount, if
any, collected by the institution and the sum of fifty
dollars.

At every levy term of each county court it shall esti-
mate for and levy a sufficient amount to meet all such
expenses. The superintendent of such hospital, on or
before the tenth day of January of each year, shall certify
to the auditor a list of all the patients in the hospital dur-
ing the whole or any part of the preceding year for which
the counties are to pay, showing on such list under the
name of the county, the number from each county and
length of time he was in said hospital during the year,
and showing the amount due from each county for each
patient, and the total amount due from each county for
the year. As soon as such list is received by the auditor
he shall charge to each county the amount appearing to
be due from the certificates of the superintendent. Within
ten days after the receipt of such certificate the auditor
shall make out a copy thereof for each county and certify
the same to the county court thereof, which list shall
show the name of each patient in such hospital from the
county during the year, the length of time he was in such
hospital during the year, the amount charged for each
patient, and the total amount charged on account of all
such patients from the county; and such total amount
shall constitute a debt against the county due the state.
Whenever there is in the state treasury a sum of money due any county from any source, the same shall be at once applied on the debt aforesaid against the county, and the fact of such application of such fund shall be reported by the auditor to the county court of the county, which report shall be a receipt for the amount therein named.

Sec. 3. Care of Patients in Boarding Homes.—The board of control may, upon the recommendation of the superintendent of the institution, provide care in a suitable boarding home for any patient in a state mental institution, if the condition of the patient is such that his and the public welfare will not be prejudiced thereby. A patient in a boarding home shall be deemed to be a patient of the institution from which he was removed and shall, on the approval of the superintendent, be placed under the supervision of a psychiatric social worker employed by the institution. All patients in such homes shall be visited at least once every three months, and if upon the visitation they are found to be abused, neglected or improperly cared for, they shall be returned to the institution or placed in a better boarding home. The cost of the boarding home care shall be paid by the institution from which he was removed.

CHAPTER 101
(House Bill No. 117—By Mr. Davis)

AN ACT to amend and reenact section three, article three, chapter twenty-seven of the code of West Virginia, one thousand 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; Warrant.—If any resident of a county suspect any person therein to be a lunatic, he may make complaint under oath to the clerk of the county court, giving such information and stating such facts therein as may be required, and deliver the same to the clerk of the county court, whose duty it shall be to issue a warrant ordering the person so suspected and named in such complaint to be brought before the commission at a time and place named therein, that his sanity may be inquired into. Any member of the commission without such complaint may have such warrant issued for any person found in his county, whom he shall suspect to be a lunatic. All such warrants shall be signed by the clerk of the county court and have impressed thereon the seal thereof; and may be addressed to the sheriff of the county or to any constable of any district thereof, or to a special constable appointed for the purpose and named therein; but if any relative or friend of the person so suspected will serve such warrant and cause such suspected person to be brought before the commission, he may be allowed to do so. The officer or persons to whom the warrant is addressed shall take the suspected person into custody and bring him before the commission at the time and place named therein.

Whenever a person apparently mentally ill is so violent as to endanger his own safety or the safety of others, any law enforcement officer may with or without a warrant 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 here-tofore vested in the auditor as ex officio insurance commissioner to said insurance commissioner, appointed here-under; 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.
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.
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.—The insurance commissioner shall receive an annual salary of six thousand dollars and actual expenses incurred 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 be necessary or convenient for the discharge of his duties, and may employ such persons and incur such expenses as may be necessary in the discharge of his duties as imposed by law, and shall fix the compensation of such employees, but such compensation shall not exceed the appropriation therefor. All compensation for salaries of
the commissioner, for salaries and wages of employees of
the commissioner and for expenses of the commissioner
as herein authorized shall be paid monthly out of the
state treasury by requisition upon the auditor, properly
certified by the insurance commissioner.

Sec. 3. Transfer of Rights, Powers, Duties and Privi-
ileges, Vested in the Auditor as Insurance Commissioner
to the Insurance Commissioner.—All rights, powers, du-
ties 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, docu-
ments and records heretofore in the possession, custody,
or control of the auditor of this state as insurance com-
missioner 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.”—
“Insurance company” as used in this article means all
insurers or insurance carriers, including, but not limited
to, stock insurance companies, mutual insurance com-
panies, reciprocal and inter-insurance exchanges, and all
other types of insurers and insurance carriers.

Sec. 4. General Duties of Commissioner.—The com-
mmissioner 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 be-
fore the tenth day of each month pay into the state treas-
ury all the fees which he may have received during the
month previous; and may administer oaths in the dis-
charge 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.
The commissioner or his accredited examiners shall, at
least once in four years, visit each company or association under the jurisdiction and supervision of the commissioner and thoroughly examine its financial condition and ascertain whether it has complied with all provisions of the laws of this state. All the expenses of such examination shall be borne by the company or association examined.

Sec. 6. Examination and Supervision of Business Methods of Insurance Companies.—The commissioner may from time to time examine the methods of business of any company, corporation, association, partnership or combination of persons doing any kind or form of insurance business in this state, and may order it or them to answer such questions as he may deem necessary for the purpose of such inquiry; and if, in the opinion of the commissioner, after due notice and hearing, any such company, corporation, association, partnership or combination of persons is doing business in an illegal, improper or unjust manner, or failing to adjust and pay losses and obligations when they become due, excepting claims to which there is a substantial defense, he may order it to discontinue such illegal or improper method of doing business and may order it to adjust and pay its losses and obligations as they become due.

And in order to foster and protect the businesses conducted under the supervision of said insurance commissioner, and to put this legislative policy into effect, the insurance commissioner is authorized and directed to maintain a continuous investigation of the regulation and control of such businesses generally. When, because of regulations in other states, an emergency arises which endangers the stability of such businesses within this state, the commissioner, after investigation and determination, shall have the authority to make from time to time such temporary regulations as may be necessary to protect such businesses carried on in this state against discrimination because of regulations existing in other states.

The commissioner shall promptly send certified copies
of all orders issued under the authority of this section to
each company, corporation, association, partnership or
combination of persons under his control, supervision or
regulation.

Sec. 7. Enforcement of Orders of Commissioner.—If
any such company, corporation, association, partnership,
or combination of persons shall fail or refuse within ten
days to obey any such order of the insurance commis-
sioner, he may apply to a court or judge having jurisdic-
tion for an injunction or for the appointment of a receiver,
or for both, and such court or judge may enforce such order
of the commissioner by injunction, or by appointing a re-
ceiver to take charge of the property and affairs of such
company, corporation, association, partnership or com-
bination of persons, or both; and may make all such fur-
ther orders as may be necessary or proper to carry into
effect such an injunction or receivership.

Sec. 8. Fees Payable to Commissioner.—Except where
it is otherwise specially provided, the commissioner shall
demand and receive the following fees from all insurance
companies: For annual fee for each license, ten dollars;
for receiving and filing annual reports, ten dollars; for
valuation of policies of life insurance companies organ-
ized under the laws of this state, one and one-half cents
for each one thousand dollars of insurance; for valuation
of policies of life insurance companies organized under
the laws of any other state admitted to transact business
in this state, such rate for each one thousand dollars of
insurance valued as is imposed by such other state upon
any similar insurance company organized under the laws
of this state admitted to transact business in such other
state; for filing any additional paper required by law,
twenty-five cents; for every certificate of valuation, copy
of report or certificate of condition of company to be
filed in any other state, five dollars; for each agent's cer-
tificate of authority and copy of report, five dollars.

Sec. 9. Report by Commissioner.—The commissioner
shall annually, within sixty days after the first day of
January, submit to the governor a report of his official acts, and of the condition of insurance companies doing business in this state, with a condensed statement of their reports made to him, an abstract of all accounts rendered to any court by the receivers of insolvent insurance companies, and the reports, or abstracts of the reports, made to the insurance commissioner by such receivers, together with a statement of the fees received from all such companies and paid by him into the state treasury.

Sec. 10. Repeal of Conflicting Acts.—All acts or parts of acts in conflict with this article are hereby repealed.

Sec. 11. Severability.—The provisions of this act 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.

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.
Section 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 may demand and receive from each such attorney in fact the following filing fees: For receiving and filing annual reports, ten dollars; for filing any additional paper required by law, twenty-five cents; for every certificate of valuation, copy of report or certificate of condition to be filed in any other state, five dollars.

Sec. 13. Fee to Auditor as Agent to Accept Service.—Each such attorney in fact shall pay to the auditor of the state of West Virginia an annual fee of ten dollars for the services of the auditor as authorized agent for the acceptance of service of process, under section three (1), and section four of this article; which fee shall be due and payable at the same time, be collected by the same officers, and accounted for in the same way, as the annual license 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.]

Section
1. Purpose of article.
2. Scope of article.
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.

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-
tuals, to all insurers, including stock and mutual insurers, reciprocal and inter-insurance exchanges, which under any provisions of the laws of this state write any of the kinds of insurance to which this article applies. Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the commissioner of insurance, hereinafter referred to as commissioner, or as established by general custom of the business, as inland marine insurance.

This article shall not apply:

(a) To insurance against the perils of fire and light-ning under the form of policy set forth in subsection (f) of section seven, article four, chapter thirty-three, of the code, as amended;

(b) To reinsurance, other than joint reinsurance to the extent stated in section eleven;

(c) To insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distin-
guished from inland marine, insurance policies;

(d) To insurance of hulls of aircraft, including their accessories and equipment, or against liability arising out of the ownership, maintenance or use of aircraft;

(e) To motor vehicle insurance, nor to insurance against liability arising out of the ownership, mainten-
ance or use of motor vehicles.

If any kind of insurance, subdivision or combination thereof, or type of coverage, subject to this article is also subject to regulation by another rate regulatory act of this state, an insurer to which both acts are otherwise applicable shall file with the commissioner, a designation as to which rate regulatory act shall be applicable to it with respect to such kind of insurance, subdivision or combination thereof, or type of coverage.

Sec. 3. Making of Rates.—(a) Rates shall be made in accordance with the following provisions:

1. Manual, minimum, class rates, rating schedules or rating plans, shall be made and adopted, except in the
case of specific inland marine rates on risks specially rated;

2. Rates shall not be excessive, inadequate or unfairly discriminatory;

3. Due consideration shall be given to past and prospective loss experience within and outside this state, to the conflagration and catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state; and in the case of fire insurance rates shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which such experience is available.

(b) Except to the extent necessary to meet the provisions of subdivision two of subsection (a) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

c) Rates made in accordance with this section may be used subject to the provisions of this article.

Sec. 4. Rate Filings.—(a) Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of this article, he shall require such insurer to furnish the information upon which it supports such filing and in such event the waiting period shall commence
as of the date such information is furnished. The information furnished in support of a filing may include (1) the experience or judgment of the insurer or rating organization making the filing, (2) its interpretation of any statistical data it relies upon, (3) the experience of other insurers or rating organizations, or (4) any other relevant factors. A filing and any supporting information shall be open to public inspection after the filing becomes effective. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(b) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf: Provided, That nothing contained in this article shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(c) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this article.

(d) Subject to the exception specified in subsection (e) of this section, each filing shall be on file for a waiting period of fifteen days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if he gives written notice within such waiting period to the insurer or rating organization which makes the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this article unless disapproved by the commissioner within the waiting period or any extension thereof.

(e) Specific inland marine rates on risks specially rated by a rating organization shall become effective
when filed and shall be deemed to meet the requirements
of this article until such time as the commissioner re-
views the filing and so long thereafter as the filing re-
 mains in effect.
(f) Under such rules and regulations as he shall adopt
the commissioner may, by written order, suspend or 
modify the requirements of filing as to any kind of in-
surance, subdivision or combination thereof, or as to 
classes of risks, the rates for which cannot practicably be 
filed before they are used. Such orders, rules and regula-
tions shall be made known to insurers and rating organi-
zations affected thereby. The commissioner may make 
such examination as he may deem advisable to ascertain 
whether any rates affected by such order meet the stand-
ards set forth in subdivision two of subsection (a) of sec-
tion three.
(g) Upon the written application of the insured, stat-
ing his reasons therefor, filed with and approved by the 
commissioner, a rate in excess of that provided by a filing 
otherwise applicable may be used on any specific risk.
(h) Beginning ninety days after the effective date of 
this article no insurer shall make or issue a contract or 
policy except in accordance with the filings which are in 
effect for said insurer as provided in this article or in 
accordance with subsections (f) or (g) of this section. 
This subsection shall not apply to contracts or policies for 
inland marine risks as to which filings are not required.

Sec. 5. Disapproval of Filings.—(a) If within the wait-
ing period or any extension thereof as provided in sub-
section (d) of section four, the commissioner finds that 
a filing does not meet the requirements of this article,
he shall send to the insurer or rating organization which 
made such filing, written notice of disapproval of such 
fil ing specifying therein in what respects he finds such 
 filing fails to meet the requirements of this article and 
 stating that such filing shall not become effective.
(b) If within thirty days after a specific inland marine 
rate on a risk specially rated by a rating organization, 
subject to subsection (e) of section four has become effec-
tive, the commissioner finds that such filing does not meet the requirements of this article, he shall send to the rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of this article and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.

(c) If at any time subsequent to the applicable review period provided for in subsection (a) or (b) of this section, the commissioner finds that a filing does not meet the requirements of this article, he shall, after a hearing held upon not less than ten days' written notice, specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this article, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not affect any contract or policy made, or issued prior to the expiration of the period set forth in said order.

(d) Any person or organization aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon: Provided, however, That the insurer or rating organization that made the filing shall not be authorized to proceed under this subsection. Such application shall specify the grounds to be relied upon by the applicant. If the commissioner shall find that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every insurer and rating organization which made such filing.
If, after such hearing, the commissioner finds that the filing does not meet the requirements of this article, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this article, and stating when, within a reasonable period thereafter such filing shall be deemed no longer effective. Copies of said order shall be sent to the applicant and to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(e) No manual, minimum, class rate, rating schedule, rating plan, rating rule, or any modification of any of the foregoing which has been filed pursuant to the requirements of section four of this act shall be disapproved if the rates thereby produced meet the requirements of this article.

Sec. 6. Rating Organizations.—(a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the commissioner for license as a rating organization for such kinds of insurance, or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file therewith

1. a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws, rules and regulations governing the conduct of its business,
2. a list of its members and subscribers,
3. the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such rating organization may be served and
4. a statement of its qualifications as a rating organization. If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance, or subdivision or class of risk or part or com-
bination thereof for which the applicant is authorized
to act as a rating organization. Every such application
shall be granted or denied in whole or in part by the
commissioner within sixty days of the date of its filing
with him. Licenses issued pursuant to this section shall
remain in effect for three years unless sooner suspended
or revoked by the commissioner. The fee for said license
shall be twenty-five dollars. Licenses issued pursuant to
this section may be suspended or revoked by the com-
missioner, after hearing upon notice, in the event the
rating organization ceases to meet the requirements of
this subsection. Every rating organization shall notify
the commissioner promptly of every change in (1) its
constitution, its articles of agreement or association, or
its certificate of incorporation, and its by-laws, rules and
regulations governing the conduct of its business, (2) its
list of members and subscribers and (3) the name and
address of the resident of this state designated by it upon
whom notices or orders of the commissioner or process
affecting such rating organization may be served.
(b) Subject to rules and regulations which have been
approved by the commissioner as reasonable, each rating
organization shall permit any insurer, not a member, to
be a subscriber to its rating services for any kind of insur-
ance, subdivision, or class of risk or a part or combination
thereof for which it is authorized to act as a rating organi-
zation. Notice of proposed changes in such rules and regu-
lations shall be given to subscribers. Each rating organiza-
tion shall furnish its rating services without discrimina-
tion to its members and subscribers. The reasonableness of
any rule or regulation in its application to subscribers, or
the refusal of any rating organization to admit an insurer
as a subscriber, shall, at the request of any subscribers or
any such insurer, be reviewed by the commissioner at a
hearing held upon at least ten days' written notice to such
rating organization and to such subscriber or insurer. If
the commissioner finds that such rule or regulation is un-
reasonable in its application to subscribers, he shall order
that such rule or regulation shall not be applicable to sub-
scribers. If the rating organization fails to grant or reject
an insurer's application for subscribership within thirty
days after it was made, the insurer may request a review
by the commissioner as if the application had been reject-
ed. If the commissioner finds that the insurer has been re-
fused admittance to the rating organization as a subscriber
without justification, he shall order the rating organiza-
tion to admit the insurer as a subscriber. If he finds that
the action of the rating organization was justified, he
shall make an order affirming its action.
(c) No rating organization shall adopt any rule the
effect of which would be to prohibit or regulate the pay-
ment of dividends, savings or unabsorbed premium de-
posito allowed or returned by insurers to their policy-
holders or subscribers.
(d) Cooperation among rating organizations or among
rating organizations and insurers in rate making or in
other matters within the scope of this article is hereby
authorized, provided the filings resulting from such co-
operation are subject to all the provisions of this article
which are applicable to filings generally. The commis-
sioner may review such cooperative activities and prac-
tices and if, after a hearing, he finds that any such activ-
ity or practice is unfair or unreasonable or otherwise
inconsistent with the provisions of this article, he may
issue a written order specifying in what respects such
activity or practice is unfair or unreasonable or other-
wise inconsistent with the provisions of this article, and
requiring the discontinuance of such activity or practice.
(e) Any rating organization may provide for the ex-
amination of policies, daily reports, binders, renewal
certificates, endorsements or other evidence of insur-
ance, or the cancellation thereof, and may make reason-
able rules governing their submission. Such rules shall
contain a provision that in the event any insurer does
not within sixty days furnish satisfactory evidence to
the rating organization of the correction of any error or
omission previously called to its attention by the rating
organization, it shall be the duty of the rating organiza-
tion to notify the commissioner thereof. All information
so submitted for examination shall be confidential.
104 (f) Any rating organization may subscribe for or purchase actuarial, technical or other services, and such services shall be available to all members and subscribers without discrimination.

Sec. 7. Deviations.—Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the commissioner for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance, or combination thereof. Such application shall specify the basis for the modification and a copy thereof shall also be sent simultaneously to such rating organization. The commissioner shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten days' written notice thereof. In the event the commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. In considering the application for permission to file such deviation the commissioner shall give consideration to the available statistics and the principles for rate making as provided in section three of this article. The commissioner shall issue an order permitting the deviation for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each deviation permitted to be filed shall be effective for a period of one year from the date of such permission unless terminated sooner with the approval of the commissioner.

Sec. 8. Appeal by Minority.—Any member of, or subscriber to, a rating organization may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization.
and the commissioner shall, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal; or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

Sec. 9. Information to be Furnished Insureds; Hearings and Appeals of Insureds.—Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate. Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the commissioner, who, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

Sec. 10. Advisory Organizations.—(a) Every group,
association or other organization of insurers, whether located within or outside this state, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this article, shall be known as an advisory organization.

(b) Every advisory organization shall file with the commissioner (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its by-laws, rules and regulations governing its activities, (2) a list of its members, (3) the name and address of a resident of this state upon whom notices or orders of the commissioner or process issued at his direction may be served, and (4) an agreement that the commissioner may examine such advisory organization in accordance with the provisions of section twelve of this article.

(c) If, after a hearing, the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, and requiring the discontinuance of such act or practice.

(d) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the commissioner involving such statistics or recommendations issued under subsection (c) of this section. If the commissioner finds such insurer or rating organization to be in violation of this subsection he may issue an order requiring the discontinuance of such violation.

Sec. 11. Joint Underwriting or Joint Reinsurance.—

(a) Every group, association or other organization of insurers which engages in joint underwriting or joint
reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of this article and, with respect to joint reinsurance, to sections twelve and fifteen to nineteen of this article.

(b) If, after a hearing, the commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, and requiring the discontinuance of such activity or practice.

Sec. 12. Examinations.—The commissioner shall, at least once in five years, make or cause to be made an examination of each rating organization licensed in this state as provided in section six and he may, as often as he may deem it expedient, make or cause to be made an examination of each advisory organization referred to in section ten and of each group, association or other organization referred to in section eleven. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation to it of a detailed account of costs. The officers, managers, agents and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state. The commissioner shall furnish two copies of the examination report to the organization, group or association examined and shall notify such organization, group or association that it may, within twenty days thereafter, request a hearing on said report or on any facts or recommendations therein. Before filing such re-
port for public inspection, the commissioner shall grant
a hearing to the organization, group or association ex-
amined. The report of such examination, when filed for
public inspection, shall be admissible in evidence in any
action or proceeding brought by the commissioner against
the organization, group or association examined, or its
officers or agents, and shall be prima facie evidence of
the facts stated therein. The commissioner may withhold
the report of any such examination from public inspec-
tion for such time as he may deem proper.

Sec. 13. Rate Administration. — (a) Recording and
Reporting of Loss and Expense Experience. The com-
mmissioner shall promulgate reasonable rules and statis-
tical plans, reasonably adapted to each of the rating sys-
tems on file with him, which may be modified from time
to time and which shall be used thereafter by each
insurer in the recording and reporting of its loss and
countrywide expense experience, in order that the ex-
perience of all insurers may be made available at least
annually in such form and detail as may be necessary
to aid him in determining whether rating systems com-
ply with the standards set forth in section three. Such
rules and plans may also provide for the recording and
reporting of expense experience items which are special-
ly applicable to this state and are not susceptible of
determination by a prorating of countrywide expense
experience. In promulgating such rules and plans, the
commissioner shall give due consideration to the rating
systems on file with him and, in order that such rules
and plans may be as uniform as is practicable among
the several states, to the rules and to the form of the
plans used for such rating systems in other states. No
insurer shall be required to record or report its loss
experience on a classification basis that is inconsistent
with the rating system filed by it. The commissioner
may designate one or more rating organizations or other
agencies to assist him in gathering such experience and
making compilations thereof, and such compilations shall
be made available, subject to reasonable rules promul-
gated by the commissioner, to insurers and rating organizations.

(b) Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

(c) In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

(d) The commissioner may make reasonable rules and regulations necessary to effect the purposes of this article.

Sec. 14. False or Misleading Information.—No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the commissioner, any statistical agency designated by the commissioner, any rating organization, or any insurer, which will affect the rates or premiums chargeable under this article. A violation of this section shall subject the one guilty of such violation to the penalties in section fifteen of this article.

Sec. 15. Penalties.—The commissioner may, if he finds that any person or organization has violated any provision of this article, impose a penalty of not more than fifty dollars for each such violation, but if he finds such violation to be willful he may impose a penalty of not more than five hundred dollars for each such violation. Such penalties may be in addition to any other penalty provided by law.

The commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed...
for an appeal therefrom has expired or if an appeal has
been taken, until such order has been affirmed. The
commissioner may determine when a suspension of li-
cense shall become effective and it shall remain in effect
for the period fixed by him, unless he modifies or re-
scinds such suspension, or until the order upon which
such suspension is based is modified, rescinded or re-
versed.

No penalty shall be imposed and no license shall be
suspended or revoked except upon a written order of the
commissioner, stating his findings, made after a hearing
held upon not less than ten days' written notice to such
person or organization specifying the alleged violation.

Sec. 16. Rebates Prohibited.—No broker, agent or so-
licitor shall knowingly charge, demand or receive a pre-
mium for any policy of insurance except in accordance
with the provisions of this article. No insurer or em-
ployee thereof, and no broker, agent or solicitor shall
pay, allow, or give, or offer to pay, allow, or give, directly
or indirectly as an inducement to insurance, or after in-
surance has been affected, any rebate, discount, abate-
ment, credit or reduction of the premium named in a
policy of insurance, or any special favor or advantage
in the dividends or other benefits to accrue thereon, or
any valuable consideration or inducement whatever, not
specified in the policy of insurance, except to the extent
provided for in an applicable filing. No insured named
in a policy of insurance, nor any employee of such in-
sured shall knowingly receive or accept, directly or in-
directly, any such rebate, discount, abatement, credit or
reduction of premium, or any such special favor or ad-

dvantage or valuable consideration or inducement.

Nothing in this section shall be construed as prohibit-
ing the payment of commissions or other compensation
to duly licensed agents, brokers and solicitors, nor as pro-
hibiting any insurer from allowing or returning to its
participating policyholders, members or subscribers, divi-
dends, savings or unabsorbed premium deposits.
Sec. 17. Hearing Procedure and Judicial Review.—
(a) Any insurer or rating organization aggrieved by any order or decision of the commissioner made without a hearing, may, within thirty days after notice of the order to the insurer or organization, make written request to the commissioner for a hearing thereon. The commissioner shall hear such party or parties within twenty days after receipt of such request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after such hearing the commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefor. Pending such hearing and decision thereon the commissioner may suspend or postpone the effective date of his previous action.
(b) Nothing contained in this article shall require the observance at any hearing of formal rules of pleading or evidence.
(c) In the event that any party in interest is dissatisfied with any decision or order of the commissioner he or it may, within thirty days after the entry thereof, file a petition in the circuit court of Kanawha county, or with the judge thereof in vacation, for the review of such order. Before presenting his or its petition to the court or judge, the petitioner shall mail a copy thereof to the insurance commissioner. Upon the receipt of such copy, the insurance commissioner shall forthwith transmit to the clerk of such court the record of the proceedings before him. The court or judge shall fix a time for the review of said proceedings at his earliest convenience. Notice in writing of the time and place of such hearing shall be given to the insurance commissioner at least ten days before the date set therefor. The court or judge shall, without a jury, hear and determine the case upon the record of the proceedings before the insurance commissioner. The court or judge may enter an order revising or reversing the decision of the insurance commissioner, if it appears that the decision is clearly wrong, or may affirm such decision. The judgment of the circuit court or judge may be reviewed upon
Chapter 106

(First 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. Fees of Justice in Civil Cases.—A justice of the peace shall charge and shall collect in advance from the party or parties requesting such services the following fees:

1. For entering suit and issuing summons not to exceed two, docketing the case, indexing and filing papers, receiving confession of judgment or rendering judgment by default and entering same together with satisfaction on docket, including the taxing of justice’s and constable’s costs $3.00

2. For each summons in excess of two .25

3. For each subpoena issued .25

4. For swearing each witness, arbitrators or party .15

5. For appointing special constables at request of either party .25

6. For trying case (defense interposed), and entering judgment and satisfaction 1.50

7. For issuing order of attachment or suggestion order and necessary copies thereof, executing affidavit and bond in addition to Item No. 1 1.00

8. For each additional attachment to recover on original judgment, executing affidavit and bond, in addition to Item No. 1 1.00

9. For issuing second summons together with copies thereof for nonresidents as provided by section ten, article nine of this chapter .75

10. For issuing order of arrest or order of commit- ment, civil order of arrest only .50

11. For trial and judgment of any case of contempt 1.50

12. For taking and certifying any affidavit in writing, except to commence suit .50

13. For every continuance .50
14. For settling and allowing interrogatories ... .50
15. For entering agreement for arbitration ... .50
16. For summons of arbitrators ... .30
17. For every bond filed in a case, appeal bond, stay
of execution bond, forthcoming bond, in-
demnity bond, bail bond, civil order of
arrest, detinue bond, except bond in attach-
ment case and docketing same ... 1.00
18. For ordering a jury, including the drawing for
same ... .50
19. For abstract of judgment for docketing in the of-
office of the clerk of the county court ... .50
20. For issuing execution and entering return there-
of on docket ... .50
21. For entering stay of execution ... .25
22. For trying right of property levied on or attached ... 1.50
23. For transcript from docket ... 1.00
24. For transmitting or delivering papers to the clerk
of the circuit court in case of appeal ... .50
25. For taking and certifying acknowledgement of
deed or other instrument of writing ... .50
26. For taking depositions of witnesses if done in
an hour or less ... 1.00
27. If not completed in an hour, for additional time
at the rate, per hour, of ... 1.00
28. For appointing a guardian for the suit of an in-
fant plaintiff or defendant ... .50
29. For taking an inquest on a dead body, to be au-
dited and paid from the treasury of the
county ... 5.00
30. For each distress warrant issued, docketing the
case and indexing and filing papers ... 1.00
31. For each suggestee execution issued, docketing
and indexing same ... 1.50
32. For each renewal of suggestee execution issued
docketing and indexing same ... 1.50
33. For issuing each temporary release, modifying
order or permanent release ... .50
34. Order of appraisement, appointing appraisers,
swearing of the same and docketing same,
Provided, however, That in an action brought before a justice to recover a sum of money where an attachment, garnishment, suggestion order or suggestee execution is issued against the wages of a defendant and the claim is not contested, the maximum total fee covering all costs to be charged by the justice in each case shall not exceed $5.00, and if the claim is contested, the maximum total fee covering all costs to be charged by 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:

1. For service and return of summons to commence a suit $1.50, and for every additional summons in same suit ........................................ 0.75

2. For servicing and returning order of attachment, for each garnishee summoned ....................... 1.00

3. For taking property under order of attachment, including inventory and appraisement, besides the reasonable expenses of removing, securing and keeping the property attached ........................................ 2.50

4. For subpoenas, for each person served therewith ....................... 0.50

5. For summoning and returning a jury ................................. 1.50

6. For levying an execution on personal property and return .......................................................................... 2.00

7. For posting notices of sale (3) for suggestee execution, suggestion order, attachment, distress warrant, each ........................................ 0.40

8. For money collected and paid to justice, constable or plaintiff, after levy, under execution, suggestee execution, suggestion order, distress warrant or attachment, sale or no sale ..................................................................... 5%

9. For executing a writ of possession under section ten, article one of this chapter ........................................ 4.00
10. For summoning the jury and witnesses for inquest on a dead body, to be audited and paid from the treasury of the county ............... 3.00

11. Provided, however, That in an action brought before a justice to recover a sum of money where an attachment, garnishment or suggestion order is issued against the wages of a defendant, the minimum fee to be charged by the constable in such case shall be two dollars and fifty cents ........................................ 2.50

12. Second summons in attachment, each ........................................ 1.00

13. Extra time necessary in taking and removing property under attachment order, and eviction execution, distress warrant or writ of detinue .................................................... 1.00

14. For delivering a temporary or permanent release .............................................. .50

Sec. 11. Fees of Justices in Criminal Cases.—

1. Every justice shall be entitled to a fee of three dollars in each criminal case and proceeding before him which fee shall constitute his compensation for all official services performed by him in connection with any single case, including affidavit for warrant, search and seizure warrant, warrant of arrest, trial examination, issuing subpoenas and copies thereof, warrants summoning and swearing a jury when required, swearing and certifying attendance of witnesses, entering judgment and taxing costs and all other acts in connection herewith. Except, that he shall be allowed an additional fee of fifty cents for making and certifying a transcript of his docket in any particular case and transmitting the same to the clerk of the circuit court, the state road commission, or any other office to which he may be by law required to certify such transcript. And no other fees shall be taxed or charged by any
justice in such cases and proceedings: Provided, however, That under the provisions of this section the justice shall be entitled to such fees theretofore earned, as were earned and the prosecuting attorneys, and county courts may approve and pay such accrued costs in the same manner as was provided by the code of West Virginia, one thousand nine hundred thirty-one, prior to the enactment of chapters thirty-one and thirty-two, acts of Legislature, regular session, one thousand nine hundred thirty-five.

2. For issuing sheep warrant, appointing and swearing appraisers and docketing same 1.00

3. Bond or recognizance 2.00

Sec. 12. Fees of Constables in Criminal Cases.—Every constable shall be entitled to the following fees in criminal cases:

1. For an arrest in case of felony 1.50
2. For an arrest in cases other than felony 1.00
3. For serving a subpoena 0.50
4. For executing a search warrant 2.50
5. For summoning a jury in criminal action 1.50
6. Witness fee constable 0.50
7. In addition to above fees, constables shall be allowed five cents for each mile of necessary travel in the performance of their duties, and ten cents per mile for transporting prisoners.
8. In cases of search warrants and proceedings under article one, chapter sixty-two of this code, the fees of the constable shall be chargeable to the county, shall be audited and paid as other claims of like nature by the county court.
9. In criminal cases, other than felony, such fees shall be charged and paid as provided in section fifteen, article five, chapter seven of this code, and section eight, article eighteen of 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 Exercise, Criminal Jurisdiction; Penalties.—A justice shall have jurisdiction of the following offenses committed in his county, or on any river or creek adjoining thereto:

(a) In cases of assault and battery, unless the offense was committed on a sheriff or other officer or justice, or riotously, or with intent to commit a felony; and no compromise with the party injured shall affect or prevent the trial of such offense by the justice; and if a defendant be convicted of such offense he shall be fined not less than five nor more than fifty dollars;

(b) In cases of trespass to personal property; and, if a defendant be convicted of such offense, he shall be fined not less than five nor more than fifty dollars;
(c) In cases for the violation of section fourteen, article six, chapter sixty-one of this code; and, upon the conviction of a defendant for a violation of any of the provisions of said section, he shall be punished as therein provided;

(d) In cases of adultery and fornication; and, if a defendant be convicted of such offense, he shall be fined twenty dollars;

(e) In cases of petit larceny; and, if a defendant be convicted of such offense, he shall be fined not less than ten nor more than thirty dollars, and may, at the discretion of the justice or jury trying the case, be imprisoned in the county jail not exceeding thirty days;

(f) In cases for the violation of article seven, chapter sixty-one of this code; and upon the conviction of a defendant for a violation of any of the provisions of said section, (article) he shall be punished as therein provided;

(g) In any case where the punishment is limited to a fine not exceeding ten dollars, or to imprisonment for not more than ten days.

(h) In all misdemeanor cases for the violation of the provisions of chapter sixty of said code as amended;

(i) In cases for the violation of section thirteen, article six, chapter sixty-one of this code; and, upon the conviction of a defendant for a violation of any of the provisions of said section, he shall be punished as therein provided: Provided, however, That whenever a person has been convicted in the municipal or police court of any incorporated town or city, such conviction shall be a bar to any criminal 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.]


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.—

The merit system council heretofore established by executive order shall be continued, and present members shall continue to serve until the expiration of the terms for which they were appointed. The council shall consist of three members to be appointed by the governor, by and with the advice and consent of the Senate, for three year terms, one of which shall end on the thirtieth day of June of each year. The council shall annually elect one of its members to serve as chairman.

Regular meetings of the council shall be held monthly, and special meetings may be held upon the call of the chairman. The members shall receive an allowance of ten dollars for each day actually spent in attending meetings, and shall be reimbursed for the actual traveling expenses necessarily incurred in the performance of their duties. Such expenses shall be met out of any funds available for the purpose and shall be paid upon certification of the supervisor, in such manner as the expenses of other state officials are paid.

Sec. 2. Merit System Supervisor; Assistants.—Upon the recommendation of the council, the governor shall appoint a merit system supervisor, who shall be the chief administrative officer of the council and under its super-
vision shall direct all its activities.

The supervisor shall have authority to employ and fix
the compensation of such technical and clerical assistants
as may be necessary to carry out the purposes of this
article.

The salary and expenses of the supervisor and of the
technical and clerical assistants shall be met out of any
funds available for the purpose and shall be paid upon
certification of the supervisor, in such manner as the ex-
penses of other state employees are paid.

Sec. 3. Powers and Duties of the Council.—The coun-
cil shall supervise the operation of the joint merit system
established for the various state agencies or any part
thereof which are permitted or required by state or fed-
eral law to employ personnel on a merit basis. The coun-
cil shall have the authority and it shall be its duty to:

(1) Establish general policies for the administration
of the merit system, including the giving of examinations
and the hearing of personnel appeals;

(2) Advise with the supervisor in the formation of
rules for the conduct of merit examinations;

(3) Inspect and review the activities of the supervisor
for the purpose of assuring conformity with the rules
and policies of the council;

(4) Review and pass upon the classification and com-
pensation plans of participating state agencies;

(5) Make recommendations to participating state
agencies relative to their internal personnel practices;

(6) Promote public understanding of the purposes,
policies and practices of the merit system.

Sec. 4. Operating Expenses of the Council.—All the
operating expenses of the merit system and the merit
system council shall be paid out of funds transferred to
the credit of the council by the participating state agen-
cies. Out of funds available for administrative purposes,
each participating state agency shall transfer to the credit
of the merit system council its proportionate share of the
costs of operating the merit system and the merit system
council, such share to be determined on the basis of the
relation between the number of employees of the participating agency who are covered by the merit system and the total number of state employees covered by the system. The maximum amount of the annual expenditures of the merit system council shall be determined by the participating agencies, subject to the approval of 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.

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 chap-
ter eighty-five, acts of the Legislature of West Virginia,
regular session, one thousand nine hundred forty-five, re-
lating to strip mining registration permits, the collection
of registration fees and bond forfeitures and disposition
thereof for strip mining and land rehabilitation purposes.

[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 corporation to engage in the strip mining of coal without having first obtained from the chief of the department of mines a permit therefor as provided in this section. The following information must be stated in the application for such a permit: (1) The location and area of the land to be covered by the permit and shown on a map or plat of portion to be stripped; (2) the owner or owners of the surface of the land; (3) the owner or owners of the coal to be mined; (4) the source of the operator's legal right to enter and mine the coal on the land covered by the permit; (5) the permanent and temporary post office address of the operator; (6) whether any permits are now held, and, if so, how many such permits and the numbers thereof.

Upon payment to the department of mines of a registration fee of fifty dollars, and the posting with the department of the bond required by the following section, the chief of the department shall upon proper application issue the requested permit.

The registration fees heretofore or hereafter collected as provided in this article shall be deposited with the state treasurer to the credit of the special fund created by section five of this article.

Sec. 5. Bond Forfeitures; Strip Mining Fund and Use of Proceeds.—Upon default in the performance of the conditions of the performance bond, the chief of the state
department of mines shall give notice to the attorney
general and it shall be his duty to collect the forfeiture
without delay.

All such forfeitures and all registration fees heretofore
or hereafter collected as provided in this article shall be
deposited with the state treasurer in a special fund to be
designated "Strip Mining Fund" to the credit of the state
department of mines, and shall be expended in the en-
forcement and administration of the provisions of this
article and to reclaim and rehabilitate the lands affected
in accordance with the provisions of this article.

It shall be the duty of the state department of mines
and the agricultural experiment station of West Virginia
university to reclaim and rehabilitate the lands affected
in accordance with the provisions of section four of this
article. In so far as is reasonably practicable, the moneys
in the fund after paying expenses of enforcement and
administration of this article shall be expended upon the
lands upon which the permit was issued for which the
bond was given. The state department of mines may
avail itself of any services that may be provided by the
federal government for reclaiming lands.

The auditor shall issue his warrant for all money in the
special fund created by this section upon the request of
the chief of the state department of mines.

CHAPTER 111

(House Bill No. 305—By Mr. Flannery)

AN ACT to amend and reenact section eight, article one, chap-
ter twenty-two of the code of West Virginia, one thousand
nine hundred thirty-one, as amended, relating to the ap-
pointment, qualifications and salaries of mine inspectors.

[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,
showing they accrued in the discharge of his official duties; such salary to be fixed by the chief of the department of mines, and shall be based on the ability and experience of the inspector: Provided, however, That the salaries of mine inspectors herein mentioned shall be for the period ending June thirtieth, one thousand nine hundred forty-nine.

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.]


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 water-works and sewerage system under this act and there are unpaid and outstanding revenue bonds or any other ob-ligations or securities previously issued which are pay-able 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, ob-li-gations 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 im-provements to any such combined waterworks and sewer-age 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 pay-able in such medium of payment, at such place or places, may be subject to such terms of redemption, with or with-out 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 authen-ticated in such manner and upon compliance with such conditions, and may contain such other terms and cove-nants, 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
bonds shall at all times be, and shall be treated as, negotiable instruments for all purposes. Such bonds shall be sold in such manner as the governing body shall determine and if issued to bear interest at the rate of six per cent per annum shall be sold for not less than par and accrued interest. If any such bonds shall be issued to bear interest at a rate of less than six per cent per annum, the minimum price at which they may be sold shall be such that the interest cost to such municipality of the proceeds of such bonds shall not exceed six per cent per annum computed to maturity according to the standard table of bond values. In case any officer whose signature appears on such bonds or coupons attached thereto shall cease to be such officer before the delivery of the bonds to the purchaser, such signature shall nevertheless be valid and sufficient for all purposes, with the same effect as if he had remained in office until the delivery of the bonds. Such bonds shall have all the qualities of negotiable instruments under the law of this state. Whenever any outstanding obligations or securities previously issued which are payable solely from the revenues of any waterworks or sewerage system included in a combined waterworks and sewerage system under this act are refunded, such outstanding obligations or securities shall be surrendered and exchanged for revenue bonds of such combined waterworks and sewerage system of a total principal amount which shall not be more and may be less than the principal amount of the obligations or securities exchanged and interest thereon to the date of exchange. Provision may be made that each bond to be exchanged for refunding bonds shall be kept intact and shall not be cancelled or destroyed until the refunding bonds, and interest thereon, have been finally paid and discharged, but shall be stamped with a legend to the effect that such bond has been refunded pursuant to this act.

Sec. 4. Ordinance.—The governing body of any municipality availing itself of the provisions of this act shall adopt an ordinance describing in a general way the contemplated project. If it is intended to include in the
combined waterworks and sewerage system any existing waterworks or any existing sewerage system, such ordinance shall determine that it be so included in such combined system and shall describe in a general way such existing waterworks or sewerage system to be included in the combined waterworks and sewerage system. Such ordinance shall state the means provided for refunding any obligation unpaid and outstanding payable solely from the revenue of any such waterworks or sewerage system. Such ordinance shall determine the period of usefulness of the contemplated project. If it is intended to acquire or construct a combined waterworks and sewerage system or any part thereof, or to extend and improve any such existing combined waterworks and sewerage system, the ordinance shall describe in a general way the works or property or system to be acquired or constructed, or the extensions or improvements to be made. Such ordinance shall fix the amount of revenue bonds proposed to be issued, the interest rate or rates, and any other details in connection with such bonds deemed advisable.

Sec. 5. Publication of Ordinance; Posting; Petition for Referendum; Election.—After the ordinance for any project under this act has been adopted and approved, it shall be published once in a newspaper published and having a general circulation in the municipality undertaking such project, or, if there be no such newspaper, then by posting such ordinance in at least three public places in such municipality. If no petition is filed with the clerk of the governing body as hereinafter provided, within ten days after the publication or posting of such ordinance, then after the expiration of such ten-day period such ordinance shall be in full force and effect, but if within such period of ten days a petition is filed with the clerk of such municipality signed by fifteen per cent of the number of voters voting at the last preceding general municipal election, asking that the question of acquiring, constructing, extending or improving or combining such waterworks and sewerage systems as pro-
vided in such ordinance and the issuance of revenue
bonds in connection therewith, be submitted to the legal
voters of the municipality, the governing body of such
municipality shall call a special election in the manner
provided by law to vote upon such question. If it appears
upon the canvass of the election by the governing body
that a majority of the voters voting upon such question
at such election voted in favor thereof then such ordin-
ance shall be in full force and effect, but if a majority
of the votes cast are unfavorable, then such municipality
shall proceed no further under such ordinance.

Sec. 7. Powers of Municipality to Make Regulations
and Rates; Change in Rates.—The governing body of any
municipality availing itself of this act shall have power
to make, enact and enforce all needful rules and regula-
tions for the operation, management and maintenance
of the combined waterworks and sewerage system of such
municipality and for the use thereof, and shall also have
power to make, enact and enforce all needful rules and
regulations and ordinances for the care and protection
of any such system, which may be conducive to the
preservation of the public health, comfort and conven-
ience and to rendering the water supply of such munici-
pality pure and the sewerage harmless in so far as it
is reasonably possible so to do, and any such municipality
shall have power and it is hereby authorized to charge
the inhabitants thereof during the period that said bonds
are outstanding a reasonable compensation for the use
and service of such combined waterworks and sewerage
system and to establish charges or rates for such purpose.
Separate rates may be fixed for the water and sewer
services respectively or single rates for the combined
water and sewer services. Such charges or rates, whether
separate or combined, shall be sufficient at all times to
pay the cost of operation and maintenance of the com-
bined waterworks and sewerage system, provide an
adequate reserve fund, an adequate depreciation fund
and pay the principal of and interest upon all revenue
bonds issued under this act. Charges or rates shall be
established, revised and maintained by ordinance and become payable as the governing body may determine by ordinance, and such rates shall be changed from time to time as needful, consistently with the provisions of this act.

Such charges or rates whenever delinquent, as provided by ordinance of the municipality, shall be liens for the amount thereof upon the real property served, and the municipality shall have the power from time to time to enforce such lien in a civil action to recover the money due for such services rendered plus a reasonable attorney's fee.

Sec. 8. Liens; Enforcement; Receivership.—There shall be and there is hereby created a statutory mortgage lien upon such combined waterworks and sewerage system which shall exist in favor of the holder of bonds hereby authorized to be issued, and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such combined waterworks and sewerage system shall remain subject to such statutory mortgage lien until payment in full of the principal and interest of said bonds. Any holder of bonds issued under the provisions hereof, or of any coupons representing interest accrued thereon, may, either at law or in equity, enforce the statutory mortgage lien hereby conferred, and may, by proper suit, compel the performance of the duties of the officials of the issuing municipality set forth herein. If there be default in the payment of the principal of or interest upon any of said bonds, any court having jurisdiction in any proper action may appoint a receiver to administer said combined waterworks and sewerage system on behalf of the municipality with power to charge and collect rates sufficient to provide for the payment of said bonds and interest thereon, and for the payment of the operating expenses and to apply the income and revenues in conformity herewith and the ordinance providing for the issuance of such bonds.
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.]


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, 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
wherein such city is located. The notice shall state that
the proposed amendments will be considered at the time
and place fixed by the council and that any elector of
the city may appear and file objections, in writing, and
also that if no objections are filed the said amendment
shall become operative on and after a date to be fixed
in the notice, which date shall be not less than ten days
after the date of the hearing. If no objections are filed,
or if objections are filed and withdrawn at the time
of the hearing, or within ten days thereafter, the council
shall, by ordinance, adopt the amendments as amend-
ments to the charter, and cause a transcript of the pro-
ceedings to be certified to the clerk of the house of dele-
gates, as keeper of the rolls, and a copy thereof to be
recorded in the office of the clerk of the county court.

If, at the time and place set for the hearing, objections
to the amendments are filed and not withdrawn within
ten days thereafter, the council may abandon the pro-
posed amendments to which objections have been filed,
or it may submit the proposed amendments, either as a
unit or separately, at the next regular city election, or at
a special election, if the date of the regular election shall
be more than six months from such date, for ratification
or rejection. A notice of an election shall set out the
proposed amendments at length or state that copies may
be obtained by any qualified voter from a designated
officer at a stated place, upon request. Notice of such
election shall be published as hereinbefore provided for
hearing on the proposed amendments.

The amendments, or such of them as may be adopted,
shall take effect on the date that the canvass and dec-
laration of result showing approval by the voters has
been made and entered in the minutes of the governing
body. A transcript of the proceedings shall be filed and
recorded as hereinbefore provided.

The method of charter amendment provided by this
section is not in lieu of but in addition to the other meth-
ods prescribed in the preceding section.
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:
(a) “Prior service credit” shall mean the number of years that the member has been in the service of the city prior to the effective date of the retirement and benefit fund.
(b) “Earned service credits” shall mean the number of years that the member has contributed to the retirement and benefit fund.
(c) “Total service credit” shall mean a total of all prior service credit and all earned service credit.
(d) “Fund” shall mean the employees' retirement and benefit fund.
(e) “Board” shall mean the board of trustees of the employees' retirement and benefit fund.
(f) “Member” shall mean an eligible employee of the city, who is a member of the employees' retirement and benefit fund.
(g) “Total disability in line of duty” shall mean total and permanent disablement (from performing any work for pay, whether for the municipality or other employer), that shall be caused by injury sustained in the course of the operations usual to his employment, and shall include all operations necessary, incident or appurtenant thereto, or connected therewith, whether such operations are conducted at the usual place of employment or elsewhere in connection with or in relation to his usual and customary employment.
(h) The pronoun “he” means both masculine and feminine.
(i) “Mayor,” which means the chief executive officer of the city.

Sec. 3. Board of Trustees.—The council or other governing body of each municipality desiring to establish and maintain a retirement and benefit fund as herein authorized shall by ordinance provide:
(a) For a board of trustees of the employees' retirement and benefit fund.
The said board of trustees shall consist of the mayor and four members of the fund, to be appointed by the mayor, with the advice and consent of a majority of mem-
bers of the fund.

The initial appointments shall be for a term of one, two, three and four years, respectively, after which all appointments shall be for a term of four years.

The presiding officer of the board shall be the mayor, and the secretary thereof shall be appointed by said board. It shall be the duty of such secretary to keep a full and permanent record of all the proceedings of the board, and said board may fix his compensation for this work which shall be paid out of said fund.

The mayor or any three members of the board shall have the power to call a meeting at any time that it is necessary in order to carry out the business of the board. Three members of the board shall constitute a quorum to transact business, but it shall require not less than three affirmative votes to carry any matter before the board.

The board shall have charge of and administer the fund and shall order payment therefrom, and no money shall be paid out of the fund except on the order of the board. The council or other governing body shall have power to make any and all rules and regulations pertaining to the fund not inconsistent with this article, the constitution and the laws of the state of West Virginia.

Such board shall be a corporation by the name and style of "The Board of Trustees of the Employees' Retirement and Benefit Fund of (name the municipality)," by which name they may sue and be sued, plead and be impleaded, contract and be contracted with, take and hold real estate and personal estate, for the use of said fund, and have and use a common seal. Said board may also in its corporate name do and perform any and all other acts and business pertaining to the trust created hereby or by any conveyance, device or dedication made for the uses and purposes of said board.

Sec. 4. Employees Eligible for Participation In Fund.—Employees eligible for participation in the fund shall include all employees who are employed by the municipality on a permanent basis. The following employees, however, shall not be eligible for participation in the fund:
(1) Appointive members of administrative boards and commissions, except employees of such boards and commissions;

(2) Persons employed under contract for a definite period or for the performance of a particular, special service;

(3) Employees serving on a part-time basis of less than one-half time;

(4) Policemen and firemen who are now covered by a pension or relief fund;

(5) Employees who are paid in part by the county, state or other governmental agency, and only in part by the municipality;

(6) Employees who are past sixty years of age and have less than ten years of service;

(7) Persons employed after the establishment date of the fund who are over fifty years of age.

The board of trustees of the fund may make determination as to any person's eligibility to become a member of the fund.

All employees eligible for participation at the effective date of the fund shall become members of the fund, unless they file a written election not to become a member within thirty days after the effective date of the fund:

Provided, That no member shall be entitled to any benefits under the fund until he has been in the employ of the municipality for at least five years, after the effective date of the fund, except those who are disabled in the performance of their duties may participate in the fund in the manner hereinafter provided.

Sec. 5. Prior, Earned and Total Service Credits; Service Breaks.—(1) For prior service, each participating employee, on the effective date, shall be credited, as of such date, with a prior service credit of an amount equal to the accumulated value, as of such date, of the contributions which would have been made during the entire period of prior service of such employee. Assuming the earnings of such employee to have been uniform during such period of prior service and equal to the monthly earnings obtained by dividing the total earnings during
the period of the three calendar years in such period immediately preceding the effective date, by the number of months in such period during which any earnings were received by such employee, the rate of contribution to have been the prior service contribution rate applicable to such employee, the contributions for each calendar year to have been made at the end of such year, and the contributions to have accumulated with interest at the rate of three per cent per annum compounded annually.

(2) Each member shall pay into the fund, five per cent of his salary up to two hundred dollars a month. Unless the members' percentage of contributions is changed as hereinafter provided, no member shall be required to contribute more than ten dollars per month.

These contributions shall continue until such time as the member has twenty-three years of earned service credit; he shall continue to contribute to the fund until he retires or until he has contributed to the fund for a period of twenty-three years, that is, has twenty-three years of "earned service credit." However, a member who has prior service credit shall be entitled to a full retirement payment when his prior service credit and his earned service credit totals twenty-three years of total service credit, if he has reached compulsory retirement age, or when he becomes so physically or mentally disabled as to render him unfit for the performance of the duties of the position he occupies.

The member's contribution provided for herein may be raised at any time from five per cent to any higher amount not in excess of six per cent, upon a vote in favor of such raise by seventy-five per cent of all the members of the fund: Provided, That such raise shall not be effective unless the governing body of the municipality shall, by ordinance or resolution, agree to contribute an equal increase percentage. In the event of such change the maximum of ten dollars shall be raised in accordance with the raise in percentage. The municipality contribution shall at all times be not less than the amount contributed by the members. Whenever it is found that the total contributions are more than necessary to adequately maintain the fund, upon recommendation of a reputable
actuary, a proper reduction shall be made of an equal per-
centage from the contributions by the members and
from the contributions by the municipality.

(3) In order to participate one hundred per cent in
the retirement fund a member must have a total service
credit of twenty-three years which may be composed of
either prior service credit or earned service credit, or
both. At retirement, because of having reached the com-
pulsory retirement age, the member shall participate in
the fund only to the extent of his total service.

A person who is employed by the municipality at the
time of the effective date of the fund and becomes a mem-
ber of the fund shall be entitled to prior service credit
even though such prior service was not continuous.

A person who is not employed by the municipality at
the time of the effective date of the fund, but who has
been employed in the past shall be entitled to prior
service credit if he returns to the service within two
years from the date of his termination of service and
becomes a member of the fund within such two-year
period.

A member upon separation from the service shall be
entitled to withdraw his contributions without interest.
If such employee returns to the service of the municipality
within two years and becomes a member of the fund, he
shall be considered as a new employee and shall have lost
all prior service credits unless he shall repay to the fund
in cash at the time of reemployment the amount of money
which he has withdrawn plus two per cent interest com-
pounded annually on said amount during the time he was
separated from the service.

If, however, the service breaks of such members is
more than two years, he shall not be entitled to any
prior service credits nor shall he be entitled to redeposit
withdrawals but he shall reenter the fund as a new mem-
ber.

Sec. 6. Retirement Age and Benefits.—After the
effective date of the fund any member of the fund who
has had at least twenty-three years service and has reach-
ed the age of sixty may at his option retire from the
service of the city upon a retirement payment as herein-

der provided.

Retirement for all members of the fund shall be comp-
pulsory at the age of sixty-five, subject to the following
conditions:

The employee may be permitted to continue in the ser-
vice if he so desires; if his services are still valuable to
the municipality.

Whether an employee’s services are valuable at the
age of sixty-five shall be determined by the appointing
officer of the municipality. If he determines that such
services are valuable, his determination must be certified
to the board for approval. If the board approves the
employee may continue in the service of the municipality.
The appointing officer shall annually certify to the board
relative to the ability and competency of all employees
over sixty-five years. A member of the fund upon re-
tirement, shall be entitled to the following retirement
payment;

A member with at least ten years of earned service
credits, who has reached the retirement age or who has
become so physically or mentally disabled as to render
him unfit for the performance of the duties of the position
he occupies shall upon retirement be paid according to
the following table:

Twenty-three or more years of total service credits,
fifty per cent of his average salary for the last fifteen
years of service: Provided, That if a member has twenty-
three years of total service credits he shall be entitled to
a minimum retirement payment of fifty dollars per month.
Twenty-two years of total service credits, forty-nine
per cent of his average salary for the last fifteen years
of service.
Twenty-one years of total service credits, forty-eight
per cent of his average salary for the last fifteen years
of service.
Twenty years of total service credits, forty-seven per
cent of his average salary for the last fifteen years of
service.
Nineteen years of total service credits, forty-five per cent of his average salary for the last fifteen years of service.
Eighteen years of total service credits, forty-three per cent of his average salary for the last fifteen years of service.
Seventeen years of total service credits, forty-one per cent of his average salary for the last fifteen years of service.
Sixteen years of total service credits, thirty-nine per cent of his average salary for the last fifteen years of service.
Fifteen years of total service credits, thirty-six per cent of his average salary for his term of service.
Fourteen years of total service credits, thirty-three per cent of his average salary for his term of service.
Thirteen years of total service credits, thirty-one per cent of his average salary for his term of service.
Twelve years of total service credits, twenty-nine per cent of his average salary for his term of service.
Eleven years of total service credits, twenty-seven per cent of his average salary for his term of service.
Ten years of total service credits, twenty-five per cent of his average salary for his term of service.

Sec. 7. Disability Retirement Payments.—(1) If a member becomes disabled by bodily injury effected directly or independently of all other causes through accidental means while engaged in the course of his employment with the city and while in line of duty, and is totally disabled from performing any work for pay, whether for the municipality or other employer, he shall be entitled during the time of his disability to full retirement payment based on one-half his average salary during the time of service with the municipality: Provided, That the minimum payment shall be fifty dollars per month and the maximum payment shall be one hundred dollars per month.
(2) If a member becomes disabled while an employee of the municipality after he has had at least ten years total service credits, and before he has reached retire-
ment age, but such disability is not incurred in the line of
duty during the course of his employment, he shall be en-
titled to a one-fourth retirement payment of (during the
time of his disability) his average salary during the
time of his service: Provided, That he shall be entitled
to a minimum payment of twenty-five dollars per month
and a maximum payment of fifty dollars per month.

(3) When a member has reached the retirement age
or has become so physically or mentally disabled as to
render him unfit for the performance of the duties of the
position he occupies and who has less than ten years
earned service credits, he shall be entitled to an annuity
which shall be the actual equivalent of his total accumula-
tion account at the time of his retirement.

(4) The board of trustees of the employees' retire-
ment and benefit fund may order a reexamination of
members of the fund receiving disability retirement pay-
ment and if the disability no longer exists the payments
shall be discontinued.

Sec. 8. Death Benefits.—(1) A member who dies
after he has had ten or more years total service credits
shall be entitled, for a period not to exceed ten years, to
a retirement payment in accordance to the table contained
in section two of this article. The payments shall be made
to the person having an insurable interest in his life, as
he shall nominate to the board.

(2) Death benefits after retirement shall be the same
as death before retirement except a widow shall not be
entitled to benefits unless she has been married to the
member before the date of his retirement.

Payment shall be made for the remaining period of ten
years from the date of the member's retirement. If a
widow of a member remarries, her retirement payments
shall be terminated.

Sec. 9. Contributions by the Municipality.—The coun-
cil or other governing body shall annually provide suf-
ficient funds in the budget to take care of the estimated
cost of the employees' retirement and benefit fund over
and above the amount contributed by the members.
The municipality shall contribute not less than the amount contributed by the members of the fund, plus an amount required, at three per cent interest per annum, to amortize, over the remainder of the period of forty years following the effective date, the amount as of the beginning of such year, of the obligation for the prior service credits granted to the employees, and a sufficient amount to pay the cost of the administration of the fund.

Sec. 10. Investment of Funds.—The board shall have full power in its sole discretion to invest or reinvest any moneys received by it, either in interest-bearing bonds of the United States, or of the state of West Virginia, or the county, school district, or any municipality in the state of West Virginia, or upon approved real estate security to the extent of not more than fifty per cent of the assessed value of such real estate.

Sec. 11. Records; Actuarial Data.—The board of trustees shall maintain an individual account with each member, showing the amount of the member's contributions and the interest accumulations thereon. It shall collect and keep in convenient form such data as may be necessary for the preparation of the required mortality and service tables, and for the compilation of such other information as may be needed for the actuarial valuation of the funds created by ordinance. The board of trustees shall adopt appropriate tables for the purpose of evaluating and computing retirement allowances.

Sec. 12. Reports by Board of Trustees.—At such times as the board of trustees may deem it necessary, but at least once within the first three years of the operation of the fund and each quinquennial period thereafter, the board of trustees shall employ a competent actuary to prepare a report containing an evaluation of the present and prospective assets and liabilities of the fund. The board of trustees shall submit to the council or other governing body an annual report showing the condition of the various funds under its control. It shall
certify in such report the amount of accumulated cash and securities in the funds and shall present a full account of the operation of the system.

Sec. 13. Custodian of Funds; Duties, Bond.—The treasurer or his equivalent of each municipality shall be the custodian of all funds, and shall deposit and pay out the same upon, and in accordance with, any proper order of the board of trustees. Such treasurer shall be liable upon his official bond as treasurer for the faithful performance of his duties in respect to such funds, and the official bond of the treasurer covering such funds shall be executed with a good and financially responsible surety company, authorized to do business in this state, as surety for such funds. Such funds shall not be used for any other purpose than provided herein.

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 corporation, whether operating under a general, special or home-rule charter, may levy and collect a tax upon all purchases of intoxicating liquors at retail within a municipality. The tax shall be levied upon the purchaser and shall be added to and collected with the price of the purchase. The tax shall not exceed two per cent of the purchase price or charge, but a tax of one cent may be levied and collected on any fractional part of fifty cents.

Any ordinance imposing the tax authorized by this section shall be certified by the mayor or other chief officer of the municipality to the West Virginia liquor control commission. The commission by appropriate rules and regulations shall provide for the collection of such tax and for distribution thereof to the respective municipalities for which the same shall be collected. Such rules and regulations shall provide that all such taxes shall be deposited with the state treasurer and distributed quarterly by the treasurer, upon warrants of the auditor, at the same time distribution is made to municipalities in pursuance of the provisions of section nineteen, article three, chapter sixty of the code.

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 municipal corporation in this state with a population of more than thirteen thousand inhabitants under the federal census of one thousand nine hundred forty and having, or which may hereafter have, a fire department supported in whole or in part at public expense, the members of the fire department shall not be required to remain on duty in excess of seventy-two hours during any week. The members of such department shall, by majority vote, determine the schedule of hours to be worked in any twenty-four hour period: Provided, however, That the members of said department shall not remain on duty for more than twenty-four consecutive hours except in case of a conflagration requiring the service of more than one half of the department. The chief executive officer of the department is hereby authorized and directed to make the necessary assignments as provided in this section.

Nothing in this section shall apply to any town which does not maintain and pay for a fire department and employees thereof for full time.

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.
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
dangerous, offensive or unwholesome; to prevent hogs, cattle, horses, sheep or other animals, and fowls of all kinds, from going at large in such town; to protect places of divine worship and to preserve peace and order in and about the premises where held; to arrest, convict and punish any persons for keeping a house of ill-fame, or for letting to another person any house or other building for the purpose of being used or kept as a house of ill-fame, or for knowingly permitting any house owned by him, or under his control, to be kept or used as a house of ill-fame, or for loafing, boarding or loitering in a house of ill-fame, or frequenting same; to arrest, convict and punish any person for importing, printing, publishing, selling or distributing any pornographic publications; to arrest, convict and punish any person for cruelly, unnecessarily or needlessly beating, torturing, mutilating, killing or overloading or overdriving, or willfully depriving of necessary sustenance, any horse or other domestic animal; to arrest, convict, and punish any person for gambling or keeping gaming tables, commonly called “A, B, C,” or “E, O,” table or faro bank or keno table, or table of like kind, under any denomination, whether the gaming table be played with cards, dice or otherwise, or any person who shall be a partner or concerned in interest, in keeping or exhibiting such table or bank, or keeping or maintaining any gaming house or place, or betting or gambling for money or anything of value; to license, or for good cause to refuse to license in a particular case, or at its discretion to prohibit in all cases, the operation of pool and billiard rooms and maintaining for hire of pool and billiard tables, notwithstanding the general law as to state licenses for such business. When the council, in the exercise of its discretion, shall have refused to grant a license to operate a pool or billiard room mandamus shall not lie to compel the council to grant such license, unless it shall clearly appear that the refusal of the council to grant such license is discriminatory or arbitrary. In the event that the council decides to license any such business, the council shall have power, and it shall be the duty of the council, to
make and enforce reasonable ordinances regulating the licensing and operating of such businesses; the council shall also have such power and authority to arrest, convict and punish any person for carrying about his person any revolver, or other pistol, dirk, bowie-knife, razor, slung shot, billy, metallic or other false knuckles, or any other dangerous or other deadly weapon of like kind or character, within such town; to arrest, convict and punish any person for driving or operating, within such town, a motor vehicle when intoxicated or under the influence of liquor, drugs or narcotics; to provide penalties for the offenses and violations of law mentioned herein in addition to the penalties provided in section twenty-three of this article, but which shall not exceed the penalties provided for like offenses and violations in this chapter, and in chapter sixty-one of this code; to abate or cause to be abated anything which, in the opinion of a majority of the whole council, shall be a nuisance; to regulate the keeping of gunpowder and other combustibles; to establish and maintain a library and/or museum for the public use; to acquire, establish, equip and maintain a recreation park for the public use; to acquire, by purchase, condemnation and otherwise, land in or near the town for providing and maintaining proper places for the burial of the dead and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined by the council, and, in order to carry into effect such provisions the council may acquire any cemetery or cemeteries already established; to acquire, construct, equip and maintain incinerator plants and equipment; to provide for the regular building of houses or other structures, and for making of division fences by the owners of adjacent premises and the drainage of lots by the proper drains and ditches; to make regulations guarding against danger or damage by fire; to prevent the illegal sale of intoxicating liquors, drinks, mixtures and preparations therein; to protect the persons and property of the inhabitants of such town, and to preserve peace and good order therein, and, for this purpose, to appoint, when necessary, a police force.
to assist the sergeant in the discharge of his duties; except as otherwise provided, to prescribe the powers and define the duties of the officers appointed by the council, and take from them bonds, when deemed necessary, payable to such town, in its corporate name, with such sureties and in such penalty as the council may see fit, conditioned for the faithful discharge of their duties; to require and take from employees and contractors bonds in such penalties, with such sureties and with such conditions, as council may see fit; to erect, or authorize or prohibit the erection of gas works, electric light works, water works, and sewage treatment and disposal works within or without the town, or partly within and partly without the town, except that it shall not erect or authorize the erection of any such works partly without the town to serve persons already obtaining service from existing works of the character proposed, and where such works are by the municipality erected, or have heretofore been so erected, partly within and partly without the town, it shall have the right to lay and collect charges for service rendered to those served within and those served without the town, and to prevent injury to such works or the pollution of the water and its maintenance in a healthful condition for public use within the town; to regulate and provide for the weighing of hay, coal and other articles sold or for sale in the town; to provide a revenue for the town and appropriate the same to its expenses, which power shall include the power to tax dogs; to impose a license tax upon persons or companies keeping for hire carriages, hacks, buggies or wagons, or for carrying passengers for pay in any such vehicles, in such town; to adopt rules for the transaction of business, and the government and regulation of its own body.

Wherever the powers herein granted cannot be reasonably and efficiently exercised by confining the exercise thereof within the corporate limits, the powers of the corporation shall extend beyond the corporate limits to the extent necessary to the reasonably efficient exercise
of such powers within the corporate limits. But such
powers, unless otherwise provided, shall not extend more
than one mile beyond the corporate limits, and such pow-
ers shall not extend into the corporate limits of another
municipal corporation; however, in the erection and ex-
tension of water works, water mains, sewerage works
and sewers, such powers may, without regard to whether
or not such extension of powers is necessary to the rea-
sonably efficient exercise of such powers within the cor-
porate limits be extended to fifteen miles beyond the cor-
porate limits, and within the corporate limits of another
municipal corporation if the latter by ordinance requests
such extension.

CHAPTER 118

(Senate Bill No. 359—By Mr. Bambrick, by request)

AN ACT to amend and reenact section seven, article six, chap-
ter eight-a, of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, relating to consolida-
tion 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
majority of the votes cast by the qualified voters in each
of the municipalities are shown by the county court's cer-
tificate to have been cast in favor of the consolidation, the
circuit court or judge, if satisfied as to the correctness of
the returns evidenced by that certificate, shall so certify
upon the certificate. He shall cause the same to be filed forthwith in the office of the clerk of the county court, and to be published in a newspaper of general circulation in the municipalities so voting.

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 not withstanding 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-
der an act of the Legislature, regular session, one thou-
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.
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,
and cause said testimony to be reduced to writing and filed with the papers in the case. The court or judge, upon approving and confirming such compromise, shall enter judgment or decree accordingly. Such judgment or decree shall bind the respective parties thereto, including such infant or insane person, with like force and effect, and shall be subject to review, modification or reversal to the same extent only, as if it were a consent judgment or decree, entered under similar circumstances, in a case in which all the parties were adults and sane. In any such compromise wherein the amount paid to the guardian or committee does not exceed the sum of one thousand dollars, the court or judge approving and confirming the compromise and entering judgment or decree thereon may, in its or his discretion, dispense with or withdraw a reference to a commissioner of accounts, authorize the disbursement of the fund so created by the compromise and may discharge the guardian or committee and the surety on his bond, and in all such cases a certified copy of the order of the court or judge, as the case may be, shall be recorded in the office of the clerk of the county court wherein the guardian or committee was appointed.

CHAPTER 122

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.)

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.


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 University to Constitute a Bureau of Research on Legal Problems, etc.; Reports; Employment of Persons to Do Research Work.—The faculty of the college of law of West Virginia university shall constitute a bureau of research on legal problems and the legal aspects of industrial problems, insofar as funds may be conveniently made available by West Virginia university for work in the summer time, and for diminishing the teaching load of those members engaged on said work during the school year. Insofar as it may be possible, without interfering with the teaching schedule of the college of law, the faculty or members thereof designated by the dean, shall prepare reports on matters within the scope of the powers of investigation by said council: Provided, however, That if the faculty of the college of law of West Virginia university shall be unable to render adequate and proper service as such bureau of research the council in its discretion, may employ such competent person or persons as may be necessary to constitute and perform the services of such bureau of research.

Sec. 7. Members of Council to Serve without Compensation; Reimbursement for Traveling and Other Ex-
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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 Article.—The term “practice medicine and surgery,” as used in this article, shall be construed to mean the treatment of any human ailment or infirmity by any method. To open an office for such purpose or to announce to the public in any way a readiness to treat the sick or afflicted shall be deemed to engage in the practice of medicine and surgery within the meaning of this article: Provided, however, That the provisions of this article, with the exceptions of sections eight and ten, shall not apply to dentists, dental hygienists, nurses, optometrists, chiropractors, regularly licensed or registered as such under the provisions of this chapter applicable to such professions and occupations, in the practice of their respective professions and occupations; nor to physicians or surgeons living in other states and duly qualified to practice medicine therein who shall be called in con-
sultation into this state by a physician or surgeon legally entitled to practice medicine and surgery in this state; nor to commissioned officers of the United States army, navy or marine hospital service when in the actual discharge of their duties as such; nor to the practice of the religious tenets of any church in the ministration to the sick or suffering by mental or spiritual means, whether gratuitously or for compensation: Provided, That sanitary and public health laws shall be complied with: And provided further, That no practices shall be used which may be dangerous or detrimental to life or health and that no person shall be denied the benefits of accepted medical and surgical practices.

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 and Release of Liens.—A county council shall receive all
assignments and perform any and all acts necessary to protect the financial interests of the state in the assets of recipients of public assistance.

All liens and claims under this article shall be enforced by the county council as the agent and in the name of the state, and all money reclaimed shall be paid by the council into the state treasury.

Whenever, on application in writing, it shall appear to a county council that the obligation of a lien, as provided in this article, has been satisfied by payment, reimbursement, or otherwise by the recipient of public assistance, his heirs or assigns, the council shall thereupon enter an order accordingly and the chairman of the council shall thereupon prepare, execute and acknowledge a release of such lien and deliver same to said recipient, his heirs or assigns, as the case may be, for recordation. Any and all such releases heretofore ordered by a county council and executed, acknowledged and delivered, as herein provided, shall be as legal, valid, effective and binding, as if ordered, executed, acknowledged and delivered after the effective date of this section.

CHAPTER 125

(AN ACT to amend and reenact section three, article two, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, authorizing local governmental 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 employment 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.]

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.
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.]


Section 1. Supervision by state department of health.
2. The state department of health shall have charge of the registration of births, deaths and marriages; shall prepare the necessary instructions, forms and blanks for obtaining and preserving the state records; and shall procure the faithful registration of every birth occurring in the state or children born of any citizen of this state while temporarily outside of the state and requests such registration; and all of the deaths occurring in the state or to persons who had a known place of residence or domicile therein and died while outside this state and who is or has been returned to the state for burial; and of every marriage, the license for which is issued in this state; in each primary registration district, as constituted in section three of this article, and in the central division of vital statistics at the capitol of the state. The said department shall be charged with the uniform and thorough enforcement of the provisions of this article throughout the state.
Sec. 5. Burial or Removal Permit.—The body of any person whose death occurs in this state, or who shall be found therein, or who had a known place of residence or was domiciled therein and who dies outside this state and is returned thereto for burial, shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, or be temporarily held pending further disposition more than seventy-two hours after death, unless a permit for burial, removal, or other disposition thereof shall have been properly issued by the local registrar of the registration district in which the death occurred or the body was found. And no such permit shall be issued by any registrar until, wherever practicable, a complete and satisfactory certificate of death has been filed with him as hereinafter provided: Provided, That when a dead body is transported from outside the state into a registration district in West Virginia for burial, or other disposition, the transit or removal permit, issued in accordance with the law and health regulations of the place where the death occurred, shall be accepted by the local registrar of the district into which the body has been transported for burial or other disposition, as a basis upon which he may issue a local permit; he shall note upon the face of such permit the fact that it was a body shipped in for interment, or other disposition, and give the actual place of death, and such additional information as may be required in making the death certificate provided for above, a copy of which certificate shall be filed by the local registrar with the clerk of the county court where the deceased was a resident, and by such clerk recorded in his record of deaths; and for filing such copy the county court where such certificate is filed shall allow and pay such registrar a fee of twenty-five cents; and no local registrar shall receive any fee for the issuance of such permits under this article other than the compensation provided in section eighteen of this article.

Sec. 9. Duties of Undertaker; Provisional Death Certificate; 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
43 Every person, firm or corporation selling a casket shall
keep a record showing the name of the purchaser, purchaser's post-office address, name of deceased, date of death, and place of death of deceased, which record shall be open to inspection of the state registrar at all times. On the first day of each month the person, firm or corporation selling caskets shall report to the state registrar each sale for the preceding month, on a blank provided for that purpose: Provided, however, That no person, firm or corporation selling caskets to dealers or undertakers only shall be required to keep such record, nor shall such report be required from undertakers when they have direct charge of the disposition of a dead body.

Every person, firm or corporation selling a casket at retail, and not having charge of the disposition of the body, shall inclose within the casket a notice furnished by the state registrar calling attention to the requirements of the law, a blank certificate of death, and the rules and regulations of the state department of health concerning 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.]


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.
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 hereinafter
12 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-
ilar places that furnish to their guests only board and room, or either of them.

Nothing in this article shall authorize any person, partnership, association, corporation, or any local governmental unit or any division, department, board or agency thereof to engage in any manner in the practice of medicine, as defined by law. This article shall not be construed to restrict or modify any statute pertaining to the placement or adoption of children.

Sec. 2. Existing Hospitals and Institutions to Obtain Licenses.—No person, partnership, association, corporation, or any local governmental unit or any division, department, board or agency thereof may continue to operate an existing hospital, sanatorium, rest home, nursing home, or related institution or open a hospital, sanatorium, rest home, nursing home, or related institution after July one, one thousand nine hundred forty-eight, unless such operation shall have been approved and regularly licensed by the state as hereinafter provided.

Before a license shall be issued under this article, the person applying, if an individual, shall submit evidence satisfactory to the state department of health that he is not less than twenty-one years of age, of reputable and responsible character, and otherwise qualified. In the event the applicant is an association, corporation or governmental unit, like evidence shall be submitted as to the members thereof and the persons in charge. Every applicant shall, in addition, submit satisfactory evidence of his ability to comply with the minimum standards and with all rules and regulations lawfully promulgated hereunder.

Sec. 3. Application for Licenses.—Any person, partnership, association, or corporation, or any local governmental unit or any division, department, board or agency thereof desiring a license hereunder shall file with the state department of health a verified application stating the name of the applicant, and if the applicant is an individual, his age; the type of institution to be operated; the location thereof; the name of the person in charge
thereof; and such other information as the state depart-
ment of health may require. An application on behalf
of a corporation, association or governmental unit shall
be made by any two officers thereof or by its managing
agents and shall contain like information. The applica-
tion shall be on a form prescribed, prepared and fur-
nished by the state department of health.

Sec. 4. License Fees.—The application by any person,
partnership, association, corporation or local governmen-
tal unit for a license to operate a hospital, sanatorium, rest
home, nursing home, or related institution within the
meaning of this article shall be accompanied by a fee to
be determined by the number of beds available for pa-
tients, according to the following schedule of fees: Those
with five beds but less than fifty beds shall pay a fee of
twenty dollars; those with fifty beds or more and less
than one hundred beds shall pay a fee of thirty dollars;
those with one hundred beds or more and less than two
hundred beds shall pay a fee of forty dollars; and those
with two hundred beds or more shall pay a fee of fifty
dollars. No such fee shall be refunded. All licenses issued
under this article shall expire on the thirtieth day of
June following their issuance, shall be on a form pre-
scribed by the state department of health, shall not be
transferable or assignable, shall be issued only for the
premises named in the application, shall be posted in a
conspicuous place on the licensed premises, and may be
renewed from year to year upon application, investiga-
tion, and payment of the license fee, as in the case of the
procurement of an original license. All fees received by
the state department of health under the provisions of
this article shall be paid into the state treasury general
revenue fund.

Sec. 5. Inspection.—Every building, institution or es-
building for which a license has been issued shall be
inspected periodically by a duly appointed representative
of the state department of health under rules and regu-
lations to be promulgated by the department. Inspec-
tion reports shall be prepared on forms prescribed by the
state department of health. Institutions licensed here-
under shall in no way be exempt from being inspected or
licensed under the laws of this state relative to hotels,
restaurants, lodging houses, boarding houses and places
of refreshment.

Sec. 6. State Department of Health to Issue Licenses.—
The state department of health is hereby authorized to
issue licenses for the operation of hospitals, sanatoriums,
rest homes, nursing homes, or other related institutions
as herein defined, which are found to comply with the
provisions of this article and with all regulations law-
fully promulgated by the department.

The state department of health is hereby authorized to
suspend or revoke a license issued hereunder, on any of
the following grounds:

(1) Violation of any of the provisions of this article or
the rules and regulations issued pursuant thereto;
(2) Knowingly permitting, aiding or abetting the com-
mission of any illegal act in such institution;
(3) Conduct or practices detrimental to the health or
safety of the patients and employees of such institu-
tion.

Before any such license is suspended or revoked, how-
ever, written notice shall be given the licensee, stating
the grounds of the complaint, and of the date, time, and
place set for the hearing of the complaint, which date
shall not be less than thirty days from the time the notice
is given. Such notice shall be sent by registered mail
to the licensee at the address where the institution con-
cerned is located. The licensee shall be entitled to be
represented by legal counsel at the hearing.

If a license is revoked as herein provided, a new appli-
cation for a license shall be considered by the state de-
partment of health if, when, and after the conditions upon
which revocation was based have been corrected and evi-
dence of this fact has been furnished. A new license
shall then be granted after proper inspection has been
made and all provisions of this article and rules and regu-
lations promulgated hereunder have been satisfied.
Sec. 7. Judicial Review.—Any applicant or licensee who is dissatisfied with the decision of the state department of health as a result of the hearing provided in section six may, within thirty days after receiving notice of the decision, appeal to the circuit court, in term or in vacation, of the county in which the applicant or licensee is located for judicial review of the decision. The court may, if it so desires, refer the matter to a commissioner in chancery for a hearing, with a request that he report to the court his findings of fact together with his recommendation.

The department shall promptly certify and file in the court the transcript of the hearings on which its decision is based.

Findings of fact by the department shall be considered as prima facie correct, but the court may remand the case to the department for the taking of further evidence. The department may thereupon make new or modified findings of fact which shall likewise be considered as prima facie correct. All evidence in the case shall be held secret until the final order is issued by the court which order shall be made public.

The court shall have the power to affirm, modify or reverse the decision of the department and either the applicant or licensee or the department may appeal from the court’s decision to the supreme court of appeals. Pending the final disposition of the matter the status quo of the applicant or licensee shall be preserved.

Sec. 8. State Department of Health to Establish Standards.—The state department of health shall have the power, with the advice and counsel of the advisory board, to establish and enforce such minimum standards and such rules and regulations, not in conflict with any provision of this article, as it finds necessary, or in the public interest, in order to protect patients in institutions required to be licensed under this article from detrimental practices and conditions, or to insure adequate provision for their accommodations and care. In like manner, the department, with the advice and counsel of the advis-
ory board, may from time to time rescind or modify such
standards, rules and regulations in such manner as may
be deemed in the public interest, but no rule, regulation,
or standard of the board shall be adopted or enforced
which would have the effect of denying a license to a
hospital or other institution required to be licensed here-
under, solely by reason of the school or system of prac-
tice employed or permitted to be employed by physicians
therein: Provided, That such school or system of practice
is recognized by the laws of this state.

Sec. 9. Appointment and Term of Office of Advisory
Board Members.—There shall be an advisory board of
seven members, all of whom shall be citizens of West
Virginia, to assist in the establishment of rules, regula-
tions and standards necessary to carry out the provisions
of this article and to serve as consultants to the commis-
sioner of health. The board shall meet at least twice each
year and at the call of the commissioner of health. The
members of the board shall annually elect one of its
members to serve as chairman.

The advisory board shall be appointed by the gov-
ernor by and with the consent of the senate. Of the
seven members of the board, four shall be persons who
are well-versed in hospital organization and administra-
tion, and the remaining three shall be chosen from per-
sons of recognized ability in the fields of medicine and
surgery, nursing, welfare, public health, architecture, or
allied professions in the field of health, or consumers of
hospital services.

The members shall be appointed for seven year terms
except that in the original appointments one person shall
be appointed for one year, one person for two years, one
person for three years, one person for four years, one per-
son for five years, one person for six years, and one per-
son for seven years. Thereafter each member shall be
appointed to serve seven years or until his successor is
appointed. In the case of a vacancy the appointee shall
serve the remainder of the unexpired term.

Members of the advisory board shall be eligible to
succeed themselves. Members of the advisory board shall serve without compensation but shall be entitled to reimbursement for actual expenses incurred in the performance of the duties of their office.

Sec. 10. Information Not to be Disclosed Except in Certain Cases.—Information received by the state department of health under the provisions of this article shall be confidential and shall not be publicly disclosed except in a proceeding involving the question of the issuance or revocation of a license.

Sec. 11. Violations; Penalties; Separability.—Any person, partnership, association, or corporation, and any local governmental unit or any division, department, board or agency thereof establishing, conducting, managing, or operating a hospital, sanatorium, rest home, nursing home, or institution within the meaning of this article, without first obtaining a license therefor as herein provided, or violating any provision of this article or any rule or regulation lawfully promulgated thereunder, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for the first offense by a fine of not more than one hundred dollars, or by imprisonment in the county jail for a period of not more than ninety days, or by both such fine and imprisonment, in the discretion of the court. For each subsequent offense the fine may be increased to not more than five hundred dollars, with imprisonment in the county jail for a period of not more than ninety days, or both such fine and imprisonment in the discretion of the court. Each day of a continuing violation after conviction shall be considered a separate offense.

Sec. 12. Injunction.—Notwithstanding the existence or pursuit of any other remedy, the department may, in the manner provided by law, maintain an action in the name of the state for injunction against any person, partnership, association, corporation, or any local governmental unit, or any division, department, board or agency thereof to restrain or prevent the establishment,
8 conduct, management or operation of any hospital, sanatorium, rest home, nursing home or other institution having five or more beds for the hospitalization or care of the sick or injured or for the care of any human being requiring or receiving chronic or convalescent care without first obtaining a license therefor in the manner hereinafter provided.

15 If any part of this article shall be declared unconstitutional, such declaration shall not affect any other part 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.]


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
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.

(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
of the following maximum levies on each one hundred dollars assessed valuation: On Class I property, three cents; on Class II property, six cents; and on Classes III and IV property, twelve 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.

(c) Whenever such memorial is acquired or established wholly by the county court under this act, the county court shall appoint a board of directors equal in number to the magisterial districts of the county and select one from each of such districts from the citizens thereof, with reference to their fitness for such office. Such directors shall hold office for four years from the first day of July following their appointment, and until their successors are appointed. No person shall be ineligible to appointment by reason of sex. Vacancies in the board shall be reported to the county court and filled by appointment in like manner as original appointments for the unexpired term. The county court may remove any director for misconduct or neglect of duty. No compensation shall be paid or allowed any director.

The board of directors of each memorial shall, immediately after their appointment, meet and organize by electing one of their number as president and one as secretary; a majority of all the members of any board shall constitute a quorum for the transaction of business. They shall make and adopt such by-laws, rules and regulations from time to time, for their own guidance and for the government and use of the memorial, as may be expedient and not inconsistent with this section. Such board shall have authority to contract for the construction or purchase of a memorial established under this section and for repairs thereon or maintenance thereof and the supervision, care and custody of the ground, structure or structures: Provided, however, That all contracts shall be approved by the county court and that the expenditures of all funds shall be subject to the approval
of the county court, and all moneys belonging to the memorial fund shall be deposited in the treasury of such county to the credit of the memorial fund and shall be drawn therefrom on orders issued by the county court. Such orders shall not be drawn except upon requisition of the memorial board attached to proper authenticated vouchers. Ground, park or a grove for a memorial may be acquired by condemnation by such board in the same manner as the county court may acquire other real estate for public uses and purposes, and the title of all such property shall be and vest in the county court. The board shall have power to appoint a suitable custodian and assistants and prescribe rules for their conduct, fix their duties and compensation, and shall have power to remove such appointees and, in general, to carry out the spirit and intention of this section.

Each memorial operated by a board of directors as provided hereby shall be free for the use of the inhabitants of the county, subject to such reasonable rules and regulations as the board may adopt, in order to render the use of such building or structure of greatest benefit to the greatest number; and the board may exclude from the use of the building any and all persons who shall wilfully violate such rules. The board of directors may extend the use and privileges of the building and structure to an educational institution or to nonresidents of the county upon such terms and conditions as the board may prescribe.

The board of directors shall, on or before the first day of July in each year, make a report to the county court, stating the condition of the property, the various sums of money received from the memorial fund, and from all other sources, how much money was expended and for what expended; also an itemized budget estimate of expense of the property for the ensuing year, with such other information and suggestions as they deem of general interest, or that may be required by the county court.

Any person or persons, including corporations, who desire to make donations of cash or other personal property or real estate for the benefit of the memorial, shall
have the right to do so, and shall have the right to vest
the title thereof in the county court, to be held in trust
and controlled by such board, the same as the other prop-
erty owned or acquired, and according to the terms and
for the purposes set out in the deed, gift, devise or be-
quest.

(d) Whenever the county court contributes money
out of the county treasury to aid in the erection or the
maintenance, or both, of any building or buildings, struc-
ture or structures, where same is or are operated by the
state or any political subdivision thereof, or to aid in the
erction or the maintenance, or both, of a memorial hos-
pital owned and operated by a non-profit corporation in-
corporated under the laws of this state, as such memorial
or memorials, there shall be filed with the county court,
on or before the first day of July in each year, an annual
itemized report, for public inspection, of the operation,
income and expenditures for the twelve months preced-
ing as of the thirty-first day of May in each year, and the
condition of the property, by the officials, or board of
directors, as the case may be, in charge thereof, and in
the case of such memorial hospital such report also shall
contain a complete schedule of the rates and charges to
the public and the services rendered free to the indigent
and needy unable to pay therefor; and there also shall
be filed with the county court, on or before the first day
of July in each year, an itemized budget estimate of the
expense and operation of such memorial or memorials for
the ensuing year, with such other information and sug-
gestions as may be deemed of public interest, or that
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
or express money order shall be in an amount to exceed one hundred thousand dollars. The duly elected or appointed officers of the state and of its political subdivisions, departments, boards, commissions and collecting agencies having the account on which taxes or other amounts are chargeable against the payer thereof and authorized by law to collect the same, and their respective agents, deputies, assistants and employees shall in no case be the agent of the payer in and about the collection of such taxes or other amounts, but shall at all times and under all circumstances be the agent of the state, its political subdivision, official, department, board, commission or collecting agency having the account on which such taxes or amounts are chargeable against the payer thereof and authorized by law to collect the same. All acts or parts of acts inconsistent herewith are hereby repealed.

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:


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, 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-
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-
tion as will facilitate its efforts to understand and learn all the facts bearing upon the right and justness of the matters before it.

(b) Appoint such employees as may be necessary to carry out the provisions of this act, and shall fix their respective salaries or compensation. Such employees shall hold office during the pleasure of the commission. The commission may designate such employees as it deems necessary to take evidence at any hearing held or required by the provisions of this act, which employees are hereby empowered to administer oaths in all parts of the state so far as the exercise of such power is properly incidental to the performance of their duties in connection with the provisions of this act.

(c) Prescribe a schedule of fees to accompany applications for certificates of convenience and necessity and permits and for the filing and recordation of other papers with the commission. The commission shall likewise prescribe a schedule of fees to be charged for the certification of all records and papers and sums to be paid witnesses and other costs necessary and incident to hearings before it or its employees and order the same paid by the unsuccessful party. Sums collected in this manner, except witness fees, shall be paid into the state treasury and be credited to the public service commission motor carrier fund provided for in section six of article six of this act. The witness fees shall be paid to the persons who are entitled thereto.

(d) Establish a system of accounts to be kept by motor carriers or classify motor carriers and establish a system of accounts for each class, and prescribe the manner in which such accounts shall be kept. It may also in its discretion prescribe the form of accounts, records, and memoranda to be kept by such motor carriers, including the accounts, records, and memoranda for the movement of traffic as well as the receipts and expenditures of money, and any other forms, records and memoranda which in the judgment of the commission may be necessary to carry out any of the provisions of this chapter.

(e) Require persons subject to the provisions of this
chapter, to furnish any information which may be in
their possession, or obtainable from their accounting or
other records, respecting rates, charges, classifications,
or practices in conducting their business, and to furnish
the commission at all times for inspection any books or
papers or reports and statements, which reports and
statements shall be under oath, when so required by the
commission, and the form of all reports required under
this act shall be prescribed by the commission.

(f) Either as a commission or by any of its members,
or by designated employees, subpoena witnesses and take
testimony, and administer oaths to any witness in any
proceeding or examination instituted before it or
conducted by it with reference to any matter
within its jurisdiction. In all hearings or proceedings
before the commission or its designated employees the
evidence of witnesses and the production of documentary
evidence may be required at any designated place of
hearing within the state; and in the case of disobedience
to a subpoena or other process the commission or any
party to the proceedings before the commission may in-
voke the aid of any circuit court in the state in requiring
the evidence and testimony of witnesses and the produc-
tion of papers, books, and documents. And such court,
in case of refusal to obey the subpoena issued to any per-
son or to any motor carrier subject to the provisions of
this chapter, shall issue an order requiring such motor
carrier or any person to appear before the commission
or designated employees and produce all books and
papers, if so ordered, and give evidence touching the mat-
ter in question. Any failure to obey such order of the
court may be punished by such court as contempt thereof.
A claim that such testimony or evidence may tend to in-
criminate the person giving the same shall not excuse
such witness from testifying, but such witness shall not
be prosecuted for any offense concerning which he is
compelled hereunder to testify.

(g) Require common carriers by motor vehicle and
contract carriers by motor vehicle subject to the provi-
sions of this act either to procure insurance from a com-
pany authorized to write such insurance in West Vir-
92 Virginia, 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 to motor vehicles subject to the provisions of this act and promulgate regulations governing the qualifications and maximum hours of service of drivers and chauffeurs of common and contract carriers by motor vehicle of passengers and property subject to the provisions of this act, and promulgate any other rules and regulations which the commission may deem proper to carry out the 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 prescribe an identification card which shall be displayed within the cab of each motor vehicle operated by any motor carrier, showing thereon the description and serial number of the vehicle for which it is issued and the number of the identification plate issued for said vehicle. The identification card provided for herein may be in such form and contain such other information as may be required by the commission. It shall be unlawful for the motor carrier, his agent, servant, or employee, or any other person to use or display said identification card or other insignia of authority from the commission at any time after the certificate or permit issued to said motor carrier has expired or has been cancelled, suspended, revoked, or otherwise disposed of, or to operate any vehicle without such identification card.

Sec. 5. Identification Plate.—It shall be unlawful for any motor carrier to operate any motor vehicle within this state unless there shall be displayed and firmly fixed upon the rear of such vehicle, an identification plate to be furnished by the commission. Such plate shall be different in design for the different classes of certificates or permits, shall bear the number given to the vehicle by the commission, and such other marks of identification as may be prescribed, and shall be in addition to the regular license plate re-
quired by law. Such plates shall be issued annually and
attached to each such motor vehicle not later than July
first of each year.

Sec. 6. Motor Carrier Fund; Assessment; Collection; Appropriation.—In addition to the license fees,
registration fees, or any other taxes required by law to
be collected from motor carriers subject to this act, each
such motor carrier shall be subject to, and shall pay to
the public service commission, a special annual assess-
ment for the purpose of paying the salaries, compensa-
tion, costs and expenses of administering and enforcing
this act. All proceeds or funds derived from such assess-
ment shall be paid into the state treasury and credited to
a special fund designated “Public Service Commission
Motor Carrier Fund,” to be appropriated as provided by
law for the purposes herein stated. Each member of
the commission shall receive a salary of fifteen hundred
dollars per annum as compensation for the administration
of this act in addition to all other salary or com-
pensation otherwise provided by law, to be paid in
monthly installments from said fund, but in no event shall
the salary of a commissioner exceed six thousand dollars
per annum. The special assessment against each motor
carrier shall be apportioned upon the number and capac-
ity of motor vehicles used by said carrier, computed as
hereinafter provided.

(a) For each identification card and plate $1.00.
(b) Upon each motor vehicle, except semi-trailers, of
such carriers of property, in accordance with its capacity
as rated by its manufacturer, in addition to amount in
sub-section (a).

<table>
<thead>
<tr>
<th>Capacity</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Of one ton or less capacity</td>
<td>$ 9.00</td>
</tr>
<tr>
<td>Of over one to one and one-half tons capacity</td>
<td>13.50</td>
</tr>
<tr>
<td>Of over one and one-half tons to two tons capacity</td>
<td>18.00</td>
</tr>
<tr>
<td>Of over two tons to three tons capacity</td>
<td>22.50</td>
</tr>
<tr>
<td>Of over three tons to four tons capacity</td>
<td>27.00</td>
</tr>
<tr>
<td>Of over four tons to five tons capacity</td>
<td>31.50</td>
</tr>
<tr>
<td>Of over five tons to six tons capacity</td>
<td>36.00</td>
</tr>
<tr>
<td>Of over six tons to seven tons capacity</td>
<td>40.50</td>
</tr>
<tr>
<td>Of over seven tons to eight tons capacity</td>
<td>45.00</td>
</tr>
</tbody>
</table>
(c) Upon each semi-trailer of such carriers of property, in accordance with its capacity as rated by its manufacturer, in an amount of two-thirds of the amount provided for vehicles of its capacity in sub-section (b) of this section.

(d) Upon each motor vehicle of such carriers of passengers, in accordance with the seating capacity thereof, in addition to amount in sub-section (a).

(e) The annual assessment of each motor carrier shall be paid on or before the first day of July of each year. Additional assessments shall be collected upon the placing in use of any additional motor vehicle: Provided, That such additional assessments shall be subject to a reduction in the amounts shown in sub-sections (b), (c), and (d) corresponding to the unexpired quarterly periods of the fiscal year, but shall not in any event be less than one-fourth of such amount plus the sum of one dollar provided in sub-section (a).

(f) Upon payment by any motor carrier of the assessment provided for, the public service commission shall advise the state road commission by notice in writing that such assessment has been paid, whereupon the state road commission may issue motor vehicle license for the vehicles described in said notice.

(g) Prior to the beginning of any fiscal year the public service commission, after taking into consideration any unexpended balance in the motor carrier fund, the probable receipts to be received in the ensuing fiscal year, and the probable costs of administering and enforcing the motor carrier act for the ensuing fiscal year, may fix the assessments provided for in this section for the ensuing
fiscal year in amounts which, in the commission’s judg-
ment, will produce sufficient revenue to administer and
enforce the motor carrier act for said fiscal year: Provided,
That in no event shall such assessments exceed the
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 chap-
ter; police powers of inspectors.

Section 1. Complaints Against Motor Carriers; Investi-
gation.—Any person, firm, association of persons, cor-
poration, municipality, or county, complaining of any-
thing done or omitted to be done by any motor carrier
subject to this act, in contravention of the provisions
thereof, or any duty owing by it under the provisions of
this act, may present to the commission a petition which
shall succinctly state all the facts. Whereupon, if there
shall be any reasonable ground to investigate such com-
plaint, a statement of the charges thus made shall be
forwarded by the commission to such motor carrier,
which shall be called upon to satisfy such complaint or
to answer the same in writing within a reasonable time
to be specified by the commission. If such motor carrier
of property by motor vehicle within the time specified
shall make reparations for the injury alleged to have been
done or to correct the practice complained of and obey the
law and discharge its duties in the premises, then it shall
be relieved of liability to the complainant for the partic-
ular violation of law or duty complained of. If such motor
carrier shall not satisfy the complaint within the time
specified it shall be the duty of the commission to investi-
gate the same in such manner and by such means as it
shall deem proper.

Sec. 2. Falsifying Records; Penalty.—Any person,
officer, agent or employee of any motor carrier subject
to this act who will knowingly or wilfully make any false
entries in the accounts, account books, records, or memo-
randa kept by any motor carrier, or who shall knowingly or wilfully destroy or mutilate any account book, record, or memorandum useful for the enforcement or administration of this act by the commission, or who shall alter or by any other means or device falsify the record of any such accounts, account books, records, or memoranda, or who shall knowingly or wilfully neglect or fail to make full, true, and correct entries of or in such account, account book, record, or memorandum of all the facts and transactions appertaining to such motor carrier, or who shall falsely make any statement required to be made to the commission, shall be deemed guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than one year nor more than five years.

Sec. 3. Continuing Offenses.—Every day during which any person shall fail to observe and comply with any order or direction of the commission or to perform any duty enjoined by this act shall constitute a separate and distinct violation of the order or direction under this act.

Sec. 4. Penalty for Violation of Chapter; Second Offense.—Every officer, agent, employee, or stockholder of any motor carrier, or any motor carrier, and every person who violates, procures, aids, or abets in the violating of any of the provisions of this act, or who fails to obey any order, decision, requirement, rule, or regulation of the commission or procures, aids, or abets any person in his failure to obey such order, decision, requirement, rule, or regulation, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not exceeding one thousand dollars or confined in jail for not less than thirty days nor more than one year, or both, in the discretion of the court. When any person is convicted for a violation of any provision of this act or any order, decision, requirement, rule, or regulation of the commission and it is alleged in the indictment upon which he is convicted and it is admitted, or by jury found, that he has been before convicted of a violation of any provision of this act or order, decision, requirement, rule,
or regulation of the commission, committed prior to the
violation for which the indictment upon trial was found,
then he shall be fined not less than five hundred dollars
nor more than five thousand dollars and shall, in addi-
tion thereto, be confined in the county jail for not less
than three months nor more than one year.

Sec. 5. Duty of Prosecuting Attorneys and Peace Of
ficers to Enforce Chapter; Police Powers of Inspectors.—
It shall be the duty of the department of public safety
and the sheriffs of the counties in West Virginia to make
arrests and the duty of the prosecuting attorneys of the
several counties to prosecute all violations of this act,
and the commission employees designated by it as in-
spectors shall have all the lawful powers of peace officers
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

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
lease be made, the guardian or committee shall in open
court, or before the judge in vacation, or before the clerk, enter into bond, with approved security, in penalty equal to double the value of the estate to be sold, conditioned for the faithful application of the proceeds of sale or lease. And in case of a mortgage or trust deed such guardian or committee shall enter into bond with approved security in a penalty equal to double the amount of any moneys which may come into his hands from the mortgaging or encumbrance of the same by trust deed, conditioned for the faithful application of such moneys. And in either case such bonds shall be payable to the state, and the court may thereafter order a new bond, with other security, 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.]


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 purporting to convey or release or assign real estate, or any interest therein, or to create any power of attorney relating to real estate or any interest therein, heretofore
made or executed and delivered by any person or persons whomsoever, or by a husband and wife to a bona fide purchaser for good and valuable consideration, and acknowledged by him or them before an officer duly authorized by law to take such acknowledgments, if such deed, writing or power of attorney was made, executed, acknowledged and delivered prior to the day this act takes effect, shall be deemed, held or adjudged invalid, or defective, or insufficient in law or in equity, by reason of any informality or omission in setting forth the particulars of the acknowledgment made before such officer aforesaid in the certification thereof, or in stating the official character of such officer, or the place of taking the acknowledgment, or by reason of the fact that the wife executed such instrument prior to the execution thereof by the husband, or by reason of the fact that the parties making or executing the instrument or writing, or any of them omitted to seal the same; and if a period of ten years has elapsed from date of recordation of any deed, and said deed has an acknowledgment considered defective for any reason, then every such deed or writing shall be as good, valid and effectual in law as if the law with respect to acknowledgments and seals, in force at the date of such deed or writing had been fully complied with in regard to the matters hereinbefore mentioned; and the record of the same duly made in the proper office for recording deeds in the state of West Virginia, or in the state of Virginia before the formation of West Virginia, and exemplifications of the same duly certified, shall be legal evidence in all cases in which the original would be competent evidence: Provided, however, That this section shall not apply to suits now pending and undetermined insofar as it amends laws existing at the time such pending suits were instituted, nor to any suit that may be brought within one year after the day this act takes effect, insofar as it amends laws existing at the time this act takes effect; nor shall this section apply to any deed or other writing which has heretofore been declared or held invalid by any court of competent jurisdiction.
CHAPTER 137

(Ch. 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.—

That bonds of the state of West Virginia of the par value of ten million dollars are hereby authorized to be issued and sold for the purpose of raising funds for assisting in building, constructing and maintaining the system of state road and highways provided for by the constitution. Such bonds may be issued by the governor in such amounts, in coupon or registered form, in such denominations, at such times and bearing such date or
10 dates as the governor may determine, and shall become
due and payable serially in equal amounts beginning
12 one year and ending twenty-five years from the date
thereof: Provided, however, That no bonds may be
14 issued under the provisions of this act until bonds auth-
orized and issued under the provisions of the “good roads
amendment” to the constitution of the state, ratified at
17 the general election held in November, one thousand nine
19 hundred twenty, have been retired and cancelled out of
20 the state road sinking fund created by section six, chapter
21 one hundred thirteen, acts of the Legislature of West
22 Virginia, one thousand nine hundred twenty-one, in an
23 amount equal to or greater than the amount to be issued
24 hereunder at any one time.

Sec. 2. Transfer, Fee; Registration, Fee; Where Pay-
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
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
due on the first day of ______ and ______ of each
year, and mail it to the registered owner at his address
as shown by the record of registration. Both the prin-
cipal and interest of the bonds shall be payable in lawful
money of the United States of America and the bonds
shall be exempt from taxation by the state of West
Virginia, or by any county, district, or municipality
thereof, which facts shall appear on the face of the bonds
as part of the contract with the holder thereof.

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

COUPON ROAD BOND
(Or registered road bond, as the case may be)
OF THE
STATE OF WEST VIRGINIA

$_________ No._________

The state of West Virginia, under and by virtue of
authority of an act of the Legislature passed at the
regular session of one thousand nine hundred forty-
seven, on the __________________________ day of
___________________________, one thousand
eighty-seven, and approved by the gover-
nor on the ___________________________ day of
___________________________, one thousand nine
hundred forty-seven, which is hereby made a part hereof
as fully as if set forth at length herein, acknowledges
itself to be indebted to, and hereby promises to pay to
the bearer hereof (in the case of a coupon bond) or
to __________________ or assigns (the owner of record, in
the case of registered bonds) ________ years after the
date of this bond, to-wit: On the __________ day of
___________________________, 19____, in lawful money of the United
States of America at the office of the treasurer of the
state of West Virginia at the capitol of said state, or
at the option of the holder at ___________________ bank
in the city of New York, the sum of ___________________
dollars, with interest thereon at __________ per centum
per annum from date, payable semi-annually in like
lawful money of the United States of America at the
treasurer’s office or bank aforesaid, on the first day of
________________ and the first day of ________________ of each
year, (and in the case of coupon bonds) according to
the tenor of the annexed coupons, bearing the engraved
facsimile signature of the treasurer of the state of West
Virginia, upon surrender of such coupons. This bond
(in the case of a coupon bond) may be exchanged for a
registered bond of like tenor upon application to the
treasurer of the state of West Virginia.

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

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

In testimony whereof, witness the signature of the
treasurer of the state of West Virginia, and the counter-
signature of the auditor of the state, hereto affixed ac-
cording to law, dated the __________ day of __________,
one thousand nine hundred _____________, and the seal
of the state of West Virginia.

(Seal)

Treasurer of the State of West Virginia

Countersigned:

Auditor of the State of West Virginia
Sec. 4. Form of Coupon.—The form of coupon shall be substantially as follows, to-wit:

STATE OF WEST VIRGINIA

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
bonds, from fines, forfeitures and penalties, if any, made applicable by law for the payment of such bonds or the interest thereon, from transfer fees as herein provided, and from any source whatsoever, which is made liable by law for the payment of the principal of such bonds or the interest thereon.

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

Such fund shall be applied by the treasurer of the state, first to the payment of the semi-annual interest on such bonds as it shall become due as herein provided. The remainder of the fund shall be turned over by the state treasurer to the state sinking fund commission, whose duty it shall be to invest the same in bonds of the government of the United States, bonds of the state of West Virginia, or any political subdivision thereof:

Provided, however, That bonds so purchased by the state sinking fund commission shall mature so as to provide sufficient money to pay off all bonds herein provided to be issued as they may become due; and the money so paid into the state road sinking fund under the provisions of this act shall be expended for the purpose of paying the interest and principal of the bonds hereby provided for as they severally become due and payable and for no other purpose except that the fund may be invested until needed, as herein provided.

Sec. 7. Tax Levy to Pay, Unless Other Funds Available.—In order to provide the revenue necessary for the payment of the principal and interest of such bonds, as hereinbefore provided, the board of public works, within the limits prescribed by the constitution, is authorized, empowered and directed to lay annually a tax upon all real and personal property subject to taxation within this state, sufficient to pay interest on the bonds accruing during the current year and one twenty-fifth of the total issue (at par value) of such bonds, for such number of years, not exceeding twenty-five, as may be necessary
to pay the interest thereon and to pay off the principal sum of the bonds; and such taxes, when so collected, shall not be liable for or applicable to any other purpose: Provided, however, That if there be other funds in the state treasury, or in the state road funds, in any fiscal year, not otherwise appropriated, or if other sources of revenue be hereafter provided by law for the purpose, the board of public works is authorized, empowered and directed to set apart, in any year there be such funds, or other sources of revenue provided for such purpose, a sum sufficient to pay the interest on bonds accruing during the current year, and to pay off, and retire the principal of such bonds, or any part thereof, at maturity.

The authority hereby vested in the board of public works shall be in addition to the authority now vested in it by present law.

Sec. 8. Sale by Governor; Minimum Price.—The governor shall sell the bonds herein mentioned at such time or times as he may determine necessary to provide funds for road construction and maintenance purposes, as herein provided, upon recommendation of the state road commission. All sales shall be at not less than par and accrued interest. All interest coupons becoming payable prior to the sale date shall be cancelled by the treasurer and rendered ineffective, before the delivery of the bonds so sold.

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

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

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

Sec. 12. Interim Certificates.—The governor may
authorize the issuance of interim certificates to be issued to the purchasers of such bonds to be held by them in lieu of engraved bonds. When interim certificates are so issued, they shall become full and legal obligations of the state of West Virginia under all of the provisions of this act just as fully and completely as the engraved and permanent bonds.

Sec. 13. Payment of Expenses.—All necessary expenses incurred in the execution of this act shall be paid out of the state road fund on warrants of the auditor of the state drawn on the state treasurer.

CHAPTER 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.—On or before the first day of January of each year the state road commissioner shall ascertain and determine the total amount of available funds for expenditure in the whole state for the construction, reconstruction and maintenance of secondary roads during such annual period. Of the amount so ascertained the commissioner may set
The remaining eighty per cent, or, if such reserve fund is not set aside, then all the funds shall be appropriated in the following order and preference:

1. **Maintenance Funds.**—To be allocated to the various counties on the basis of the mileage of various types of road surfaces:
   - (a) Paved surfaces of all types, such as, brick, cement concrete, bituminous, etc.
   - (b) Traffic-bound surfaces, such as, slag, crushed stone, gravel, chert, red dog, shale, etc.
   - (c) Unimproved earth roads; by applying certain weights or percentages, based on past experience, to the various types of road surfaces.

2. **Construction and Reconstruction.**—To be allocated to the various counties on the basis of the ratio of the unimproved mileage of secondary roads in the county to the total unimproved mileage of secondary roads in the state.

For the purposes of this section, the words “unimproved mileage” are defined and shall be construed to mean roads which are not passable for all-weather travel by motor vehicle.

All moneys received from the federal government for road construction or reconstruction shall be expended as provided, or as may hereafter be provided by Act of Congress.

**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.
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 Projects.—In order to remove the present handicaps and hazards on the congested highways in the state of West Virginia, to facilitate vehicular traffic throughout the state, to promote the agricultural and industrial development of the state, and to provide for the construction of modern express highways embodying every known safety device including center division, ample shoulder widths, longsight distances, the by-passing of cities, multiple lanes in each direction and grade separations at all intersections with other highways and railroads, the West Virginia turnpike commission (hereinafter created) is
hereby authorized and empowered to construct, main-
tain, repair and operate turnpike projects (as herein-
after defined) at such locations as shall be approved by
the state road commission, and to issue turnpike reve-
uue bonds of the state of West Virginia, payable solely
from revenues, to pay the cost of such projects.

Sec. 2. Credit of State Not Pledged.—Turnpike reve-
uue bonds issued under the provisions of this act shall
not be deemed to constitute a debt of the state or of any
political subdivision thereof or a pledge of the faith and
credit of the state or of any such political subdivision,
but such bonds shall be payable solely from the funds
herein provided therefor from revenues. All such turn-
pike revenue bonds shall contain on the face thereof a
statement to the effect that neither the state nor any
political subdivision thereof shall be obligated to pay
the same or the interest thereon except from revenues of
the project or projects for which they are issued and that
neither the faith and credit nor the taxing power of the
state or any political subdivision thereof is pledged to
the payment of the principal of or the interest on such
bonds.

Sec. 3. West Virginia Turnpike Commission.—There
is hereby created a commission to be known as the "West
Virginia Turnpike Commission", and by that name the
commission may sue and be sued, and plead and be
impleaded. The commission is hereby constituted an
agency of the state, and the exercise by the commission
of the powers conferred by this act in the construction,
operation and maintenance of turnpike projects shall
be deemed and held to be an essential governmental func-
tion of the state.

The West Virginia turnpike commission shall consist
of five members, including the state road commissioner,
who shall be a member ex officio, and four members
appointed by the governor, by and with the advice and
consent of the senate. The appointive members shall be
residents of the state, and shall have been qualified
electors therein for a period of at least one year next
preceding their appointment. The members of the com-
mission first appointed shall continue in office for terms expiring on July first, one thousand nine hundred fifty-one, July first, one thousand nine hundred fifty-three, July first, one thousand nine hundred fifty-seven, respectively, the term of each such member to be designated by the governor, and until their respective successors shall be duly appointed and qualified. The successor of each such member shall be appointed for a term of eight years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term, and a member of the commission shall be eligible for reappointment. Each appointed member of the commission before entering upon his duties shall take an oath as provided by section five of article four of the constitution of the state of West Virginia.

The commission shall elect one of the appointed members as chairman and another as vice chairman, and shall also elect a secretary and treasurer who need not be a member of the commission. Three members of the commission shall constitute a quorum and the vote of three members shall be necessary for any action taken by the commission. No vacancy in the membership of the commission shall impair the right of a quorum to exercise all the rights and perform all the duties of the commission.

Before the issuance of any turnpike revenue bonds under the provisions of this act, each appointed member of the commission shall execute a surety bond in the penal sum of twenty-five thousand dollars and the secretary and treasurer shall execute a surety bond in the penal sum of fifty thousand dollars, each such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the state of West Virginia as surety and to be approved by the governor and filed in the office of the secretary of state.

The members of the commission shall not be entitled to compensation for their services but each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties. All expenses
incurred in carrying out the provisions of this act shall
be payable solely from funds provided under the author-
ity of this act and no liability or obligation shall be
incurred by the commission hereunder beyond the extent
to which moneys shall have been provided under the
authority of this act.

Sec. 4. Definitions.—As used in this act, the following
words and terms shall have the following meanings,
unless the context shall indicate another or different
meaning or intent:—
(a) The word “commission” shall mean the West
Virginia turnpike commission, created by section three
of this act, or, if said commission shall be abolished, the
board, body or commission succeeding to the principal
functions thereof or to whom the powers given by this
act to the commission shall be given by law.
(b) The word “project” or the words “turnpike pro-
ject” shall mean any express highway or turnpike which
the commission may at any time determine to construct
under the provisions of this act, and shall embrace all
bridges, tunnels, overpasses, underpasses, interchanges,
entrance plazas, approaches, toll houses, service stations,
and administration, storage and other buildings which
the commission may deem necessary for the operation of
the project, together with all property, rights, easements
and interests which may be acquired by the commission
for the construction or the operation of the project.
(c) The word “cost” as applied to a turnpike project
shall embrace the cost of construction, the cost of the
acquisition of all land, rights-of-way, property, rights,
easements and interests acquired by the commission for
such construction, the cost of all machinery and equip-
ment, financing charges, interest prior to and during con-
struction and for one year after completion of construc-
tion, cost of traffic estimates and of engineering and
legal expenses, plans, specifications, surveys, estimates
of cost and of revenues, other expenses necessary or inci-
dent to determining the feasibility or practicability of
constructing any such project, administrative expense,
and such other expense as may be necessary or incident
to the construction of the project, the financing of such
construction and the placing of the project in operation. Any obligation or expense hereafter incurred by the state road commission with the approval of the commission for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of a project shall be regarded as a part of the cost of such project and shall be reimbursed to the state out of the proceeds of turnpike revenue bonds hereinafter authorized.

(d) The word “owner” shall include all individuals, copartnerships, associations or corporations having any title or interest in any property, rights, easements and interests authorized to be acquired by this act.

Sec. 5. General Grant of Powers.—The commission is hereby authorized and empowered:

(a) To adopt by-laws for the regulation of its affairs and the conduct of its business;
(b) To adopt an official seal and alter the same at pleasure;
(c) To maintain an office at such place or places within the state as it may designate;
(d) To sue and be sued in its own name, plead and be impleaded: Provided, however, That any and all actions at law or in equity against the commission shall be brought only in the county in which the principal office of the commission shall be located;
(e) To construct, maintain, repair and operate turnpike projects as hereinabove defined at such locations within the state as may be determined by the commission;
(f) To issue turnpike revenue bonds of the state of West Virginia, payable solely from revenues, for the purpose of paying all or any part of the cost of any one or more turnpike projects;
(g) To fix and revise from time to time tolls for transit over each turnpike project constructed by it;
(h) To acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;
(i) To acquire in the name of the state by purchase or otherwise, on such terms and conditions and in such man-
ner as it may deem proper, or by the exercise of the right of condemnation in the manner hereinafter provided, such public or private lands, including public parks, playgrounds or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements and interests, as it may deem necessary for carrying out the provisions of this act: Provided, however, That no compensation shall be paid for public lands, playgrounds, parks, parkways or reservations so taken, and that all public property damaged in carrying out the powers granted by this act, shall be restored or repaired and placed in its original condition as nearly as practicable;

(j) To designate the locations, and establish, limit and control such points of ingress to and egress from each turnpike project as may be necessary or desirable in the judgment of the commission to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(k) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, and to employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation: Provided, That all such expenses shall be payable solely from the proceeds of turnpike revenue bonds issued under the provisions of this act or from revenues;

(l) To receive and accept from any federal agency grants for or in aid of the construction of any turnpike project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made; and

(m) To do all acts and things necessary or convenient to carry out the powers expressly granted in this act.
Sec. 6. *Incidental Powers.*—The commission shall have authority to construct grade separations at intersections of any turnpike project with public roads and state highways and to change and adjust the lines and grades of such roads and highways so as to accommodate the same to the design of such grade separation. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of such roads and highways shall be ascertained and paid by the commission as a part of the cost of such turnpike project.

If the commission shall find it necessary to change the location of any portion of any public road or state highway, it shall cause the same to be reconstructed at such location as the commission shall deem most favorable and of substantially the same type and in as good condition as the original road or highway. The cost of such reconstruction and any damage incurred in changing the location of any such road or highway shall be ascertained and paid by the commission as a part of the cost of such turnpike project.

Upon the request of the commission the state road commissioner shall relocate or discontinue any road or highway over which he has authority and control which is affected by the construction of any turnpike project.

In addition to the foregoing powers the commission and its authorized agents and employees may enter upon any lands, waters and premises in the state for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or convenient for the purposes of this act, and such entry shall not be deemed a trespass, nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending. The commission shall make reimbursement for any actual damages resulting to such lands, waters and premises as a result of such activities.

The state of West Virginia hereby consents to the use of all lands owned by it, including lands lying under water, which are deemed by the commission to be necessary for the construction or operation of any turnpike project.

Sec. 7. *Acquisition of Property.*—The commission is
hereby authorized and empowered to acquire by pur-
chase, whenever it shall deem such purchase expedient,
any land, property, rights, rights-of-way, franchises,
easements and other interests in lands as it may deem
necessary or convenient for the construction or opera-
tion of any turnpike project upon such terms and at such
price as may be considered by it to be reasonable and
can be agreed upon between the commission and the
owner thereof, and to take title thereto in the name of
the state.

Sec. 8. Condemnation of Property.—Whenever a
reasonable price cannot be agreed upon, or whenever the
owner is legally incapacitated, or is absent, unknown or
unable to convey valid title, the commission is hereby
authorized and empowered to acquire, by the exercise of
the power of condemnation in accordance with and sub-
ject to the provisions of any and all existing laws and
statutes applicable to the exercise of the power of con-
demnation of property for public use, any land, property,
rights, rights-of-way, franchises, easements or other
property deemed necessary or convenient for the con-
struction or the efficient operation of any turnpike pro-
ject or necessary in the restoration of, public or private
property damaged or destroyed. In any condemnation
proceedings the court having jurisdiction of the suit,
action or proceeding may make such orders as may be
just to the commission and to the owners of the property
to be condemned and may require an undertaking or
other security to secure such owners against any loss or
damage by reason of the failure of the commission to
accept and pay for the property, but neither such under-
taking or security nor any act or obligation of the com-
mission shall impose any liability upon the state or the
commission except such as may be paid from the funds
provided under the authority of this act.

Sec. 9. Turnpike Revenue Bonds.—The commission
is hereby authorized to provide by resolution, at one time
or from time to time, for the issuance of turnpike reve-
ue bonds of the state for the purpose of paying all or
any part of the cost of any one or more turnpike projects.
The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding five per centum per annum, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the commission, and may be made redeemable before maturity, at the option of the commission, at such price or prices and under such terms and conditions as may be fixed by the commission prior to the issuance of the bonds. The commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. The bonds shall be signed by the governor or with a facsimile signature of the governor and by the chairman of the commission, and the official seal of the commission shall be affixed thereto and attested by the secretary and treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state. The bonds may be issued in coupon or in registered form, or both, as the commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The commission may sell such bonds in such manner, either at public or at private sale, and for such price, as it may determine to be for the best interests of the state, but no
such sale shall be made at a price so low as to require the
payment of interest on the money received therefor at
more than five per centum per annum, computed with
relation to the absolute maturity of the bonds in accord-
ance with standard tables of bond values, excluding,
however, from such computation the amount of any
premium to be paid on redemption of any bonds prior to
maturity.

The proceeds of the bonds of each issue shall be used
solely for the payment of the cost of the turnpike project
or projects for which such bonds shall have been issued,
and shall be disbursed in such manner and under such
restrictions, if any, as the commission may provide in the
resolution authorizing the issuance of such bonds or in
the trust agreement hereinafter mentioned securing the
same. If the proceeds of the bonds of any issue, by
error of estimates or otherwise, shall be less than such
cost, additional bonds may in like manner be issued to
provide the amount of such deficit, and, unless otherwise
provided in the resolution authorizing the issuance of
such bonds or in the trust agreement securing the same,
shall be deemed to be of the same issue and shall be
titled to payment from the same fund without prefer-
ence or priority of the bonds first issued. If the proceeds
of the bonds of any issue shall exceed the cost of the
turnpike project or projects for which the same shall
have been issued, the surplus shall be deposited to the
credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the com-
mmission may, under like restrictions, issue interim
receipts or temporary bonds, with or without coupons,
exchangeable for definitive bonds when such bonds shall
have been executed and are available for delivery. The
commission may also provide for the replacement of any
bonds which shall become mutilated or shall be destroyed
or lost. Bonds may be issued under the provisions of
this act without obtaining the consent of any department,
division, commission, board, bureau or agency of the
state, and without any other proceedings or the happen-
ing of any other conditions or things than those proceed-
ings, conditions or things which are specifically required
by this act.
Sec. 10. *Trust Agreement.*—In the discretion of the commission any bonds issued under the provisions of this act may be secured by a trust agreement by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Any such trust agreement may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage any turnpike project or any part thereof. Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the turnpike project or projects in connection with which such bonds shall have been authorized, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such turnpike project or projects. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the commission. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any such trust agreement may contain such other provisions as the commission may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the turnpike project or projects.

Sec. 11. *Revenues.*—The commission is hereby authorized to fix, revise, charge and collect tolls for the use of
each turnpike project and the different parts or sections thereof, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon telephone, telegraph, electric light or power lines, gas stations, garages, stores, hotels, restaurants and advertising signs, or for any other purpose except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of charges for such use. Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the turnpike project or projects in connection with which the bonds of any issue shall have been issued as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing and operating such turnpike project or projects and (b) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the state. The tolls and all other revenues derived from the turnpike project or projects in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of (1) the interest upon such bonds as such interest shall fall due, (2) the principal of such bonds as the same shall fall due, (3) the necessary charges of paying agents for paying principal and interest, and (4) the redemption price or the purchase price of bonds retired by call or purchase as therein provided. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution
or such trust agreement, such sinking fund shall be a
fund for all such bonds without distinction or priority of
one over another. The moneys in the sinking fund, less
such reserve as may be provided in such resolution or
trust agreement, if not used within a reasonable time for
the purchase of bonds for cancellation as above provided,
shall be applied to the redemption of bonds at the redemp-
tion price then applicable.

Sec. 12. **Trust Funds.**—All moneys received pursuant
to the authority of this act, whether as proceeds from the
sale of bonds or as revenues, shall be deemed to be trust
funds, to be held and applied solely as provided in this
act. The resolution authorizing the issuance of bonds
of any issue or the trust agreement securing such bonds
shall provide that any officer to whom, or any bank or
trust company to which, such moneys shall be paid shall
act as trustee of such moneys and shall hold and apply
the same for the purposes hereof, subject to such regula-
tions as this act and such resolution or trust agreement
may provide.

Sec. 13. **Remedies.**—Any holder of bonds issued
under the provisions of this act or any of the coupons
appertaining thereto, and the trustee under any trust
agreement, except to the extent the rights herein given
may be restricted by such trust agreement, may, either at
law or in equity, by suit, action, mandamus or other pro-
ceeding, protect and enforce any and all rights under the
laws of the state or granted hereunder or under such
trust agreement or the resolution authorizing the issu-
ance of such bonds, and may enforce and compel the
performance of all duties required by this act or by such
trust agreement or resolution to be performed by the
commission or by any officer thereof, including the fix-
ing, charging and collecting of tolls.

Sec. 14. **Exemption from Taxation.**—The exercise of
the powers granted by this act will be in all respects for
the benefit of the people of the state, for the increase of
their commerce and prosperity, and for the improvement
of their health and living conditions, and as the operation
and maintenance of turnpike projects by the commission
will constitute the performance of essential governmental
functions, the commission shall not be required to pay
any taxes or assessments upon any turnpike project or
any property acquired or used by the commission under
the provisions of this act or upon the income therefrom,
and the bonds issued under the provisions of this act,
their transfer and the income therefrom (including any
profit made on the sale thereof) shall at all times be free
from taxation within the state.

Sec. 15. Miscellaneous.—Each turnpike project when
constructed and opened to traffic shall be maintained and
kept in good condition and repair by the commission.
Each such project shall also be policed and operated by
such force of police, toll-takers and other operating
employees as the commission may in its discretion
employ.
All private property damaged or destroyed in carrying
out the powers granted by this act shall be restored or
repaired and placed in its original condition as nearly as
practicable or adequate compensation made therefor out
of funds provided under the authority of this act.
All counties, cities, villages, townships and other
political subdivisions and all public agencies and com-
missions of the state of West Virginia, notwithstanding
any contrary provision of law, are hereby authorized
and empowered to lease, lend, grant or convey to the
commission at its request upon such terms and condi-
tions as the proper authorities of such counties, cities,
villages, townships, other political subdivisions or public
agencies and commissions of the state may deem reason-
able and fair and without the necessity for any advertise-
ment, order of court or other action or formality, other
than the regular and formal action of the authorities
concerned, any real property which may be necessary or
convenient to the effectuation of the authorized purposes
of the commission, including public roads and other real
property already devoted to public use.

Sec. 16. Cessation of Tolls.—When all bonds issued
under the provisions of this act in connection with any
turnpike project or projects and the interest thereon
shall have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the bondholders, such project or projects, if then in good condition and repair to the satisfaction of the state road commission, shall become part of the state road system and shall thereafter be maintained by the state road commission free of tolls: Provided, however, That the commission may thereafter charge tolls for the use of any such project and pledge such tolls to the payment of bonds issued under the provisions of this act in connection with another turnpike project or projects, but any such pledge of tolls of a turnpike project to the payment of bonds issued in connection with another project or projects shall not be effectual until the principal of and the interest on the bonds issued in connection with the first mentioned project shall have been paid or provision made for their payment.

Sec. 17. Preliminary Expenses.—The state road commission is hereby authorized in its discretion to expend out of any funds available for the purpose such moneys as may be necessary for the study of any turnpike project or projects and to use its engineering and other forces, including consulting engineers and traffic engineers, for the purpose of effecting such study and to pay for such additional engineering and traffic and other expert studies as it may deem expedient; and all such expenses incurred by the state road commission prior to the issuance of turnpike revenue bonds under the provisions of this act, shall be paid by the state road commission and charged to the appropriate turnpike project or projects, and the state road commission shall keep proper records and accounts showing each amount so charged. Upon the sale of turnpike revenue bonds for any turnpike project or projects, the funds so expended by the state road commission in connection with such project or projects shall be reimbursed to the state road commission from the proceeds of such bonds.

Sec. 18. Turnpike Revenue Refunding Bonds.—The commission is hereby authorized to provide by resolution
for the issuance of turnpike revenue refunding bonds of
the state for the purpose of refunding any bonds then
outstanding which shall have been issued under the pro-
visions of this act, including the payment of any redemp-
tion premium thereon and any interest accrued or to
accrue to the date of redemption of such bonds, and, if
deemed advisable by the commission, for the additional
purpose of constructing improvements, extensions or
enlargements of the turnpike project or projects in con-
nection with which the bonds to be refunded shall have
been issued. The commission is further authorized to
provide by resolution for the issuance of turnpike reve-
 nue bonds of the state for the combined purpose of (a)
refunding any bonds then outstanding which shall have
been issued under the provisions of this act, including
the payment of any redemption premium thereon and
any interest accrued or to accrue to the date of redemp-
tion of such bonds, and (b) paying all or any part of the
cost of any additional turnpike project or projects. The
issuance of such bonds, the maturities and other details
thereof, the rights of the holders thereof, and the rights,
duties and obligations of the commission in respect of
the same, shall be governed by the provisions of this act
in so far as the same may be applicable.

Sec. 19. Additional Method.—The foregoing sections
of this act shall be deemed to provide an additional and
alternative method for the doing of the things authorized
thereby, and shall be regarded as supplemental and addi-
tional to powers conferred by other laws, and shall not be
regarded as in derogation of any powers now existing:
Provided, however, That the issuance of turnpike revenue
bonds or turnpike revenue refunding bonds under the
provisions of this act need not comply with the require-
ments of any other law applicable to the issuance of
bonds.

Sec. 20. Act Liberally Construed; Constitutional Con-
struction; Inconsistent Acts Repealed.—This act, being
necessary for the welfare of the state and its inhabitants,
shall be liberally construed to effect the purposes thereof.
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.

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CHAPTER 140

(Senate Bill No. 309—By Mr. Bean and Mr. Hannig)

AN ACT to amend chapter seventeen of the code of West Vir­
ginia, 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 de­
partment 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.
13. Hearings and proceedings before commissioner.
14. Legal service rendered commissioner.
15. Revenue collected paid to state treasurer.
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
Sec. 4. Qualifications.—The commissioner at the time of his appointment and qualification shall be a citizen of the United States and a resident of the state of West Virginia, shall have been a qualified voter in the state for a period of at least one year next preceding his appointment, and shall be not less than thirty years of age. No commissioner during his period of service as such shall hold any other office under the laws of this state or of the United States.

Sec. 5. Filling Vacancies.—All vacancies in the office of the commissioner that occur while the Legislature is not in session shall be filled by appointment by the governor, which appointment shall expire at the end of thirty days after the date on which the Legislature next convenes. Prior to the expiration of the thirty days the governor shall transmit to the Senate for its approval an appointment for the unexpired portion of the regular term. Vacancies occurring during a session of the Legislature shall be filled as regular appointments before the end of the session and for the unexpired portion of the regular term.

Sec. 6. Oath and Bond.—The commissioner before entering upon the duties of his office shall take and subscribe to the oath prescribed by the constitution. He shall also execute a bond in the penalty of twenty-five thousand dollars, conditioned according to law, and approved by the governor. The cost of such bond shall be borne by the department as a part of the operating cost of the department. The bond and the oath shall be filed with the secretary of state.

Sec. 7. Offices.—The offices of the commissioner and the department shall be located in the state capitol building. The commissioner shall keep his offices open at all reasonable times for the transaction of public business.

Sec. 8. Salary and Expenses.—The commissioner shall receive a salary of five thousand dollars and the necessary traveling expenses incident to the performance of his
Sec. 9. Organization of Department; Assistants and Employees.—The commissioner shall organize the department in such manner as he may deem necessary to properly segregate and conduct the work of the department. The commissioner shall employ such assistants and employees as may be necessary for the efficient operation of his department, who shall possess all of the qualifications which may from time to time be prescribed for such positions by the commissioner. The duties and salaries of such assistants and employees shall be fixed by the commissioner, who shall have authority to remove the same at his will and pleasure.

The commissioner shall require every employee who collects fees or handles funds or who has custody of equipment and supplies belonging to the state to take the constitutional oath and give an official bond, with corporate surety, properly conditioned and in a sum to be fixed by the commissioner, which bond shall be approved by him and filed in the office of the secretary of state. The cost of such bond shall be borne by the department as a part of the operating cost of the department. The commissioner shall fix their compensation, but the total compensation paid to assistants and employees shall not exceed in any one year the appropriation made by the Legislature for that purpose.

Sec. 10. Administration of Vehicle Laws; Issuance of Licenses, Etc.—The commissioner shall have charge of the administration of the vehicle laws of this state, including the collection of all license fees and charges, forfeitures, costs and all other fees and charges arising therefrom or incident thereto. He shall issue all licenses, permits, registration certificates, receipts and other official documents provided for by this article; shall issue all necessary notices, and keep all books; shall devise a system of accounting which shall show accurately and con-
ciscely the amounts of all moneys received and paid out
by him, the sources from which received, and the pur-
poses for which disbursed.

Sec. 11. Reciprocal Agreements with Other States.—
The motor vehicle commissioner in cooperation with the
state road commissioner, the public service commission
and the department of public safety may enter into such
reciprocal agreements as he may deem proper or expedi-
et with the proper authorities of other states, regulating
the use, on the roads and highways of this state, of trucks,
automobiles and any other vehicles owned in such other
states and duly licensed under the laws thereof. The
commissioner may confer and advise with the proper
officers and legislative bodies of this and other states and
federal districts of the United States, to promote recip-
rocal agreements under which the registration of vehicles
owned in this state, and the licenses of operators and
chauffeurs residing in this state shall be recognized by
other states and federal districts.

Sec. 12. Delegation of Powers and Duties.—All pow-
ers and duties vested in the commissioner, except the
power to sign contracts, may be exercised by the ap-
pointees or employees of the commissioner, under his
direction; but the commissioner shall be responsible for
their acts.

Sec. 13. Hearings and Proceedings before Commis-
sioner.—In all hearings and proceedings before the com-
missioner, the evidence of witnesses and the production
of documentary evidence may be required at any design-
nated place of hearing and summons may be issued by
him. In case of disobedience to a summons or other pro-
cess so issued, the commissioner or any party to the pro-
ceedings before the commissioner may invoke the aid
of any circuit court in requiring the evidence and testi-
mony of witnesses and the production of papers, books
and documents. Upon proper showing, such court shall
issue an order requiring such persons to appear before
the commissioner and produce all books and papers and
give evidence touching the matter in question. Any person failing to obey such order may be punished by such court as for contempt. A claim that any such testimony or evidence may tend to incriminate the person giving the same shall not excuse such witness from testifying, but such witness shall not be prosecuted for any offense concerning which he is compelled hereunder to testify.

Sec. 14. Legal Service Rendered Commissioner.—It shall be the duty of the attorney general of this state and of his assistants and of the prosecuting attorneys of the several counties, to render to the commissioner, without additional compensation, such legal services as he shall require of them in the discharge of his duties under the provisions of this article.

Sec. 15. Revenue Collected Paid to State Treasurer.—Taxes and fees imposed and collected under the provisions of this article shall be paid to the state treasurer in the manner provided by law, and credited to the state road fund.

Sec. 16. Administrative Expense.—The expenses of the administration of the motor vehicle department shall be appropriated for that purpose from the state road fund.

Sec. 17. Separability; Repeal.—The provisions of this act shall be construed as separable and severable and should any provision or part hereof be held unconstitutional or for any reason invalid, the remaining provisions or parts shall not be thereby affected. All acts or parts of acts in conflict herewith are hereby repealed.

CHAPTER 141
(House Bill No. 160—By Mr. Hansbarger and Mr. Ballard)

AN ACT to amend and reenact sections fourteen and seventeen, article four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, 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
17. Maintenance of work.
17-a. Relocation or reconstruction of existing grade separation struc-
tures.

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 pre-
paring 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 in-
volved 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 construc-
tion of a grade separation under this article, where the
highway is carried over the railroad the state shall main-
tain 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
the highway and the drainage thereof, and the railroad
company shall maintain its road bed and the tracks and
the structures supporting the same: Provided, however,
That the state, at its sole expense, shall bear the cost of
repairing or replacing any part of such supporting struc-
ture which may be damaged or destroyed by highway
traffic; and the railroad company, at its own sole expense,
shall bear the cost of repairing or replacing any part of
such supporting structure which may be damaged or
destroyed by railroad traffic: Provided further, That the
provisions of this section shall not be applicable to grade
separations constructed prior to the effective date of
this act.

Sec. 17-a. Relocation or Reconstruction of Existing
Grade Separation Structures.—The state road commis-
ssioner shall have the same authority and follow the same
procedure and the cost and maintenance provision shall
be the same, in the relocation and reconstruction of exist-
ing grade separation structures, where the tracks of any
railroad and any state road cross, as is provided in sec-
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 thou-
sand nine hundred thirty-one, as last amended and re-
enacted by chapter fifty-nine, acts of the Legislature, reg-
ular 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
approaching within fifty feet and in traversing an intersection of highways where the driver's view in either direction along any intersecting highway within a distance of two hundred feet is obstructed, except that when traveling upon a through street or at traffic-controlled intersections the district speed shall apply.

(3) Twenty-five miles per hour; (a) On suburban streets; or, (b) At any railway grade crossing where the view is not obstructed; or (c) In public parks within cities, unless a different speed is indicated by local authorities and duly posted.

(4) Fifty miles per hour; On open country highway, except as otherwise limited by this law.

(c) In every charge of violation of this section the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the speed indicated in this section for the district or location and in the event charge shall also be made of violation of any other provision of this act, the complaint and the summons or notice to appear shall also specify such other offense alleged to have been committed.

(d) Local authorities in their respective jurisdictions are hereby authorized in their discretion to indicate by order or ordinance higher speeds than those indicated in subdivision (b) of this section upon through highways or upon open highways or portions thereof where there are no intersections or between widely spaced intersections if signs are erected giving notice of the indicated speed, but local authorities shall not have authority to modify or alter the basic rule set forth in subdivision (a) of this section, or in any event to indicate by order or ordinance a speed in excess of fifty miles per hour.

(e) It shall be unlawful for any person unnecessarily to drive at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or because upon a grade or when the vehicle is a truck or truck and
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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:

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87 (g) It shall be unlawful to drive any vehicle upon
88 any public bridge, causeway or viaduct at a speed which
89 is greater than the maximum speed which can with
90 safety to such structure be maintained thereon, when
91 such structure is signposted as provided in this section.
92 The state road commission upon request from any
93 local authorities shall, or upon its own initiative may,
94 conduct an investigation of any public bridge, causeway
95 or viaduct, and if it shall thereupon find that such struc-
96 ture cannot with safety to itself withstand vehicles trav-
97 eling at the speed otherwise permissible under this act,
98 the commission shall determine and declare the max-
99 imum speed of vehicles which such structure can with-
stand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained at a distance of one hundred feet before each end of such structure. The findings and determination of the commission shall be conclusive evidence of the maximum speed which can with safety to any structure be maintained thereon.

(h) The speed limits set forth in this act shall not apply to authorized emergency vehicles when operated in emergencies and the drivers thereof sound audible signals by bell, siren or exhaust whistle. This provision shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the street, nor shall it protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.

(i) Any person who drives any vehicle upon a highway carelessly and heedlessly in wilful or wanton disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, shall be guilty of reckless driving.

(j) Any person violating the provisions of subdivision (a) of this section shall be guilty of a misdemeanor, and upon conviction shall for a first conviction thereof be punished by a fine of not more than one hundred dollars or by imprisonment in the county or municipal jail for not more than ten days; for a second such conviction within one year thereafter such person shall be punished by a fine of not more than two hundred dollars or by imprisonment in the county or municipal jail for not more than twenty days or by both such fine and imprisonment; upon a third or subsequent conviction within one year after the first conviction such person shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county or municipal jail for not more than six months or by both such fine and imprisonment.

Every person who drives a vehicle upon a highway 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:

Proposed Amendment

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.

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
general election to be held in the year one thousand nine
hundred forty-eight, the board of ballot commissioners of
each county is hereby required (to prepare separate bal­
lots from that of the official ballot to be voted at said
election, and print thereon the following):

☐ For ratification fifty million dollar bond issue
for roads amendment.

☐ Against ratification fifty million dollar bond issue
for roads amendment.

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

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

“We, the undersigned, who acted as commissioners (or
canvassers, as the case may be) of the election held at
Precinct No. . . . . . . . . . , in the district of . . . . . . . . . , in the county
of . . . . . . . . . , on the . . . day of . . . . . . . . , one thousand nine
hundred forty-eight, upon the question of the ratification
or rejection of the proposed constitutional amendment, do
hereby certify that the result of said election is as follows:

“For ratification of ‘Fifty Million Dollar Bond Issue for
Roads Amendment’ . . . . . . . . . . . . . . . . . . votes.

“Against ratification of ‘Fifty Million Dollar Bond Issue
for Roads Amendment' votes.

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

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

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

"We, the board of canvassers of the county of , having carefully and impartially examined the returns of the election held in said county, in each district thereof, on the day of November, one thousand nine hundred forty-eight, do certify that the results of the election in said county, on the question of the ratification or rejection of the proposed amendment is as follows:

"For ratification of ‘Fifty Million Dollar Bond Issue for Roads Amendment’ votes.

"Against ratification of ‘Fifty Million Dollar Bond Issue for Roads Amendment’ votes.

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

One of the certificates shall be filed in the office of the
Sec. 5. Proclamation of Result of Election by Governor.

On the twenty-fifth day after the election is held, or as soon thereafter as practicable, the said certificates shall be laid before the governor, whose duty it shall be to ascertain therefrom the result of said election in the state, and declare the same by proclamation published in one or more newspapers printed at the seat of government. If a majority of the votes cast at said election upon said question be for ratification of said amendment, the proposed amendment so ratified shall be in force and effect from and after the time of such ratification, as part of the constitution of the state.

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

CHAPTER 144
(Senate Bill No. 73—By Mr. Bean and Mr. Reed)

AN ACT to repeal section nineteen-b, article eight, chapter seventeen 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.

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.

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-after expressly provided, the provisions of this chapter shall not apply to any of the following classes of securities:

(a) Any security issued or guaranteed by the United States or any territory or insular possession thereof, or by the District of Columbia, or by any state or political subdivision or agency thereof;

(b) Any security issued by a national bank or by any federal land bank or by a corporation created or acting as an instrumentality of the government of the United States pursuant to authority granted by the congress of the United States, or any security issued by provisions of the federal laws: Provided, That such corporation is subject to supervision or regulation by the government of the United States;

(c) Any security issued or guaranteed either as to principal, interest or dividend by a corporation owning or operating a railroad engaged in interstate commerce and under supervision of the Interstate Commerce Commission; any security issued or guaranteed either as to principal, interest or dividend by a corporation owning or operating any public service utility other than a railroad, provided the issuance of such security is supervised or regulated by a public commission, board or officer of the government of the United States or of any state, territory or insular possession of the United States or of the District of Columbia or of the Dominion of Canada or any province thereof; and any equipment security based on chattel mortgages, leases or agreements for conditional sale of cars, motive power or other rolling stock or equipment mortgaged, leased or sold to or furnished for the use of or upon a railroad or other public service utility corporation, or equipment securities where the ownership or title of such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state, or of the Dominion of Canada, to secure the payment of such equipment securities;

(d) Any security issued by a person organized and operated exclusively for educational, benevolent, frater-
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nal, charitable or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any person, private stockholder or individual;

(e) Any security which, at the time of the sale, is listed on the New York Stock Exchange, the New York Curb Exchange or the Chicago Stock Exchange, pursuant to authorization by any such exchange, and additional amounts of any such securities when regularly approved for listing upon the issuance thereof, and securities senior to the securities so listed: Provided, That the commissi-

50 sioner shall have power and authority at any time to withdraw such exemption for any security or group of securities so listed, pending an investigation and hearing on securities included in such order. A date for hearing shall be set by the commissioner not more than twenty days after such withdrawal order. The commissioner, by ruling, may grant this same exemption to securities listed on any other exchange following an application from such exchange and after an investigation and examination has been made by him. The expense of all hearings, investiga-

62 tions and examinations shall be paid by the exchange mak-

63 ing 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, incorporated under the laws of and subject to the exami-

67 nation, supervision and control of any state or territory of the United States or any insular possession thereof;

69 (g) Any insurance or endowment policy or annuity contract or optional annuity contract, issued by a person licensed and supervised by the insurance commission-

72 of this state;

73 (h) Any security other than common stock outstanding and in the hands of the public for a period of not less than three years upon which no default in payment of principal, interest or dividend exists and upon which no such default has occurred for a continuous immediately preceding period of three years: Provided, That the issuer of such securities has continued such payments of principal, interest or dividends as provided at the time of
original issue: *Provided further*, That no plan or proposal of recapitalization, reorganization, rearrangement of capitalization, or other form of readjustment of issuer's finances, has been made or a petition of voluntary or involuntary bankruptcy has been filed in any court by or for such issuer within the preceding period of three years; (i) Any securities bought or sold upon customers' orders: *Provided*, That such securities are bought or sold on an exchange which, at the time of such transaction, is registered as a national exchange by the securities and exchange commission: *Provided further*, That no solicitation is made of the orders so executed. (j) Any note, draft, bill of exchange or bankers acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for a current transaction, is not the subject of a public offering, has at the time of issuance a definite maturity (after all days of grace, if any) of not exceeding one year, is payable in cash only, and is not convertible into and does not carry an option or right to receive payment or any bonus in any other security.

Sec. 4. Transactions Not Included.—The provisions of this chapter shall not apply to any of the following transactions:
(a) Any judicial, sheriff's, constable's, executor's, administrator's, guardian's or conservator's sale or any sale by a receiver or trustee in insolvency or bankruptcy, or the sale by a pledgee, in good faith and in ordinary course of business and not for the purpose of evading any provision of this chapter, of a security pledged for a bona fide debt;
(b) An isolated transaction in which any security is sold, offered for sale, subscription or delivery by the owner thereof, such sale or offer for sale, subscription or delivery not being made in the course of repeated and successive transactions of a like character by such owner;
(c) A sale upon a customer's order of any security, if sale is made to a person outside this state: *Provided*, That
such sale in another state is not a violation of the securities laws of that state;

(d) The distribution by a corporation actively engaged in the business authorized by its charter, of capital stock, bonds or other securities to its stockholders or its other security-holders as a stock dividend or other distribution out of earnings or surplus;

(e) The sale, transfer or delivery to any bank, savings institution, trust company, insurance company or to any broker or dealer: _Provided_, That such broker or dealer is actually engaged in buying and selling securities as a business;

(f) Bonds or notes or other obligations secured by mortgage, deed of trust, or other lien upon property, where the entire lien together with all of the bonds or notes secured thereby is sold to a single purchaser at a single sale or where the lien is given or incurred to secure the payment of unpaid purchase money;

(g) The issue and delivery of any security in exchange for any other security of the same issuer pursuant to a right of conversion entitling the holder of the security surrendered in exchange to make such conversion: _Provided_, That the security so surrendered has been registered under the provisions of this chapter or was, when sold, exempt through the provisions of said chapter;

(h) The sale by a domestic corporation of its securities if the aggregate number of holders of all its securities, after the securities to be issued are sold, does not exceed fifteen, and no commission, profit or other compensation is or has been paid for the sale of any securities of such corporation, and the total organization and promotion expense in connection with the issue of all securities of such corporation, exclusive of statutory fees, does not exceed three per cent of the aggregate sale price of all such securities or two hundred fifty dollars, which ever is greater;

(i) The transfer or exchange by one corporation to another corporation of its own securities in connection with a consolidation or merger of such corporations:

(j) The solicitation or execution by a registered dealer
of orders for the purchase of any security, provided such dealer acts as agent for the purchaser, has no direct material interest in the sale or distribution of such security, receives no commission, profit or other compensation from any source other than the purchaser, and delivers to the purchaser written confirmation of the transaction which clearly itemizes his commission, profit or other compensation.

Sec. 9. Consent to Service of Process.—Upon any application for registration by qualification, under section six hereof, where the applicant is not domiciled in this state, there shall be filed with such application the irrevocable written consent of the applicant that suits and actions growing out of the violation of any provision or provisions of this chapter, may be commenced against such applicant in the proper court of any county in this state in which a cause of action may arise or in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state, on the commissioner of securities, and by the acceptance of such service of process by the commissioner for and on behalf of such applicant, such consent stipulating and agreeing that such service of such process or pleading on such commissioner, or such acceptance by the commissioner, shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant itself and said written consent shall be authenticated by the seal of said applicant, if it has a seal, and by the acknowledged signature of a member of the copartnership or company, or by the acknowledged signature of any officer of the incorporated or unincorporated association, duly authorized by the resolution of the board of directors, trustees or managers of the corporation or association, and shall in such case be accompanied by a duly certified copy of the resolution of the board of directors, trustees or managers of the corporation or association, authorizing the officers to execute the same, but no such process shall be served on the commissioner or accepted by him less than ten days before the return day thereof. In case any process or pleadings mentioned in this chapter are served
upon the commissioner, or accepted by him, it shall be
by duplicate copies, one of which shall be filed in the
office of the commissioner and another immediately for-
warded by registered mail to the principal office of the
applicant against which such process or pleadings are
directed: Provided, however, That the commissioner, in
cases where, in his opinion, the facts warrant it, may
require the issuer thereof to file the written consent of
such issuer to service of process as aforesaid upon it in
like manner as hereinbefore provided in respect of an
applicant for registration.

All acts or parts of acts in conflict or inconsistent here-
with are hereby repealed.

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 add-
ing 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 pub-
lic 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.]


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 add-
ing 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.

CHAPTE 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.
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
be forwarded to the institution to which the patient is
being transferred.

Sec. 3. Maintenance of Patients' Reimbursement.—The
cost of the maintenance of patients admitted to state
tuberculosis institutions shall be paid out of funds ap-
propriated for the respective institutions, but the institu-
tion, through the department of health, shall have a right
of reimbursement from each patient or from the commit-
tee or guardian of the estate of the patient, or if that be
insufficient, then from the patient's husband, wife, children,
father and mother, or any of them, for all or any part
of such maintenance, in no case to exceed one dollar
per day. In exercising this right of reimbursement, the
department of health may, whenever it is deemed just and
expedient to do so, exonerate any person chargeable with
such maintenance and from the payment thereof in whole
or in part, if it finds that he is unable to pay or the pay-
ment would work an undue hardship on him or on those
dependent upon him.

There shall be no discrimination on the part of the in-
stitution as to food, care, protection, treatment or rehabil-
itation, between patients who pay for their maintenance
and those who are unable to do so.

It shall be the responsibility of the department of health
to determine the ability of the patient or of his relatives
to pay for his maintenance.

All claims due the institution under the provisions of
this section may be collected as provided in chapter
eleven of this code.

Sec. 4. Report of Tuberculosis Cases.—It shall be mand-
datory for every physician practicing in this state, for
every public health officer in the state, and for every chief
medical officer having charge of any hospital or clinic or
other similar public or private institution in the state, to
report in writing to the department of health the name,
age, sex, race, home address and type of disease, of every
person having tuberculosis who comes under his observ-
ervation or care. Such report shall be made within forty-
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
others. He shall report immediately to the department of health each such discharge.

Every person committed under the provisions of this section shall observe all the rules and regulations of the institution. Any patient so committed may, by direction of the chief medical officer of the institution, be placed apart from the others and restrained from leaving the institution so long as he continues to be afflicted with tuberculosis and remains a health menace to other people.

Nothing in this section shall be construed to prohibit any person committed to any institution under the provisions thereof from applying to the supreme court of appeals for a review of the evidence on which such commitment was made. Nothing in this section shall be construed or operate to empower or authorize the board of control, the department of health, or chief medical officer of the institution, or their representatives, to restrict in any manner the individual's right to select any method of tuberculosis treatment offered by the institution.

Sec. 6. Employees Who Contract Tuberculosis.—Any employee of a state tuberculosis institution who can prove to the satisfaction of the board of control that he has contracted tuberculosis in the course of and resulting from his employment in one of the institutions, shall be eligible for free treatment in a state-supported institution for the treatment of the disease. He shall also receive, from the funds appropriated to the institution in which he was employed, seventy-five per cent of his monthly salary, but in no event more than one hundred dollars per month, for a period not to exceed thirty months.

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.]


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-
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.

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 thousand 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 imbecile, 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.
In the event there is no full time health officer in the county or if there be one and the county health department is not adequately equipped or staffed to give the mental or physical examinations required in cases, in the opinion of the juvenile court, needing specialized diagnostic services, the juvenile court may order the child to receive such physical or mental examinations from a duly qualified physician designated by the juvenile court, and it shall be the duty of the county court and the county court shall pay for such examinations and services upon receipt of an itemized statement along with the written order and approval of the juvenile court. Such examination shall be made in private. The physician making such examination shall make out a statement respecting the particulars named in the form prescribed by the state health department and the West Virginia board of control, which certificate of the physician shall accompany the commitment. If it shall appear from such examination or otherwise that the boy is of unsound mind, or is imbecile, or idiotic, or epileptic, or is afflicted with tuberculosis, epilepsy, syphilis, gonorrhea or has any infectious disease, he shall not be committed to the said industrial school, except as hereinafter provided; and the superintendent of the industrial school shall not receive any boy into such school unless the commitment is accompanied by a certificate of health, signed by such physician, showing that he is not of unsound mind and is not an imbecile, or idiot, nor afflicted with tuberculosis, epilepsy, syphilis, gonorrhea, or any other infectious disease. If, upon such examination, it shall appear that the boy is suffering with tuberculosis, or a venereal disease, in any stage, the judge committing such boy shall make an order committing him to the industrial school, and shall make an additional order directing that he first be transferred to one of the state hospitals for tuberculosis, in case he is found to have tuberculosis, and in case he is found to be infected with any venereal disease, then to the Fairmont emergency hospital or the Welch emergency hospital for observation, treatment and detention, pending such treatment until cured of such ven-
real disease or rendered completely non-infectious there-
from, after which time he shall be transferred to the
industrial school at Pruntytown and be kept as provided
by law: *Provided, however,* That any such boy who is
feeble-minded shall be sent to the West Virginia train-
ing school, or if there is no room in the training school,
then to one of the state hospitals for the insane, and not
to Fairmont emergency hospital or Welch emergency
hospital. It shall be the duty of the superintendents of
the hospitals at Fairmont or Welch to receive into said
hospitals all boys who may be committed thereto as pro-
vided herein, and to detain, care for, and treat such boys
until cured or rendered completely non-infectious, and
as soon thereafter as convenient arrange to transfer them
to the industrial school at Pruntytown, except as herein
provided.

The said board of control shall provide such suitable
buildings or equipment at the said hospitals as may be
necessary to carry out the provisions of this section in-
cluding the expenses of transferring the boys to the
industrial school for boys and their care and treatment
at said hospitals.

It shall be the duty of the clerk of the committing court,
upon the commitment of a boy who is infected with a
venereal disease to the said hospitals, as provided herein,
to notify the director of the bureau of venereal diseases
of West Virginia of the fact, giving the name, age and
address of the boy, and the disease from which he is suf-
ferring; and it shall be the duty of the superintendent of
the hospital receiving such boy to notify the director
when any boy is received and when he is transferred to
the industrial school as provided herein.

In the case of boys found to be afflicted with venereal
disease but who have been rendered non-infectious, but
who have not by treatment as herein provided been com-
pletely cured, the further treatment of such boys shall
be continued by a competent doctor at the industrial
school for boys, following the directions given by the
superintendent of the Fairmont emergency hospital or
the Welch emergency hospital; and the decision of the
superintendent of Fairmont emergency hospital or Welch emergency hospital that any boy is non-infectious and admissible to the industrial school for boys may be questioned only by appeal to the commissioner of health of the state of West Virginia, who, in such a case, shall make due investigation and shall order such boy returned to the Fairmont emergency hospital or Welch emergency hospital for further treatment or order that such boy have his treatment continued at the industrial school for boys; and in all such cases where treatment is given or continued at the industrial school for boys, careful records shall be kept for each boy under treatment showing 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.—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.—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
2 provisions.—All of the provisions of sections one, two,
3 three, four, five, six, seven, eight, nine, ten, eleven, twelve,
4 thirteen, fourteen, fifteen, sixteen, seventeen, eighteen,
5 nineteen, twenty, twenty-one and twenty-two of article
6 three of this chapter and any amendment or amendments
7 thereto, or reenactment thereof, shall apply to the West
8 Virginia industrial home for colored girls, to commit-
9 ments thereto, and the inmates thereof, to the same ex-
10 tent and with the same effect as if such sections expressly
11 related to colored girls and were set out in this article,
12 except where commitment to the West Virginia train-
13 ing school or to one of the state hospitals for the insane
14 is provided for a girl found to be feeble-minded, the Lakin
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 prison for women, a penal institution exclusively for female prisoners, is hereby established at Pence Springs, Summers county, West Virginia, as a state penitentiary. As soon as practicable after the passage of this act, all female prisoners then incarcerated at the West Virginia penitentiary at Moundsville, West Virginia, shall be re-
moved therefrom to the West Virginia state prison for women.

Sec. 2. Management and Control.—The West Virginia state prison for women shall be managed, directed and controlled as provided in chapter twenty-five of this code.

Sec. 3. Superintendent; Bond; Duties; Residence.—The superintendent shall be the chief executive officer of the West Virginia state prison for women. She 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. Her duties shall be fixed by the board of control, and shall conform, as nearly as possible, to the duties heretofore assigned to the warden of the West Virginia penitentiary at Moundsville. The superintendent shall reside in or near the West Virginia state prison for women.

Sec. 4. Laws Applicable; Exception.—The laws governing the West Virginia penitentiary at Moundsville shall, where applicable, apply to the West Virginia state prison for women, except that criminal proceedings against inmates in the West Virginia state prison for women shall be in the proper court of the county of Summers.

CHAPTER 151

(House Bill No. 379—By Mr. Flaccum)

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.]

Section

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 Exempt from Payment of Forfeiture for Failure to Return Property for Taxation.—No forfeiture imposed by the provisions of the preceding section for failure to make a return of property for taxation for any year and during which the veteran hereinafter mentioned was in active service, from the year one thousand nine hundred forty-one to one thousand nine hundred forty-six, inclusive, shall be collected from the estate of any deceased veteran who died during any such year while he was in active service or within one year after his discharge 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.]


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 dollars in amount of tax computed under the provisions of this article. A person exercising a privilege taxable hereunder for a fractional part of a tax year shall be entitled to an exemption of the sum bearing the proportions to fifty dollars that the period of time the privilege is exercised bears to a whole year. Only one exemption shall be allowed to any one person, whether he exercises one or more privileges taxable hereunder.

The provisions of this article shall not apply to: (a) Insurance companies which pay the state of West Virginia a tax upon premiums: Provided, however, That said exemption shall not extend to that part of the gross income of insurance companies which is received for the use of real property, other than property in which any such company maintains its office or offices, in this state, whether such income be in the form of rentals or royalties; (b) persons engaged in the business of banking: Provided, however, That said exemption shall not extend to that part of the gross income of such persons which is received for the use of real property owned,
other than the banking house or building in which the business of the bank is transacted, whether such income be in the form of rentals or royalties; (c) non-profit cemetery companies organized and operated for the exclusive benefit of their members; (d) societies, organizations and associations organized and operated for the exclusive benefit of their members and not for profit; (e) corporations, associations and societies organized and operated exclusively for religious or charitable purposes: Provided, however, That the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of article four, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; (f) building and loan associations and federal savings and loan associations; (g) persons engaged in conducting the business of industrial loans under authority granted them by article seven, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one: Provided, however, That said exemption shall not extend to that part of the gross income of such persons which is received from the use of real property owned, other than the business house or building in which the business of the industrial loan company is transacted, whether such income be in the form of rentals or royalties.

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.)

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 Tax; Notice of Discontinuance, etc., of Business.—There is hereby imposed upon every person who is a distributor, retail dealer or importer under the terms of this article, an excise tax based on the quantities of all gasoline produced, purchased, sold or used in this state, which tax shall until July first, one thousand nine hundred forty-nine, be equivalent to five cents per gallon thereof, and shall be paid as hereinafter provided. On and after July first, one thousand nine hundred forty-nine, the tax herein provided shall be equivalent to four cents per gallon.

A distributor, importer, or retail dealer shall use as the measure of the tax the gallonage produced, purchased, sold or used in this state (as provided in section four of this article). Gallonage shall be included in the measure of the tax by refiners and producers when such gallonage has been placed into any tank from which withdrawals are made for sales or transfers to any other person.

The excise tax imposed by this article shall be paid by the person first producing, or receiving in this state, the gallonage of gasoline which under this article shall form the measure of such tax; but in no case shall any such gallonage be used more than once in determining taxes due hereunder.

The taxes imposed by this article are in addition to all other taxes now imposed by law.

The excise tax imposed by this article shall accrue
from the date of production, purchase, sale or use of the gasoline. The penalties imposed by section thirteen of this article shall accrue from the date they become due and payable. A tax due and unpaid under this article shall be a debt due the state of West Virginia. It shall be a personal obligation of the taxpayer and shall be a lien in favor of the state of West Virginia upon all property and rights to property, whether real or personal, belonging to such taxpayer. The lien shall arise when a taxpayer fails to file his return and remit the tax at the time required by this article. Such lien shall not be valid or enforceable against a purchaser (including lien creditor) of real estate or personal property for a valuable consideration, without notice unless docketed in the office of the clerk of the county court as provided in sections one and two, article ten-c, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as last amended and reenacted by chapter ninety-nine, acts of the Legislature, regular session, one thousand nine hundred forty-three.

Whenever a distributor, importer or retail dealer ceases to engage in business within this state by reason of the discontinuance, sale or transfer of the business of such distributor, importer or retail dealer, it shall be his duty to notify the tax commissioner in writing at the time of the discontinuance, sale or transfer takes effect. Such notice shall give the date of discontinuance and in the event of a sale or transfer of the business, the date thereof and the name and address of the purchaser or transferee thereof; all taxes accruing under this article, but not yet due and payable under the provisions of this article shall, notwithstanding such provisions, become due and payable concurrently with such discontinuance, sale or transfer, and it shall be the duty of such distributor, importer or retail dealer to make a report and pay all such taxes, and to surrender to the tax commissioner the license certificate theretofore issued, under the provisions of this article.

Unless the notice shall have been given to the tax commissioner 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-
section six and section nineteen thereof, relating to tax on
nonintoxicating beer.

[Passed March 7, 1947; in effect July 1, 1947. Approved by the Governor.]


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-
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.

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.—As used in this article:
2 “Person” includes firms and corporations;
3 “Wholesale dealer” includes only those persons who sell cigarettes to licensed retail dealers for the purpose of resale only;
4 “Retail dealer” includes every person other than a wholesale dealer engaged in the business of selling cigarettes in this state, irrespective of quantity or amount or number of sales thereof;
5 “Sale” includes exchange, barter, gift, offer for sale and distribution, and excludes transactions in interstate or foreign commerce;
6 “Cigarette” includes any roll for smoking made wholly or in any part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other material excepting tobacco;
"Package" means the individual package, box or other container in or from which retail sales of cigarettes are normally made or intended to be made; "Stamp" shall mean any cigarette stamps required under this article, or any meter or ink impression authorized by the tax commissioner to serve as such stamp; "Commissioner" means the state tax commissioner and where the meaning of the context requires, all deputies, and employees duly authorized by him.

Sec. 2. Purpose of Tax; Ratio.—For the purpose of providing revenues for the general revenue fund of the state an excise tax is hereby levied and imposed on sales of cigarettes on and after midnight of the thirtieth day of June, one thousand nine hundred forty-seven, at the rate of one-half cent on each ten cigarettes or fractional part thereof. Only one sale of the same article shall be used in computing the amount of tax due hereunder.

Sec. 3. Money Received Paid into General Revenue Fund.—All moneys received by the state tax commissioner from the excise tax on sales of cigarettes under this article, less deductions therefrom allowed for the cost of administration and operation, and refunds provided in section ten hereunder, shall be paid into the general revenue fund of the state and expended therefrom in satisfaction of appropriations.

Sec. 4. How Tax Paid; Stamps; How Affixed and Cancelled; Violations.—The tax hereby imposed shall be paid by the purchase of stamps as provided in this article. No stamp shall be of a denomination of less than one-half cent. A stamp or stamps shall be affixed to or printed on each package of an aggregate denomination not less than the amount of the tax upon the contents thereof. The stamp or stamps, so affixed, shall be prima facie evidence of payment of the tax imposed by this article. Except as may be otherwise provided in the rules and regulations prescribed by the commissioner under authority of this article, and unless such stamps have been previously affixed, they shall be so affixed by
Each wholesale dealer in this state, and cancelled, by writing across the face thereof the name of such wholesale dealer and the date of cancellation, prior to the delivery of any cigarettes to any retail dealer in this state.

Each retail dealer in this state shall immediately upon the receipt of any cigarettes at his place of business, so affix such stamps to each package, unless such stamps shall have been previously affixed thereto, and shall cancel the same by writing or stamping his name and the date of cancellation across the face thereof, or shall immediately mark in ink on each unopened box, carton, or other container of such cigarettes the word "Received" and the month, day and hour of such receipt and shall affix his signature thereto. He shall in any event open such box, carton or other container and immediately so affix such stamps to each package therein, and cancel the same in the manner herein designated, within twenty-four hours after such receipt and prior to the sale of such cigarettes.

Whenever any cigarettes are found in the place of business of such retail dealer without the stamps so affixed and cancelled or not so marked as having been received within the preceding twenty-four hours, the prima facie presumption shall arise that such cigarettes are kept therein in violation of the provisions of this article.

Sec. 5. Dealer's Records.—From and after the first day of July, one thousand nine hundred forty-seven, and at the time of delivering cigarettes to any person each wholesale dealer in this state shall make a true duplicate invoice showing the date of delivery, the amount and value of each shipment of cigarettes delivered and the name of the purchaser to whom delivery is made, and retain the same for a period of two years, subject to the use and inspection of the tax commissioner.

Each wholesale and retail dealer in this state shall procure and retain invoices showing the amount and value of each shipment of cigarettes received by him after the first day of July, one thousand nine hundred forty-seven, the date thereof and the name of the shipper and
shall retain the same for a period of two years subject to
the use and inspection of the commissioner.
In each case in which cigarettes are shipped into the
state of West Virginia by public carrier, the railroad com-
pany, express company or other public carrier transport-
ing any shipment thereof shall file with the commissioner
a copy of the freight bill within ten days after the de-
ivery in this state of each shipment when requested so
to do by the tax commissioner.

Sec. 6. Tobacco License Requirements.—No person
shall engage in the business of trafficking in cigarettes
within this state without having first secured the license
provided in section six, article twelve, chapter eleven
of this code or having taken an assignment of such license
in the manner permitted by law. Companies operating
club and dining cars or other cars upon which cigarettes
are sold shall comply with the requirements of this article
with respect to the imposition of cigarette tax and affix-
ing stamps to packages in which the same are sold in the
state of West Virginia.

Sec. 7. List of Licensees.—The county clerk of each
county shall prepare and certify to the tax commissioner
a list of the names of all persons to whom he has issued
tobacco licenses under section six, article twelve, chap-
ter eleven of this code, quarterly or oftener as required
by the tax commissioner, together with the business or
residential address of such licensee as furnished to him.
The tax commissioner is authorized to allow and pay to
each county clerk such reasonable expense as the com-
missioner may allow for preparing such list and charge
the same as a part of the costs of the administration of
this article, and payments so made to the clerk are to be
paid by him into the general fund of his county. The tax
commissioner shall prepare and keep alphabetical indices
with respect to such licensees for use in connection with
the administration of this article.

Sec. 8. Wholesale and Retail Dealers; Separate Places
of Business.—No person in this state shall sell any cigar-
ettes both as a retail dealer and as a wholesale dealer at
the same place of business. No wholesale dealer shall
sell cigarettes to any person in this state other than to
a licensed retail dealer, and no person in this state other
than a licensed wholesale dealer shall sell cigarettes to
a licensed retail dealer.

Sec. 9. Power of Tax Commissioner; Rules and Regu-
lations; Records of Wholesalers and Retailers; Metering
in Lieu of Stamping; Agents for Metering; Levy to Col-
lect Tax. — The tax commissioner shall have power and
authority to enforce and administer the provisions of
this article and article eighteen of this chapter. The tax
commissioner shall have authority to promulgate in ac-
cordance with the provisions of this article such rules
and regulations as he may deem necessary to carry out
its provisions, and may adopt different detailed regula-
tions applicable to diverse methods and conditions of
sale of cigarettes in this state, prescribing, in each class
of cases, upon whom, as between the wholesale dealer
and the retail dealer, the primary duty of affixing stamps
shall rest and the manner in which stamps shall be af-
fixed. Each licensed dealer shall be furnished a copy of
such regulations upon request. Any such rule or regula-
tion so furnished, excusing a wholesale dealer from af-
fixing stamps under the circumstances of the particular
case, shall be a defense in the prosecution of such dealer
for violation of section sixteen of this article.

All books, papers, invoices and records of any whole-
sale or retail dealer in this state, whether or not required
under the provisions of this article to be kept by him,
showing his sales, receipts and purchases of cigarettes,
shall at all times, during the usual business hours of the
day, be open for the inspection of the tax commissioner
for such purposes; and the tax commissioner or a deputy
shall have power to investigate and examine the stock of
cigarettes in and upon any premises where the same are
placed, stored or sold, for the purpose of determining
whether or not the provisions of this act are being obeyed.

The tax commissioner, if he shall determine that it is
practicable to stamp packages of cigarettes by impression
by means of a metering device, shall provide that such me-
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metering device and its impression may be used in lieu of the stamps otherwise required by law. The tax commissioner shall authorize any wholesale or retail dealer to use any metering device approved by the tax commissioner, such device to be sealed by the tax commissioner or a deputy, or agent authorized by the commissioner, before being used, and which device shall be used only in accordance with the regulations prescribed by the tax commissioner.

Any wholesale or retail dealer authorized by the tax commissioner to affix stamps to packages of cigarettes by means of a metering device shall file with the tax commissioner a bond in such amount as the tax commissioner may designate, conditioned upon the payment of the tax upon the cigarettes so stamped.

Wholesale and retail dealers licensed to use said device shall make a monthly return to the tax commissioner and remit monthly the amounts of tax due the state: Provided, however, That a wholesale or retail dealer may elect to pay the tax in advance where a metering device is used, in which event such dealer shall deliver the metering device to the tax commissioner, or his agent authorized for the purpose, who shall seal the meter in accordance with the prepayment so made. The commissioner may designate and authorize any bank or trust company with banking offices in any county of this state, to act as his deputy or agent for the purpose of performing his duties with respect to sealing of metering devices in such county, and may require bond, and the action of any such deputy by its duly authorized officer or employees shall be as valid as though performed by the commissioner.

The tax commissioner shall have power to make an assessment against any retail or wholesale dealer who fails to return or makes a false or erroneous return. The tax commissioner may collect such assessment by levy, action at law, distraint or any other method of enforcing taxes which may be provided by law and shall have the right to file liens therefor in any county.

Sec. 10. Form of Stamps; Custody; Discounts; Security for Payments.—The tax commissioner shall design,
and procure stamps to be used as herein provided for, affixed and attached to containers, packages or receptacle of whatever kind that may be used for containing cigarettes. In the preparing of said stamp or stamps the same shall have printed or impressed thereon the words “State of West Virginia-Cigarette Tax Stamp” and such other words and figures as he may deem proper to show the value and denomination of the stamp or stamps. He shall also prescribe the form of impression to be placed upon any package or container of cigarettes by any metering device. The state tax commissioner shall collect the taxes provided for by this article.

Such stamps shall be kept in the custody of the state tax commissioner or such deputies as he may designate to sell the same. Such stamps shall be sold and accounted for at the face value thereof except that the tax commissioner may authorize sale thereof, or sell to wholesale or retail dealers in this state, or to wholesalers outside of this state such stamps at a discount of ten per cent of the face value of such stamps, the same to be allowed as a commission for affixing and canceling such stamps; and excepting further that the tax commissioner may, by like regulation so certified, authorize the delivery of stamps to wholesale or retail dealers in this state or to wholesale dealers outside of this state on credit, allowing the same discount as when sold for cash, if and when the purchaser shall file with the tax commissioner a bond not exceeding fifteen thousand dollars, payable to the state of West Virginia, in such form and amount as the tax commissioner shall prescribe, and with surety or sureties to the satisfaction of the tax commissioner, conditioned as he may require, to guarantee payment within thirty days for stamps so delivered within such period of time and by making of such reports and settlements as the tax commissioner may require. In the event a wholesale dealer in this state has aggregate purchases during thirty-day credit periods in excess of fifteen thousand dollars, such dealer may file with the tax commissioner a statement of excess credit requirement, together with a financial statement duly
verified by a certified public accountant or public ac-
countant. Should the tax commissioner determine that
the maximum bond together with such dealer's known
assets are sufficient to insure payment to the state for
stamps purchased, the tax commissioner shall authorize
the delivery of stamps to such dealer on credit. The tax
commissioner may, by further regulations, provide for
canceling, renewing or increasing such bond or for the
substitution of the surety thereon. The tax commissioner
shall redeem and pay for any unused or spoiled stamps
on written verified requests made by the purchaser, his
administrators, executors, successors or assigns. Such
payments shall for purposes hereof be deemed to be re-
funds of taxes improperly collected and shall be allowed
and paid as part of the costs of administration of this
article as in this article provided.

Sec. 11. Sales by Deputies; Fees; Reports of Deputies.—
The tax commissioner may appoint any sheriff, or any
bank or trust company authorized to do business in, and
doing business in this state, as his deputy for the purpose
of selling such stamps, excepting that no such deputy
shall be thereby authorized to sell the same at a dis-
count or on credit, and excepting, further, that provisions
hereof relating to sale of stamps shall not prevent any
bank or trust company from acting as the commission-
er's deputy for purposes of checking and sealing meters
under other provisions of this article. The tax commis-
sioner is hereby authorized to allow to any such deputy,
authorized to sell stamps hereunder, a fee of one-half of
one per cent of the face value of all stamps sold by
such deputy, and pay the same from the proceeds of sales
of stamps sold by such deputy and charge the same as a
part of the costs of administration of this article. It shall
be the duty of any such deputy to act as such deputy and
all the powers and duties thereby imposed upon any
such sheriff shall be deemed and considered to be within
the scope of his office as county treasurer for all purposes.
The state tax commissioner shall be responsible for the
delivery of stamps to any county sheriff or other deputy
so appointed, and may prescribe such regulations and forms of receipts and reports as he may deem necessary and advisable for the transaction of the business of selling such stamps. Each such deputy shall remit monthly or oftener as requested, to the tax commissioner all moneys arising from the sale of such stamps by him, together with a report showing the names of the purchasers and the number of each denomination and the aggregate face value sold by each such deputy. Commissions or allowances retained or paid to sheriffs shall be paid by such sheriffs into the general fund of his county. The tax commissioner may sell stamps at his office.

Sec. 12. Possession of Unstamped Cigarettes; Failure to Produce Invoices; Penalties.—Whoever, being a retail dealer in this state, has in his possession packages of cigarettes not bearing the stamps herein required to be affixed thereto after the first day of July, one thousand nine hundred forty-seven, unless such packages shall be in unbroken containers marked, pursuant to section four of this article, as received within the preceding twenty-four hours; or fails to produce, on demand by the commissioner, invoices of all cigarettes purchased or received by him within two years prior to such demand, or on hand or received and purchased after the first day of July, one thousand nine hundred forty-seven, as the case may be, unless upon satisfactory proof it is shown that such non-production is due to providential or other causes beyond his control, shall be fined not less than twenty-five dollars nor more than five hundred dollars.

Sec. 13. False Records; Penalties.—Whoever makes any false entry upon an invoice, package or container of cigarettes required to be made under the provisions of this article, or with intent to evade the tax imposed by this article, presents any such false entry for the inspection of the commissioner, shall be fined not less than twenty-five dollars nor more than five hundred dollars.

Sec. 14. Preventing Inspections; Penalties.—Whoever prevents or hinders the commissioner or his deputy from making a full inspection of any place where cigarettes
Sec. 15. Sales Without Affixing Stamps; Penalties.—Whoever sells cigarettes in this state without there having been first affixed to each individual package thereof the stamp or stamps required to be affixed thereto by this article shall be fined not more than five hundred dollars, or imprisoned in the county jail not more than ninety days, or both, in the discretion of the court.

Sec. 16. Altering or Counterfeiting Stamps; Penalties.—Whoever falsely or fraudulently makes, forges, alters, or counterfeits any stamp prescribed by the commissioner under the provisions of this article, or causes or procures to be falsely or fraudulently made, forged, altered or counterfeited any such stamps, or knowingly or wilfully utters, publishes, passes or tenders as true, any such false, altered, forged or counterfeited stamps, or uses more than once any stamp provided for and required by this article for the purpose of evading the tax hereby imposed shall be imprisoned in the penitentiary for a term of not less than one year nor more than five years.

Sec. 17. Penalties.—Whoever violates any of the provisions of this article or any lawful rule or regulation promulgated by the commissioner under authority of this article for the violation of which no penalty is provided by law, shall be fined not less than twenty-five dollars nor more than one hundred dollars.

Sec. 18. Seizure and Sale of Cigarettes by Commissioner; Forfeiture; Collection of Tax.—Whenever the commissioner or any of his deputies or employees authorized by him for such purpose shall discover any cigarettes, subject to tax as provided by this article and upon which the tax has not been paid as herein required, the commissioner, or such deputy or employee is hereby au-
thorized and empowered forthwith to seize and take pos-
session of such cigarettes, which shall thereupon be
deeded to be forfeited to the state and the commissioner
may within a reasonable time thereafter by a notice post-
ed upon the premises where such seizure was made, or
by publication in some newspaper having circulation in
the county wherein such seizure is made, at least five
days before the day of sale, sell such forfeited cigarettes,
and from the proceeds of such sale shall collect the tax
due thereon together with a penalty of fifty per centum
thereof and the cost incurred in such proceedings, and
pay the balance, if any, to the person in whose posses-
sion such forfeited cigarettes were found: Provided, how-
ever, That such seizure and sale shall not be deemed to
relieve any person from fine or imprisonment provided
herein for violation of any provision of this article. Such
sale shall be made in the county where most convenient
and economical. All moneys collected under the provi-
sions of this section shall be paid into the state treas-
ury and treated as other taxes collected under this article.

Sec. 19. Issuance of Warrant to Sheriff by Attorney
General or Commissioner; Priority of Tax.—In addition
to all other remedies for the collection of any taxes or
fees due under the provisions of law, the attorney gen-
eral, or the tax commissioner, may issue a warrant, di-
rected to the sheriff of any county of the state, command-
ing said sheriff to levy upon and sell the goods and chat-
tels of such dealer, without exemption, found within
his jurisdiction, for the payment of the amount of such
delinquency with the added penalties and interest and
the cost of executing the warrant; and to return such
warrant to the tax commissioner, or attorney general, and
to pay him the money collected by virtue thereof within
the time to be therein specified which shall not be less
than twenty nor more than sixty days from the date of
the warrant. The sheriff to whom any such warrant shall
be directed shall proceed upon the same in all respects
and with like effect and in the same manner as prescribed
by law in respect to executions issued against goods and
chattels upon judgments by a court of record, and shall
be entitled to the same fees for his services in executing
the warrant to be collected in the same manner.

The claim arising by reason of delinquent cigarette
taxes shall be a preferred claim against all of the assets
of the dealer, real and personal, with priority over all
taxes except claims of the United States, real property
taxes and other recorded state tax claims docketed accord-
ing to law.

Sec. 20. Revocation of License.—The state tax com-
missioner shall have the right to revoke any tobacco
license, issued under article twelve, chapter eleven of
this code, for violation by licensee thereunder of the pro-
visions of this article, and article eighteen of this chap-
ter. Persons whose licenses are revoked hereunder shall
have the same rights of appeal provided in sections forty-
seven and forty-eight of article twelve of this chapter.

Sec. 21. Amounts Allowed for Administration.—The
state tax commissioner, in the administration and en-
forcement of this article, shall be allowed to expend out
of the taxes collected thereunder, or proceeds of sales of
stamps a sum of not to exceed one and one-half
per centum of the tax collected or stamps sold, and in
addition to said one and one-half per centum all
refunds allowed by this article and discounts allowed and
commissions paid to deputies for the sales of stamps shall
be charged as a part of the expense of administration.
The tax commissioner is authorized to draw his warrants
for any costs of administration authorized by this article
upon the proper officer of the state in the manner pro-
vided by law.

Sec. 22. No Cigarette Tax by Municipalities or Other
Governmental Subdivisions.—No municipality or govern-
mental subdivision shall levy any excise or other tax
requiring cigarettes to be stamped, or requiring licenses
for sale thereof other than licenses which may be im-
posed as a result of licenses provided for in article twelve
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, associations, joint stock companies and corporations, and combinations or individuals of whatsoever form and character.
6 “Commissioner” means the tax commissioner of West Virginia.
8 “Storage” means and includes any keeping or retention of cigarettes for use or consumption in this state.
10 “Use” means and includes the exercise of any right or power incidental to the ownership of cigarettes.
12 “Consumer” means any person who shall have title to or possession of cigarettes in storage, for use or other consumption in this state.

Sec. 2. Levy of Tax on Cigarettes.—For the purpose of providing revenue for the general fund of this state an excise tax is hereby levied on the use, consumption or storage for consumption of cigarettes by consumers in this state at the rate of one-half cent on each ten or fractional part thereof: Provided, however, That the tax shall not apply if the tax levied in article seventeen of this chapter has been paid.

Sec. 3. Returns; Remittance.—Every person who has acquired cigarettes for use, storage or other consumption subject to the tax herein levied shall, on or before the fifteenth day of the month following receipt of such cigarettes, make and file with the commissioner a return showing the amount of cigarettes acquired, together with 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, distrains, 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-
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.]


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-
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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
in whole or in part to some other person, shall have a lien on the interest of such other person for the amount paid to redeem such interest. He shall lose his right to the lien, however, unless within thirty days after payment he shall file with the clerk of the county court his claim in writing against the owner of such interest, together with the receipt provided for in this or the following section. The clerk shall docket the claim on the judgment lien docket in his office and properly index the same. Such lien may be enforced as other judgment liens are enforced.

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-
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
Pools Deposited to Credit of General Fund.—All revenue
collected as taxes from the operation of pari-mutuel pools
shall be paid directly to the treasurer of the state of West
Virginia, and be deposited by him to the credit of the gen-
eral fund of the state.

Sec. 6. Per Diem Tax on Tracks; Tax on Total Contri-
bution to Pari-Mutuel Pools; When Bond Required.—A
person operating any horse race track one mile or more in
length shall pay each day upon which horse races are
run a license tax of five hundred dollars; any race track
less than one mile in length shall pay for each day
upon which horse races are run a license tax of two hun-
dred fifty dollars: Provided, however, That the per diem
tax shall not apply to horse shows or county fairs at which
racing is conducted for not more than five days. Any
person licensed by the commission to conduct racing and
to permit and conduct pari-mutuel wagering under this
act, shall in addition to the aforementioned tax, pay to
the racing commission of the state of West Virginia a tax
of three per cent of the total contribution to all pari-
mutuel pools conducted or made at any and every race
meeting licensed under this article. Said payments shall
be made to the commission or its agent after the last race
on each day and every day of each and every race meet-
ing, and shall be made from all contributions to all pari-
mutuel pools to each and every race of the day, which
payment shall be deposited with the treasurer of the state
of West Virginia.

Any person making application for a license for a meet-
ing to be held on any track in the state of West Virginia,
shall, when required, furnish satisfactory evidence to the
commission of his or their ability to pay license fees,
purses, salaries of officials and other expenses incident to
the meeting. In the event the applicant is not able to fur-
nish such satisfactory evidence of his or their ability to pay such expenses and fees, then the commission may require bond or other adequate security for not more 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 licensee for payment of outstanding pari-mutuel tickets, if not claimed within one year after the close of any race meeting, shall be turned over by the licensee to the commission within fifteen days after the expiration of such one-year period, and the licensee shall give such information as the commission may require concerning such outstanding and unredeemed tickets. All such moneys shall be deposited by the commission with the treasurer of the state of West Virginia, to be kept by him in a special account to be known as “West Virginia Racing Commission Special Account—Unredeemed Pari-mutuel Tickets.” The commission shall cause to be published one time, in some newspaper published of general circulation in the county in which such race meeting was held, a notice to the holders of such unredeemed tickets, notifying them to present such tickets for payment at the office of the commission in the city of Charleston within one year from the date of the publication of such notice.

Any such tickets that shall not be presented for payment within one year from the date of the publication of the notice shall thereafter be irredeemable, and the moneys theretofore held for the redemption of such tickets shall become the property of the state of West Virginia, and be deposited to the credit of the general fund of the state, and be expended in such manner as may be provided by law.

The costs for the publication of the notice provided for by this section shall be paid from the funds in the hands of the state treasurer collected from the license tax on pari-mutuel wagering, when not otherwise provided in the budget; but no such costs shall be paid unless an itemized account thereof, under oath, be first filed with 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.

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.—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 the business of industrial loan companies, be, and the same is, hereby repealed.

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

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.**

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
on which they would have become delinquent. (4) The fee provided by the following section for the issuance by the auditor of the certificate of redemption.

In computing the amount due under number three on real estate purchased by the state, the auditor shall use as the basis for computation the classification and valuation placed thereon by the assessor for each year since the sale. If such valuation and classification have not been made, he shall use the last valuation and classification appearing on the property books. In computing the amount due under number three on real estate forfeited for nonentry, the auditor shall use as the basis for computation such classification and valuation as may, at the request of the auditor or the person redeeming, be certified to the auditor by the assessor as the classification and valuation which in his opinion would be proper for each year of nonentry.

In the case of partial redemption, he must pay only that proportion of such taxes as are chargeable to the part or interest redeemed, but must pay all of the other charges and the fee required for redemption of the whole. However, redemption of an undivided interest included in a group assessment or of part of a tract or lot the whole of which was assessed in the name of a person other than the owner shall not be permitted until the applicable provisions of section nine or of section ten, article one of this chapter, have been complied with, except that instead of presenting the assessor's certificate to the sheriff as therein required, the person redeeming shall present it to the auditor, who, after making the necessary changes in the land book, and in the record of delinquent lands kept in his office, shall compute the taxes due on the part or interest redeemed.


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.
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.
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,
have himself charged with the taxes due thereon, and pay the same. Land which for any five successive years shall not have been so entered and charged shall by operation of law, without any proceedings therefor, be forfeited to the state as provided in section six, article thirteen of the constitution, and shall thereafter be subject to transfer or sale under the provisions of sections three and four of such article.

Sec. 3. Lands Subject to Sale Under This Article.—All lands purchased by the state for nonpayment of taxes and become irredeemable, or forfeited for nonentry, or escheated, or waste and unappropriated, title to which remains in the state, are subject to sale as provided in this article.

Sec. 4. State Commissioner of Forfeited and Delinquent Lands.—The state auditor shall ex officio be state commissioner of forfeited and delinquent lands. The term “auditor”, whenever used in this chapter in connection with the subject of forfeited, delinquent, escheated, or waste and unappropriated lands, shall be construed to refer to the auditor in his capacity as state commissioner of forfeited and delinquent lands.

The auditor is empowered, and it shall be his duty, through the land department in his office, to administer and carry into execution the laws with reference to such lands. The auditor on behalf of the state shall have power to hold and manage such lands, and to exercise all other powers incident to the general ownership of land.

Sec. 5. Deputy Commissioners of Forfeited and Delinquent Lands; Bond.—There shall be for each county in the state a deputy commissioner of forfeited and delinquent lands. The auditor shall appoint such deputies as soon as may be after this act takes effect, and shall make new appointments from time to time thereafter whenever vacancies occur, or when in his judgment it is deemed advisable. The auditor may make rules respecting the tenure of deputy commissioners. In the absence of such rules, the deputy for each county shall, so long as he satisfies the requirements of this section in respect to professional qualifications and bonding, continue to act
Appointments shall be limited to persons duly licensed to practice law in the state, and so far as possible shall be made for each county from among attorneys residing and practicing law therein. If, however, there is in the opinion of the auditor no qualified lawyer in a county available for appointment, he shall appoint a member of the bar of another county, preferably in the same judicial circuit.

Whenever in respect to any land the deputy commissioner, in his own judgment or in the opinion of the auditor, is disqualified because of his personal interest, or because of his representation of clients in matters affecting such land, the auditor may appoint a special deputy to deal with that land. All provisions of this article in respect to the rights, duties, liabilities and qualifications of the deputy commissioner shall be applicable to the special deputy.

The deputy commissioner shall be subject to the orders and control of the auditor, shall be accountable to him, and shall serve as his local agent within the county. It shall be his duty to do whatever is required of him by the auditor or by the provisions of this article. The deputy commissioner before entering upon his duties shall give a bond, with satisfactory corporate surety, conditioned upon the faithful performance of his duties and the payment of any forfeitures incurred. The penalty of such bond shall be not less than two thousand dollars nor more than ten thousand dollars, as the auditor may direct. The premium therefor, shall be paid by the auditor out of the operating fund for the land department in his office.

Sec. 6. Land Record in Auditor's Office.—The auditor shall prepare and keep in his office a permanent record of all forfeited, delinquent, escheated, and waste and unappropriated lands. The record shall as to every tract or lot listed set forth the information available as to quantity, local description, and, except in the case of waste and unappropriated lands, the name of the former owner and the respective dates of nonentry and forfei-
ture, or delinquency and sale to the state, or escheat, as the case may be. The record shall be prima facie evidence of all matters required by this section to be set forth therein, including the correctness of the description of lands as forfeited, delinquent, escheated, or waste and unappropriated.

Sec. 7. Operating Fund for Land Department in Auditor's Office. — The auditor shall set up a special operating fund for the land department in his office. He shall pay into such fund all redemption fees, all publication or other charges collected by him, if such charges were paid by or were payable to him, and all payments made to him by sheriffs under the provisions of section thirty-six of this article and by general receivers of the circuit court under the provisions of sections twenty-eight and twenty-nine of this article, except such part thereof as represents state taxes and interest and the surplus proceeds of the sale of any forfeited, escheated, or waste and unappropriated lands. All payments so excepted shall be credited by the auditor to the general school fund or other proper state fund.

The operating fund shall be used by the auditor to pay any balances due to deputy commissioners for services rendered under the provisions of this article, to pay fees due surveyors under the provisions of the following section, and to pay for the operation and maintenance of the land department in his office. The surplus over and above the amount of twenty-five thousand dollars, remaining in the fund at the end of any fiscal year, shall be paid by the auditor into the general school fund.

Sec. 8. Officers to Report Lands Subject to Sale. — Whenever an assessor, or clerk of the county court, or county surveyor learns of the existence within the county of any forfeited land, he shall promptly report that fact to the auditor, together with his information relating thereto. The assessor, as escheator, shall likewise report all lands which escheat to the state.

Whenever the deputy commissioner learns of the existence of any waste and unappropriated lands within his county, except lands lying under the bed of a navigable
Sec. 9. Auditor to Certify List of Lands to Be Sold; Lands Heretofore Certified Made Irredeemable and Subject to Transfer or Sale.—On or after the first day of July and on or before the first day of December of each year, the auditor shall certify to the circuit court of each county a list of all lands in the county subject to sale under this article, except that forfeited, escheated, or waste and unappropriated lands may be certified by the auditor at any time after they are brought to his attention. He shall note the fact of certification on the land record in his office. Upon completion of a list for certification, a charge of one dollar shall be added to the taxes, interest and charges already due on each item listed, to cover the costs incurred by the auditor in the preparation of the list, and in the event of sale or redemption, the same shall be collected and paid into the operating fund provided for in this article.

Escheated lands and waste and unappropriated lands shall be listed separately. The list shall be arranged by districts and, except in the case of waste and unappropriated lands, alphabetically by name of the former owner. The list shall state as to each item listed the information required by section six of this article to be set forth in the land record in the auditor’s office, and shall specify as to each tract listed as forfeited or delinquent the amount of taxes and interest due or chargeable thereon on the date of certification, the publication and other charges due, with interest, and the total currently due. The specification of taxes due or chargeable shall as to delinquent land commence with those for
nonpayment of which it was sold, and as to forfeited land
with those properly chargeable to it for the first year of
nonentry.

All items certified to each circuit court shall be num-
bered consecutively, and all subsequent orders, entries,
applications or proceedings under this article in respect
to any item shall refer to its number and to the year of
certification. All tracts, lots, or parcels sold to the state
as a unit may be treated by the auditor as a single item
for purposes of certification. Subject to the provisions
of this section, the auditor shall prescribe a form for the
list and shall provide in such form adequate space to
show the subsequent history and final disposition of each
item certified.

The list shall be made in quadruplicate. The auditor
shall keep the original and shall send one copy to the
clerk of the circuit court, one to the clerk of the county
court, and one to the deputy commissioner. The clerk
of the circuit court and the clerk of the county court
shall each bind his copy in a permanent book to be
labeled "Report of State Commissioner of Forfeited and
Delinquent Lands", and the clerk of the county court
shall note the fact of the certification of each item on his
record of delinquent lands. Such copies shall become
permanent records, and shall be preserved as such in the
offices of the auditor, the county clerk and the circuit
clerk.

All forfeited or delinquent lands heretofore certified
by the auditor to the circuit courts under the provisions
of former law may be redeemed at any time on or before
the thirtieth day of June, one thousand nine hundred
forty-seven, by paying to the sheriff upon order of the
deputy commissioner the amount required for redemp-
tion under the provisions of chapter one hundred forty,
acts of the Legislature, regular session, one thousand
nine hundred forty-five, and for this purpose and no
other such provisions in respect to redemption shall re-
main in full force and effect until the thirtieth day of
June, one thousand nine hundred forty-seven. There-
after, the deputy commissioner shall allow no further
redemptions, and all such delinquent land shall on the
first day of July become irredeemable and subject to
transfer or sale under the provisions of sections three
and four, article thirteen of the constitution. Thereafter
the deputy commissioner shall proceed as provided in
this article to institute suits for the sale of lands here-
toefore certified by the auditor which are subject to sale
under the provisions hereof.

Sec. 10. *Suit for Sale of Lands.*—As soon as possible
after receipt of the certified list, the deputy commis-
sioner, shall institute in the circuit court of his county
a suit or suits in chancery, in the name of the state of
West Virginia, for the sale for benefit of the school fund
of all the lands included in the list. Except as herein-
after provided, not more than twenty-five items as certi-
fied by the auditor shall be included in one suit, and
whenever the deputy commissioner deems it advisable a
suit may be instituted in respect to any number less than
twenty-five. In the case of forfeited or delinquent un-
divided interests in a single tract or lot, one suit may be
brought for the sale of all such interests regardless of
the number involved. In a suit for the sale of any
escheated lands or of any waste and unappropriated
lands, no lands of any other sort shall be included.

Sec. 11. *Parties Defendant; Right to Intervene.* — In
a suit for the sale of any forfeited or delinquent land, the
deputy commissioner shall name as a party defendant
the former owner in whose name the land was forfeited,
or was returned delinquent and sold, as the case may
be.

In all such cases and in the case of escheated land or
waste and unappropriated lands, the deputy commis-
sioner shall make parties defendant all unknown claim-
ants of any interest in such lands. He shall also name as a
party defendant all other persons who, according to his
knowledge however acquired, have or claim an interest
in any of the land included in the suit.

Any person claiming an interest in any land included
in a suit instituted under the provisions of the preceding
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
32 The summons shall be served on the named defendants
33 in the manner provided by law for the service of process
34 in other chancery suits. For serving the summons the
35 sheriff shall be paid the fee provided by law for service
36 of process in other chancery suits, and the costs thereof
shall be taxed to the state as part of its costs in the suit
and paid as hereinafter provided.

The clerk of the circuit court shall at the same time
that he issues such summons enter an order of publica-
tion, without the filing of any affidavit by the deputy
commissioner as required in other cases. Such order of
publication shall give the style of the suit, as, State of
West Virginia v. A. B., et al.; shall state that the object
of the suit is to obtain a decree of the circuit court order-
ing the sale for the benefit of the school fund of all lands
included in the suit; shall list all such lands, setting forth
as to each item its local description, the former owner in
whose name the land was forfeited, or was returned
delinquent and sold, or escheated, as the case may be,
and the names of such other defendants as may be inter-
ested therein; and shall require all the named defendants,
and all unknown parties who are or may be interested
in any of the lands included in the suit to appear within
one month after the date of the first publication thereof
and do what is necessary to protect their interests.

The order shall be published once a week for three
successive weeks in two newspapers of opposite politics
published in the county, if such there be; otherwise, this
requirement shall be satisfied by such publication in any
one newspaper published in the county, and if no news-
paper is published in the county, or if none therein will
publish the order at the legal rate or for the time re-
quired, then in such newspaper of general circulation in
the county as the clerk of the court in which the cause is
pending may direct. The costs of such publication shall be
at the rate provided for in section thirty-four, article one,
chapter fifty-nine of this code, shall be charged ratably to
each item listed in the suit, and shall be taxed to the state
as part of its costs in the suit and paid as hereinafter
provided.

In view of the fact that the state has absolute title to
all forfeited land, to all land sold to the state for non-
payment of taxes and become irredeemable, to all
escheated land, and to all waste and unappropriated land,
and must under the constitution have such an absolute
title before the land may be sold for the benefit of the
school fund; and in view of the fact that the former
owner of any such land, or any person claiming under
him, has no further interest therein nor rights in respect
thereof except such privilege of redemption as may be
extended to him by the Legislature as an act of grace;
and in view of the further fact that all parties known
and unknown who may claim an interest in any of the
lands included in the suit are given notice thereof by the
order of publication provided for above; therefore, the
Legislature deems it both expedient and necessary to
provide that failure to name any such person as a defend-
ant, or failure to serve the summons on any named de-
defendant, shall in no wise affect the validity of any of the
proceedings in the suit for the sale of the state's title to
such land.

Sec. 13. Averments and Prayer of Bill.—In all suits for
the sale of lands as provided in this article, the bill shall,
except as hereinafter provided, contain an averment that
all land included in the suit is, as certified to the court by
the auditor, subject to sale for the benefit of the school
fund. The bill shall also contain a list of the lands in-
cluded in the suit, setting forth as to each item certified
the total amount due and indicating whether the land is
forfeited, delinquent, escheated, or waste and unappro-
priated, its certification number, location and descrip-
tion, the name of the former owner, if any, and in the
case of forfeited or delinquent land, the year of forfes-
ture or sale to the state. Whenever possible the bill
shall state as to each item, by reference to the former
owner's source of title, that the particular land is the
same land described, by reference or otherwise, in the
deed or other writing dated.........................,
and recorded on page .........., volume ............, of the
records in the county clerk's office. The bill shall also
state that there may be unknown parties who have or
claim an interest in the lands included in the suit and
shall in respect to such unknown parties pray that all
right, title and interest of such of them as fail to appear
and defend be forever foreclosed and held for nought.
If the deputy commissioner learns that any land in-
cluded in the suit is not subject to sale, the bill shall state
that fact and the reasons for the deputy commissioner's conclusion. In such case, the prayer of the bill shall be that the court enter an order dismissing the suit in respect to such land. In respect to all other land listed in the bill, the prayer shall be that the court enter a decree ordering the sale thereof for benefit of the school fund, as required by the constitution.

Sec. 14. Procedure.—Except as otherwise specifically provided in this article, all suits instituted under the provisions thereof shall in all respects be commenced, proceeded in, heard and determined in like manner as other suits in chancery.

Sec. 15. Certified List Made Exhibit and Part of Bill.—The list of lands certified to the circuit court by the auditor shall be considered to be an exhibit, and a part of the bill, in every suit for the sale of any lands included therein. Such list shall be prima facie evidence of everything required by section nine of this article to be stated concerning each item, including the correctness of the description of any land as forfeited, delinquent, escheated, or waste and unappropriated.

Sec. 16. Separate Order Book to Be Kept by Clerk.—All orders or decrees made by the court in respect to proceedings for the sale of lands under this article shall be entered by the clerk of the court in a separate chancery order book, to be labeled "Chancery Order Book for Sales of Lands for School Fund". Every order shall specify the certification number of each item to which the order is applicable. The clerk of the court shall index the order book by the certification number of each item and by the name of the former owner.

Sec. 17. Compensation of Deputy Commissioner; Court Costs.—As compensation for his services, the deputy commissioner shall be entitled to an attorney's fee of ten dollars for each item included in the suit and in addition thereto a commission of ten per cent of all moneys paid for the redemption or purchase of any lands included in the suit. Such compensation, together with a charge of one dollar payable to the clerk of the circuit
court for each item included in the suit, shall be taxed to
the state as part of its costs in the suit and shall be paid
as hereinafter provided. Except as otherwise provided
in this article, no other court costs shall be taxed.

Sec. 18. Application for Permission to Redeem.—The
former owner of any forfeited or delinquent land, or any
other person who was entitled to redeem such land under
the provisions of section eight, article three of this
chapter, may file his petition in such suit with the circuit

court at any time before confirmation of sale thereof re-
questing permission to redeem such land to the extent
that title thereto remains in the state. The court may, by
proper decree, permit the petitioner to redeem the land
upon payment to the sheriff of the total amount of taxes,
interest and charges properly due or chargeable thereon
on the date of redemption and all court costs taxable in
respect thereto under the provisions of this article, which
amount shall be fixed by the court in its order.

Upon payment being made, the court shall enter a
decree declaring the redemption of such land by the
petitioner, so far only as the title thereto remains in the
state, and dismissing the suit in respect thereto. If
redemption was allowed after sale, the decree shall also
direct the sheriff to return the purchase money to the
purchaser. Such decree shall operate as a release of all
the right, title and interest of the state in and to such
land, but shall in no wise affect or impair any right, title
or interest which any other person may have therein.

Sec. 19. Application for Dismissal of Suit. — Any
person substantially interested may apply to the circuit
court at any time before the sale for an order dismissing
the suit for the sale of any land as to which he makes one
or more of the following claims: (1) That all taxes
due thereon were paid before sale to the state. (2)
That the land was redeemed after sale to the state. (3)
That the land has not escheated. (4) That the land
has not been forfeited for nonentry. (5) That the
land was sold to him at a former circuit court sale for the
benefit of the school fund and has not thereafter been
sold to the state for nonpayment of taxes nor forfeited
for nonentry. (6) That he has acquired title to the
land by transfer under the provisions of section three,
article thirteen of the constitution. The application
shall state briefly the facts on which the claim is based.
The deputy commissioner may also apply for such an
order whenever on any of these grounds, or because the
land is nonexistent or the subject of a duplicate assess-
ment, he is satisfied that the land should not be sold.

Sec. 20. Procedure upon Application for Dismissal;
Order of Reference.—Whenever application is made by
the deputy commissioner for an order dismissing the suit
as to any lands, he shall state briefly the reasons for his
application, and the court, if satisfied therewith, shall
enter the order applied for. No order of reference shall
be made in respect to applications by the deputy com-
missioner.

Whenever such an application is made by a person
substantially interested, the court shall make a decree of
reference as to the land involved, directing a commis-
sioner in chancery to ascertain the facts and report to
the court concerning the matter in dispute, unless the
court by reason of the fact that the right claimed by the
applicant is clearly established, or for some other reason,
is of the opinion that an order of reference need not be
made as to such land. The costs in connection with an
application by an interested party and those in connec-
tion with the reference to a commissioner in chancery,
if a reference is made, shall be taxed to the applicant.

Sec. 21. Execution of Reference; Report. — Before
proceeding to discharge his duties under the order of
reference, the commissioner in chancery shall give at
least ten days’ notice in writing to all parties of record
who have appeared in the suit and are interested in any
of the lands included in the reference, of the time and
place at which he will so proceed. Like notice shall be
given to the deputy commissioner.

As soon after the hearing as may be practicable, the
commissioner in chancery shall prepare and file his
report with the court, and may do so as to one or more of
the items included in the reference, without waiting to
complete his report as to all of them.
Whenever, on the basis of the report of the commis-
sioner in chancery, or otherwise, the court shall find that
the applicant has established the claim made by him in
respect to any land, the court shall enter an order dis-
missing the suit as to such land. If the ground for
entering the order was that the land was nonexistent or
the subject of a duplicate assessment, the order shall
also direct the assessor to drop the erroneous entry of
such lands from the land books.

Sec. 22. Decree of Sale. — Whenever, in respect to
any land included in the suit, the court shall find as
alleged in the bill that the land is subject to sale for the
benefit of the school fund, it shall enter a decree ordering
that such land be sold by the deputy commissioner at
public auction to the highest bidder. In every such
decree the court shall fix the time and place of the sale.
The court may order the sale of any one or more of the
items included in the suit without waiting for the termi-
nation of the suit as to other items included therein. It
may also order that lands included in several suits be
sold at the same sale.

Sec. 23. Notice of Sale. — In order to encourage
attendance and bidding at the sale, the deputy commis-
sioner shall, beginning at least fifteen days before the
day on which the court has ordered that any lands be
sold, publish once a week for two successive weeks a list
of all such lands in two newspapers of opposite politics,
if such there be in the county. At the head of the list
shall be a notice of the sale in form or effect as follows:
Notice is hereby given that, pursuant to the order of
the Circuit Court of________________________County, the
following described tracts or lots of land, or undivided
interests therein, will unless sooner redeemed be sold
for cash to the highest bidder. Such sale will be held at
(here insert place of sale fixed by the court)
beginning at ten o'clock in the morning on the____
day of________________________, 19____.
The list shall set forth as to each item its quantity,
local description and, except in the case of waste and
unappropriated lands, the name of the former owner.
The cost of such publication, not to exceed twenty-five cents per item for each insertion in each newspaper, shall be taxed to the state as part of its costs in the suit and shall be paid as hereinafter provided.

**Sec. 24. Sale by Deputy Commissioner; Receipt for Purchase Price; Report to Circuit Court.**—On the day fixed by order of the court the deputy commissioner shall sell, in the manner specified in the notice of sale, each unredeemed item included in the published list of lands to be sold. If the sale is not completed on that day, it shall be continued from day to day until all the land has been offered for sale. If in respect to any land no bid is made, the deputy commissioner shall report that fact to the court, and the court may order that such land be sold at a subsequent sale.

For the purpose of receiving the proceeds of the sale, it shall be the duty of the sheriff or one of his deputies to attend all sales conducted by the deputy commissioner in his county. The sheriff or deputy shall issue to the purchaser a receipt for the purchase money. The auditor may prescribe the form of the receipt.

The deputy commissioner shall prepare a report for the circuit court which shall show what was done with respect to all lands ordered to be sold. The report shall state as to each item whether it was redeemed before sale or was sold, and the name of the purchaser and the amount of his bid. The report shall, within ten days after the sale, be filed with the clerk of the circuit court.

**Sec. 25. Return of Purchase Money.** — Whenever, after sale and before confirmation thereof, it is discovered that the land sold was nonexistent, or that it had been the subject of a duplicate or improper assessment, or was transferred to others under the provisions of section three, article thirteen of the constitution, the purchaser shall be entitled to a return of the purchase money. Upon request of a purchaser so entitled, it shall be the duty of the deputy commissioner to apply to the circuit court for an order directing the sheriff to return the purchase money. If satisfied that the application is proper, the court shall enter the order applied for, but no costs shall be taxed in connection with such an applica-
tion. If the ground for entering the order was that the land was nonexistent or the subject of a duplicate assessment, the order shall also direct the assessor to drop the erroneous entry of such lands from the land books.

Sec. 26. Co-owner Free to Purchase at Sale. — Any co-owner, except a coparcener, in the absence of satisfactory proof of a fiduciary relationship, shall be entitled to purchase at the sale for his own account the interest of any, or all, of his co-owners in any real estate, without being required to hold such interest or interests under a constructive trust. There shall be a prima facie presumption against the existence of any such constructive trust.

Sec. 27. Purchase by Former Owner or by Deputy Commissioner and Other Officers Prohibited. — It shall be illegal for a former owner, in whose name any real estate was forfeited or was sold to the state, his heirs or assigns, or his or their agent, to purchase such real estate at the sale. No deputy commissioner, sheriff, clerk of the county or circuit court, assessor, nor deputy of either shall directly or indirectly become the purchaser, or be interested in the purchase of any real estate at the sale. Any such person or officer so purchasing shall for each offense forfeit one hundred dollars, to be collected as other forfeitures are collected. The sale of any real estate to one of the persons or officers named in this section shall be voidable at the instance of any person having the right to redeem until such real estate reaches the hands of a bona fide purchaser.

Sec. 28. Right of Former Owner to Surplus Proceeds.— If upon the sale of any forfeited or delinquent lands a surplus is realized over and above the total amount due on such land including all court costs in the suit in which such land was sold, the sheriff shall pay such surplus to the general receiver of the circuit court. The former owner of such land, his heirs or assigns, shall be entitled to the surplus upon application to the circuit court, if application is made within two years after the sale. If no application is made within two years, the general
receiver shall pay such surplus to the auditor for credit to the general school fund.

Sec. 29. Right of Creditor of Former Owner of Escheated Land.—Any surplus proceeds arising from the sale of escheated land, after payment of all court costs in the suit in which such land was sold, shall be paid by the sheriff to the general receiver of the circuit court. Upon application to the court within a year after the sale, such surplus may be applied to the satisfaction of the claims of creditors of the decedent who had a lien on the land at the time of his death, or who, being general creditors, have properly proved their claims against his estate and have been unable to obtain payment out of the personalty. In the disposition of any such surplus, due preference shall be given to lien creditors over general creditors. Any part of such surplus thereafter remaining shall be paid to the auditor by the general receiver for credit to the general school fund.

Sec. 30. Application to Set Aside Sale.—Any person entitled under the provisions of section nineteen of this article to apply for an order dismissing the suit for the sale of any land, but who did not learn of the suit in time to protect himself by making such application, may, at any time after the sale and before confirmation thereof, apply to the court for an order setting aside the sale. Notice in writing of such application shall be given to the purchaser, his heirs or assigns. The notice shall state the facts which are the basis of the claimed right to have the sale set aside, shall require the person served to appear before the circuit court on a day to be named in the notice and protect whatever rights were acquired at the sale, and shall be served at least ten days before the day on which it is returnable. Until a decision on such application has been made, the sale may not be confirmed.

If the decision be in favor of the claimant, the court shall enter an order setting aside the sale, and directing the sheriff to return the purchase money to the purchaser, his heirs or assigns.

Sec. 31. Confirmation of Sale.—As soon as possible
after the report of the sale has been filed with the clerk
of the circuit court, the deputy commissioner shall apply
to the court for an order confirming the sale of each
item sold. If satisfied that the purchase price was as
high as might reasonably be expected, the court shall
enter an order confirming the sale and directing the
deputy commissioner to execute and deliver to the pur-
chaser, or to his heirs or assigns, a deed as provided in
the following section. If, however, the court shall be of
the opinion that the purchase price was too low, it may
refuse to confirm the sale and shall enter an order
directing the deputy commissioner to sell the land again
at his next sale and directing the sheriff to return the
purchase money to the purchaser, his heirs or assigns.
After the court has acted, the clerk shall promptly
mark on his certified list whether the sale was confirmed
or disaffirmed, giving the date of the order, and if the
sale was confirmed, the date of the deed to the purchaser.

Sec. 32. Deed to Purchaser; Record. — Whenever
ordered to do so as provided in the preceding section, the
deputy commissioner shall make and deliver to the
person entitled thereto a deed in form or effect as
follows:

This deed made this..............day of...........................
19........, by and between........................................, deputy
commissioner of forfeited and delinquent lands for
......................................................County, West Virginia, acting for
and on behalf of the State of West Virginia, grantor, and
......................................................purchaser, (or....................,
heir, devisee or assignee of......................................................,
purchaser,) grantee, witnesseth that

Whereas, In pursuance of and in accordance with the
statutes in such case made and provided, the above
named deputy commissioner did, by order of the Circuit
Court of..........................................County, in the month of
........................................, in the year 19........, sell the real
estate, hereinafter mentioned and described, for the
benefit of the school fund, and........................................,
(here insert name of purchaser) for the sum of $............,
that being the amount of purchase money paid, did be-
come the purchaser of such real estate (or of an undivid-
ed interest in such real estate) which was sold to the state for nonpayment of taxes in the name of; (or which was forfeited to the state for nonentry in the name of; or which escheated to the state in the name of; or which was waste and unappropriated land belonging to the state;) and

Whereas, By an order entered on the day of, 19, in the case of State of West Virginia v. (A. B., et al.), the Circuit Court of County has confirmed the sale and has ordered that this deed be executed.

Now, therefore, the grantor, for and in consideration of the premises and in pursuance of the statute, doth grant and convey unto, grantee, his heirs and assigns forever, the real estate so purchased, situate in the county of, bounded and described as follows:__________________

Witness the following signature:

Deputy Commissioner of Forfeited and Delinquent Lands for County

After execution and acknowledgment of the deed, the deputy commissioner shall ascertain from the clerk of the county court the total amount of the transfer fee, the fee for recording the deed, and if the grantee was an assignee of the purchaser, the fee for recording the assignment, and shall notify the grantee to pay such amount to the clerk of the county court. Upon such payment and upon payment by the grantee to the deputy commissioner of a fee of five dollars as his compensation for preparing and executing the deed, the deputy commissioner shall have the deed and the assignment, if any, recorded by the clerk of the county court before delivery of the deed to the grantee. The purchaser shall have the right to examine the deed before it is recorded.

The clerk of the county court shall index the deed in the grantor's index under the name of the former owner mentioned in the deed as well as under the name “State of West Virginia.”
Sec. 33. Title Acquired; Effect of Irregularity. — Whenever, under the provisions of this article, a purchaser, his heirs or assigns, shall have obtained a deed for any real estate from the deputy commissioner, he or they shall thereby acquire all such right, title and interest in and to the real estate as was, at the time of the execution and delivery of the deed, vested in or held by the state or by any person who was entitled to redeem, unless such person is one who, being required by law to have his interest separately assessed and taxed, has done so and has paid all the taxes due thereon, or unless the rights of such person are expressly saved by the provisions of sections twenty-seven or thirty-four of this article. The deed shall be conclusive evidence of the acquisition of such title. The title so acquired shall relate back to the date of the sale.

Except as otherwise provided in this section, no irregularity, error or mistake in respect to any step in the procedure leading up to and including confirmation of the sale or delivery of the deed shall invalidate the title thereby acquired.

Sec. 34. Redemption by Persons Under Disability.— In addition to and notwithstanding any other provisions of this article, any infant or insane person, the former owner of any forfeited or delinquent land which during such disability was sold as provided in this article, may redeem such land from the purchaser, his heirs or assigns, at any time before the expiration of one year after removal of the disability but in no event more than twenty years after the sale was confirmed, by paying such an amount as is required for redemption under the provisions of section thirty-five, article three of this chapter.

As an alternative to the right of redemption provided by this section, such infant or insane person may elect to redeem forfeited land as provided in section six, article thirteen of the constitution.

Sec. 35. Annual Report of Deputy Commissioner to Auditor.—In December of each year the deputy commissioner shall prepare a report, on forms to be furnished by the auditor, of all lands previously certified to the
circuit court of his county, which have been redeemed,
sold, held not liable for sale, or otherwise finally disposed
of since his last annual report. The report shall as to
each item show the year it was certified and its certifica-
tion number.
Such report shall be prepared in quintuplet. On or
before the last day of December the original shall be sent
to the auditor, one copy to the clerk of the county court,
and one copy to the clerk of the circuit court, each of
whom shall make the necessary notations on his certified
list. The fourth copy shall be sent to the assessor, who
shall make the necessary changes in his land books, and
the fifth copy shall be retained by the deputy commis-
sioner. For failure to make the report required by this
section, the deputy commissioner shall forfeit one
hundred dollars.

Sec. 36. Sheriff to Keep Proceeds in Separate
Accounts; Disposition.—The sheriff shall keep in a sepa-
rate fund the proceeds of all redemptions and sales paid
to him under the provisions of this article, and shall
keep a separate account of the proceeds of the sales and
redemptions of all lands included in each suit. Out of
the total proceeds of each suit he shall in the order of
priority stated below credit the following amounts, for
payment as hereinafter provided: (1) To the clerk
of the circuit court, such part of the court costs taxed in
the suit as represents the publication charges incurred
under the provisions of sections twelve and twenty-three
of this article, and the charge of one dollar per item
provided for in section seventeen of this article. (2)
To the sheriff, such part of the court costs taxed in the
suit as represents the fees due him under the provisions
of section twelve of this article. (3) To the deputy
commissioner, such part of the court costs as represents
compensation due him under the provisions of section
seventeen of this article. (4) To the auditor, such
part as represents any charges which were paid by or
which are payable to him. (5) To the general county
fund, such part as represents costs paid out of such fund
for publishing the sheriff’s delinquent and sales list.
(6) To the auditor for credit to the general school
fund, such part as represents all taxes and interest
chargeable in respect to any forfeited lands, and all
surplus proceeds of the sale of any waste and unappropriated lands.

The balance, if any, of the proceeds of the lands included in each suit shall be prorated among the various taxing units on the basis of the total amount of taxes due them in respect to the lands that were sold or redeemed.

The amounts so determined shall be credited as follows, for payment as hereinafter provided: (1) To the auditor, such part as represents state taxes and interest. (2) To the fund kept by the sheriff for each local taxing unit, such part as represents taxes and interest payable to such unit.

All amounts which under the provisions of this section were so credited by the sheriff to the clerk of the circuit court, to the sheriff, and to the deputy commissioner shall be paid to them quarterly; those credited to the auditor shall be paid to him semiannually; and those credited to the various local taxing units shall be transferred semiannually by the sheriff to the fund kept by him for each such taxing unit.

The tax commissioner, in cooperation with the land department in the auditor's office, shall prescribe the form of the records to be kept by the sheriff for the purposes of this section, and the method to be used by him in making the necessary pro rata distributions.

Sec. 37. Disposition of Pending Suits; Former Sales Confirmed.—All suits now pending in any circuit court for the sale of lands for the benefit of the school fund shall be and are hereby discontinued and dismissed. Any circuit court in which such a suit is pending shall make all necessary orders for such discontinuance and dismissal.

All sales, conveyances, and orders or decrees adjudicating title made in any former circuit court suits for the sale of lands for the benefit of the school fund are hereby confirmed. Whatever right, title or interest the state had in any such lands shall be deemed to have vested in the purchaser, grantee or transferee thereof.

Notwithstanding any irregularity, error or mistake in
such suit or in the tax enforcement proceedings prior thereto, such title shall not hereafter be subject to attack. This paragraph is enacted in furtherance of the purpose and policy set forth in section one, article three of this chapter.

Sec. 38. **Liability of Officer Failing to Perform Duty; Penalty.** — If the deputy commissioner or any other officer mentioned in this article shall refuse to perform any duty required of him, he shall forfeit not less than twenty-five nor more than one hundred dollars for each such failure or refusal, unless a different penalty is imposed by the provisions of this article.

Sec. 39. **Release of Taxes and Interest.** — In view of the great uncertainty and confusion existing in the auditor’s records of delinquent lands for the years prior to one thousand nine hundred thirty-six, due to the insufficient and inadequate reports by former school land commissioners and the doubtful status of delinquent or forfeited undivided interests, the Legislature finds that it will be impossible to provide a speedy method for disposing of delinquent and forfeited lands and for conveying to the purchasers of such lands a secure title, unless some action is taken to prevent the certification and sale of lands which were formerly redeemed from or were sold by such commissioners, but which appear on the auditor’s records, as unsold and unredeemed. Wherefore, it is the purpose and intent of the Legislature to release all taxes, interest and charges that may be due on any real estate in this state for the assessment year one thousand nine hundred thirty-five and for all years prior thereto, and all such taxes, interest and charges are hereby declared to be fully paid. If all the taxes due on any land for the assessment year one thousand nine hundred thirty-six and for all years subsequent thereto have been paid, all title to any such land theretofore acquired by the state shall be and is hereby released.

The auditor, in computing the amount necessary for redemption as provided in section eight, article three of this chapter, and in preparing the list of lands for certification to the circuit court as provided in section nine of this article, shall use the assessment year one thousand
nine hundred 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-
2 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
execution issued on two judgments in favor of the depart-
ment against the Peytona Lumber company, incorporated,
and applied by the department on the delinquent account
of the Peytona Lumber company, incorporated; such pay-
ment having been made by said D. W. Lacy under the
mistaken belief that payment of these judgments was
necessary in order to protect his rights in certain personal
property purchased by him from a trustee under a deed
of trust on such property, whereas in fact the property so
purchased was not subject to any lien on account of such
judgments, the Legislature finding that this refund is
necessary to discharge a moral obligation of the state.

CHAPTER 162
(Senate Bill No. 270—By Mr. Vicken, Mr. President)

AN ACT to amend and reenact section three, article one; sec-
tion 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 extra-
ordinary 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.
3. Board of Review.
4. Employer Coverage and Responsibility.
5. Employee Eligibility; Benefits.

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.—As used in this chapter, unless the context clearly requires otherwise:

1. “Administration fund” means the unemployment compensation administration fund, from which the administrative expenses under this chapter shall be paid.

2. “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.

3. “Average annual payroll” means the average of the last three annual payrolls of an employer.

4. 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.

5. “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.

6. “Base period wages” means wages paid to an individual during the base period by all his base period employers.

7. “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
next files a valid claim for benefits after the termination
of his last preceding benefit year. An initial claim for
benefits filed in accordance with the provisions of this
chapter shall be deemed to be a valid claim within the
purposes of this definition if the individual has been paid
wages in his base period sufficient to make him eligible
for benefits under the provisions of this chapter.

"Benefits" means the money payable to an individual
with respect to his unemployment.

"Board" means board of review.

"Calendar quarter" means the period of three con-
secutive calendar months ending on March thirty-one,
June thirty, September thirty, or December thirty-one,
or the equivalent thereof as the director may by regula-
tion prescribe.

"Computation date" means June thirty of the year im-
mediately preceding the January one on which an em-
ployer's contribution rate becomes effective.

"Director" means the unemployment compensation
director.

"Employing unit" means an individual, or type of or-
ganization, including any partnership, association, trust,
estate, joint stock company, insurance company, corpora-
tion (domestic or foreign), or the receiver, trustee in
bankruptcy, trustee or successor thereof, or the legal
representative of a deceased person, which has on Janu-
ary first, one thousand nine hundred thirty-five, or sub-
sequent thereto, had in its employ one or more individ-
uals performing service within this state.

"Employer" means an employing unit which for some
portion of a day, not necessarily simultaneously, in each
of twenty different calendar weeks, which weeks need not
be consecutive, within either the current calendar year,
or the preceding calendar year, has had in employment
eight or more individuals irrespective of whether the
same individuals were or were not employed on each of
such days, or who or which is or becomes a liable em-
ployer under any federal unemployment tax act.

"Employment", subject to the other provisions of this
section, means:
(1) Service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) The term "employment" shall include an individual's entire service, performed within or both within and without this state if: (a) The service is localized in this state; or (b) the service is not localized in any state but some of the service is performed in this state and (i) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or (ii) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state.

(3) Service not covered under paragraph two of this subsection and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter if the individual performing such services is a resident of this state and the director approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this chapter.

(4) Service shall be deemed to be localized within a state, if: (a) The service is performed entirely within such state; or (b) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within this state. For example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for wages shall be deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the director that: (a) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact; and (b) such service is either outside
the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and (c) such individual is customarily engaged in an independently established trade, occupation, profession or business.

(6) All service performed by an officer or member of the crew of an American vessel (as defined in section three hundred five of an act of Congress entitled "Social Security Act Amendment of 1946," approved August tenth, one thousand nine hundred forty-six) on or in connection with such vessel, provided that the operating office, from which the operations of such vessel operating on navigable waters within or within and without the United States is ordinarily and regularly supervised, managed, directed and controlled, is within this state.

The term "employment" shall not include:

(1) Services performed in the employ of this state or any political subdivision thereof, or any instrumentality of this state or its subdivisions.

(2) Service performed directly in the employ of another state, or its political subdivisions.

(3) Service performed in the employ of the United States or an instrumentality of the United States exempt under the constitution of the United States from the payments imposed by this law, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this law shall be applicable to such instrumentalities, and to service performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals, and services: Provided, That if this state shall not be certified for any year by the social security administration under section one thousand six hundred three (c) of the federal internal revenue code, the pay-
ments required of such instrumentalities with respect to such year shall be refunded by the director from the fund in the same manner and within the same period as is provided in section nineteen of article five of this chapter with respect to payments erroneously collected.

(4) Service performed after June thirty, one thousand nine hundred thirty-nine, with respect to which unemployment compensation is payable under the railroad unemployment insurance act (fifty-two stat. one thousand ninety-four), and service with respect to which unemployment benefits are payable under an unemployment compensation system for maritime employees established by an act of Congress. The director may enter into agreements with the proper agency established under such an act of Congress to provide reciprocal treatment to individuals who, after acquiring potential rights to unemployment compensation under an act of Congress, or who have, after acquiring potential rights to unemployment compensation under an act of Congress, acquired rights to benefits under this chapter. Such agreements shall become effective ten days after such publication as complies with the general rules of the department.

(5) Agricultural labor.

(6) Domestic service in a private home.

(7) Service performed by an individual in the employ of his son, daughter, or spouse.

(8) Service performed by a child under the age of twenty-one years in the employ of his father or mother.

(9) Service performed in the employ of an employing unit organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for prevention of cruelty to children or animals, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

(10) Service as an officer or member of a crew of an American vessel performed on or in connection with such vessel, if the operating office, from which the operations of the vessel operating on navigable waters within or without the United States are ordinarily and regularly
supervised, managed, directed and controlled, is without this state.

Notwithstanding the foregoing exclusions from the definition of "employment", services, except agricultural labor and domestic service in a private home, shall be deemed to be in employment if with respect to such services a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund.

"Employment office" means a free employment office or branch thereof, operated by this state, or any free public employment office maintained as a part of a state-controlled system of public employment offices in any other state.

"Fund" means the unemployment compensation fund established by this chapter.

"Payments" means the money required to be paid into the state unemployment compensation fund as provided by article five of this chapter.

"State" includes, in addition to the states of the United States, Alaska, Hawaii, and the District of Columbia.

"Total and partial unemployment":

(1) An individual shall be deemed totally unemployed in any week in which such individual is separated from employment for an employing unit and during which he performs no services and with respect to which no wages are payable to him.

(2) An individual who has not been separated from work shall be deemed to be partially unemployed in any week in which he performs no services and with respect to which no wages are payable to him, or in any week in which due to lack of full time work wages payable to him are less than his weekly benefit amount plus three dollars.

"Wages" means all remuneration for personal service, including commissions and bonuses and the cash value of all remuneration in any medium other than cash: Provided, That the term "wages" shall not include:
(1) That part of the remuneration which, after remun-
eration equal to three thousand dollars has been paid to
an individual by an employer with respect to employ-
ment during any calendar year, is paid after December
thirty-one, one thousand nine hundred thirty-nine, and
prior to January one, one thousand nine hundred forty-
seven, to such individual by such employer with respect
to employment during such calendar year; or that part of
the remuneration which, after remuneration equal to
three thousand dollars with respect to employment after
one thousand nine hundred thirty-eight has been paid
to an individual by an employer during any calendar
year after one thousand nine hundred forty-six, is paid
to such individual by such employer during such calen-
dar year, except that for the purposes of sections one,
ten, eleven and thirteen of article six of this chapter,
all remuneration earned by an individual in employment
shall be credited to the individual and included in his
computation of base period wages: Provided, That
the remuneration paid to an individual by an employer
with respect to employment in another state or other
states upon which contributions were required of and
paid by such employer under an unemployment com-
pensation law of such other state or states shall be in-
cluded as a part of remuneration equal to three thousand
dollars herein referred to.

(2) The amount of any payment made to, or on be-
half of, an individual in its employ (without deduction
from the remuneration of the individual in its employ).
under a plan or system established by an employer
which makes provision for individuals in its employ gen-
erally or for a class or classes of such individuals (in-
cluding any amount paid by an employer for insurance
or annuities, or into a fund, to provide for any such pay-
ment), on account of (A) retirement or (B) sickness or
accident disability, or (C) medical and hospitalization
expenses in connection with sickness or accident disa-
bility, or (D) death: Provided, That the individual in
its employ (i) has not the option to receive, instead of
provision for such death benefit, any part of such pay-
ment or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employer, and (ii) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive such consideration in lieu of such benefit, either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy or of insurance of his services with such employer.

(3) The payment by an employer (without deduction from the remuneration of the individual in its employ) of the tax imposed upon an individual in its employ under section one thousand four hundred of the federal internal revenue code; or

(4) Payments, not required under any contract of hire, made to an individual with respect to his period of training or service in the armed forces of the United States by any employer by which such individual was formerly employed.

Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages paid by his employing unit, if accounted for and reported to such employing unit.

The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the director.

“Week” means a calendar week, ending at midnight Saturday, or the equivalent thereof, as determined in accordance with the regulations prescribed by the director.

“Weekly benefit rate” means the maximum amount of benefit an eligible individual will receive for one week of total unemployment.

“Year” means a calendar year or the equivalent thereof, as determined by the director.
Article 2. The Director of Unemployment Compensation.

Section 6-a. Reciprocal agreements.

Section 6-a. Reciprocal Agreements.—(1) The director may enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or the federal government, or both, whereby:

(a) Services performed by an individual for a single employing unit for which services are customarily performed by such individual in more than one state shall be deemed to be services performed entirely within any one of the states (i) in which any part of such individual's service is performed or (ii) in which such individual has his residence or (iii) in which the employing unit maintains a place of business, provided there is in effect, as to such services, an election by an employing unit, and approved by the agency charged with the administration of such state's unemployment compensation law pursuant to which services performed by such individual for such employing unit are deemed to be performed entirely within such state;

(b) Potential rights to benefits accumulated under the unemployment compensation laws of one or more states or under one or more such laws of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the director finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund;

(c) Wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the federal government, shall be deemed to be wages for insured work for the purpose of determining his rights to benefits under this chapter, and wages for insured work, on the basis of which an individual may become entitled to benefits under this chapter and shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another state or of the federal government is payable, but no
such arrangement shall be entered into unless it con-
tains provisions for reimbursements to the fund for such
of the benefits paid under this chapter upon the basis
of such wages or services, and provisions for reimburse-
ments from the fund for such of the compensation paid
under such other law upon the basis of wages for in-
sured work, as the director finds will be fair and reason-
able as to all affected interests; and

(d) Contributions due under this chapter with respect
to wages for insured work shall for the purposes of this
chapter be deemed to have been paid to the fund as of
the date payment was made as contributions therefor un-
der another state or federal unemployment compensation
law, but no such arrangement shall be entered into unless
it contains provisions for such reimbursement to the fund
of such contributions as the director finds will be fair
and reasonable as to all affected interests.

(2) Reimbursements paid from the fund pursuant to
paragraph (c) of subsection one of this section shall be
deemed to be benefits for the purpose of this chapter. The
director is authorized to make to other state or federal
agencies and to receive from such other state or federal
agencies, reimbursements from or to the fund, in accord-
ance with arrangements entered into pursuant to sub-
section one of this section.

(3) To the extent permissible under the laws and
constitution of the United States, the director is author-
ized to enter into or cooperate in arrangements whereby
facilities and services provided under this chapter and
facilities and services provided under the unemploy-
ment compensation law of any foreign government, may
be utilized for the taking of claims and the payment of
benefits under the employment security law of this state
or under a similar law of such government.

Article 4. Board of Review.

Section 5. Compensation.

Section 5. Compensation.—Each member of the board
shall receive an annual salary of five thousand dollars
and the necessary traveling expenses incurred in the performance of his duties.

Requisition for traveling expenses shall be accompanied by a sworn and itemized statement which shall be filed with the auditor and permanently preserved as a public record.

The salaries and the expenses of the members shall be paid from the administration fund.

Sec. 6. Meetings.—The offices and meeting place of the board shall be at the capitol; but the board may sit at such other places as the prompt and efficient hearing of claims may require. The board shall sit for hearing 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 maintain a separate account for each employer, and shall credit his account with all contributions heretofore and hereafter paid by him. Nothing in this chapter shall be construed to grant any employer or individual in his service prior claims or rights to the amounts paid by him into the fund, either on his own behalf or on behalf of such individuals. The account of any employer which has been inactive for a period of four consecutive calendar years shall be terminated for all purposes.

(2) Benefits paid to an eligible individual shall be charged against the accounts of his base period employers. The amount of benefits so chargeable against each base period employer's account shall bear the same ratio to the total benefits paid to an individual as the base period wages paid to such individual by such employer bear to the total amount of base period wages paid to such individual by all his base period employers: Provided, however, That benefits paid to an individual for partial unemployment shall be charged to the account of his last covered employer: And provided further, That benefits paid for partial unemployment resulting solely from odd
job and/or subsidiary work shall be charged in the same manner as benefits for total unemployment.

(3) The director shall, for the year one thousand nine hundred forty-eight and for each calendar year thereafter, classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts, with a view of fixing such contribution rates as will reflect such experience. For the purpose of fixing such contribution rates for each calendar year, the books of the department shall be closed on July thirty-one of the preceding calendar year, and any contributions thereafter paid, as well as benefits thereafter paid with respect to compensable weeks ending on or before June thirty of the preceding calendar year, shall not be taken into account until the next annual date for fixing contribution rates: Provided, however, That if an employer has failed to furnish to the director on or before July thirty-one of such preceding calendar year the wage information for all past periods necessary for the computation of the contribution rate such employer's rate shall be two and seven-tenths per cent: Provided further, That any payment made or any information necessary for the computation of a reduced rate furnished on or before the termination of an extension of time for such payment or reporting of such information granted pursuant to a regulation of the director authorizing such extension, shall be taken into account for the purposes of fixing contribution rates: Provided further, That whenever through mistake or inadvertence erroneous credits or charges are found to have been made to or against the reserve account of any employer, the rate shall be adjusted as of January one of the calendar year in which such mistake or inadvertence is discovered; but payments made under any rate assigned prior to January one of such year shall not be deemed to be erroneously collected.

Sec. 10. Experience Ratings; Decreased Rates. — On and after January one, one thousand nine hundred forty-eight, after the requirements of section nine have been complied with, an employer's payment shall remain two
and seven-tenths per cent, until: (1) There have elapsed
thirty-six consecutive months immediately preceding the
computation date throughout which an employer’s ac-
count was chargeable with benefits.

(2) His payments credited to his account for all past
years exceed the benefits charged to his account by an
amount equal to at least five and one-half per cent of his
average annual pay roll, in which case his rate shall be
two and four-tenths per cent.

(3) His payments credited to his account for all past
years exceed the benefits charged to his account by an
amount equal to at least six and one-half per cent of his
average annual pay roll, in which case his rate shall be
two and one-tenth per cent.

(4) His payments credited to his account for all past
years exceed the benefits charged to his account by an
amount equal to at least seven and one-half per cent of his
average annual pay roll, in which case his rate shall be
one and eight-tenths per cent.

(5) His payments credited to his account for all past
years exceed the benefits charged to his account by an
amount equal to at least eight and one-half per cent of his
average annual pay roll, in which case his rate shall be
one and four-tenths per cent.

(6) His payments credited to his account for all past
years exceed the benefits charged to his account by an
amount equal to at least nine per cent of his average
annual pay roll, in which case his rate shall be one and
two-tenths per cent.

(7) His payments credited to his account for all past
years exceed the benefits charged to his account by an
amount equal to at least ten per cent of his average an-
nual pay roll, in which case his rate shall be nine-tenths
of one per cent.

(8) His payments credited to his account for all past
years exceed the benefits charged to his account by an
amount equal to at least eleven per cent of his average
annual pay roll, in which case his rate shall be seven-
tenths of one per cent.

(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-
on is assumed by the acquiring employer. The director shall upon joint request of the transferor and transferee, before the transfer, furnish the transferee a statement of the amount of any contribution and interest due and unpaid by the transferor, and shall, upon such transfer, furnish such statement to the transferee upon the transferee's request. A statement so furnished shall be controlling for the purposes of the foregoing proviso.

Article 6. Employee Eligibility; Benefits.

Section 4. Disqualification for Benefits. Upon the determination of the facts by the director, an individual shall be disqualified for benefits:

1. For the week in which he left his most recent work voluntarily without good cause involving fault on the part of the employer and the six weeks immediately following such week. Such disqualification shall carry a reduction in the maximum benefit amount equal to six times the individual's weekly benefit rate. However, if the claimant returns to work in covered employment during his benefit year the maximum benefit amount shall be increased by the amount of the decrease imposed under the disqualification.

2. For the week in which he was discharged by his last employing unit for misconduct and the six weeks immediately following such week. Such disqualification shall carry a reduction in the maximum benefit amount equal to six times the individual's weekly benefit rate. However, if the claimant returns to work in covered employment during his benefit year the maximum benefit amount shall be increased by the amount of the decrease imposed under the disqualification.

3. For the week in which he failed without good cause, to apply for available suitable work, accept suitable work when offered, or return to his customary self-employment when directed to do so by the director, and for the four weeks which immediately follow and for such additional period as any offer of suitable work shall
continue open for his acceptance, and his maximum benefit amount shall be reduced by an amount equal to his weekly benefit rate times the number of weeks of disqualification. However, if the claimant returns to work in covered employment during his benefit year the maximum benefit amount shall be increased by the amount of the decrease imposed under the disqualification.

(4) For a week in which his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he was last employed, unless the director is satisfied that he was not (one) participating, financing, or directly interested in such dispute, and (two) did not belong to a grade or class of workers who were participating, financing, or directly interested in the labor dispute which resulted in the stoppage of work. No disqualification under this subsection shall be imposed if the employees are required to accept wages, hours or conditions of employment substantially less favorable than those prevailing for similar work in the locality, or if employees are denied the right of collective bargaining under generally prevailing conditions, or if an employer shuts down his plant or operation or dismisses his employees in order to force wage reduction, changes in hours or working conditions.

(5) For a week with respect to which he is receiving or has received:

(a) Wages in lieu of notice or payments under any form of a separation wage plan.

(b) Compensation for temporary partial disability under the workmen's compensation law of any state or under a similar law of the United States.

(c) Remuneration in the form of a primary insurance benefit under title two of the social security act, as amended, or similar payments under any act of Congress.

(d) Unemployment compensation benefits under the laws of the United States or any other state.

(6) For the week in which an individual is not employed because of pregnancy, or has voluntarily quit employment to marry or to perform any marital, paren-
tal, or family duty, or to attend to his or her personal business or affairs, and until the individual returns to covered employment and has been employed in covered employment at least thirty working days.

(7) For each week in which an individual is unemployed because, having voluntarily left employment to attend a school, college, university, or other educational institution, he is attending such school, college, university, or other educational institution, or is awaiting entrance thereto or is awaiting the starting of a new term or session thereof.

(8) For the purposes of this section an employer's account shall not be charged under any of the following conditions: (1) When benefits are paid without any disqualification to an individual who has left his most recent work for good cause not involving fault on the part of the employer. (2) When benefits are paid for unemployment immediately after the expiration of a period of disqualification for (a) leaving work voluntarily without good cause involving fault on the part of the employer, (b) discharge for misconduct, (c) failing without good cause to apply for available suitable work, accept suitable work when offered, or return to his customary self-employment when directed to do so by the director.

Sec. 10. Benefit Rate; Total Unemployment. — Each eligible individual who is totally unemployed in any week shall be paid benefits with respect to that week at the weekly rate appearing in column (C) in table A in this paragraph, on the line on which in column (A) there is indicated the employee's wage class, except as otherwise provided under the term "total and partial unemployment" in section three, article one of this chapter. The employee's wage class shall be determined by his base period wages as shown in column (B) in table A. The right of an employee to receive benefits shall not be prejudiced nor the amount thereof be diminished by reason of failure by an employer to pay either the wages earned by the employee or the contribution due on such wages. An individual who is totally unemployed but earns
in excess of three dollars as a result of odd job or subsidiary work in any benefit week shall be paid benefits for such week in accordance with the provisions of this chapter pertaining to benefits for partial unemployment.

### TABLE A

<table>
<thead>
<tr>
<th>Wage Class (Col. A)</th>
<th>Wages in Base Period (Col. B)</th>
<th>Weekly Benefit Rate (Col. C)</th>
<th>Maximum Benefit Year for Total and/or Partial Unemployment (Col. D)</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>Under - $ 300.00</td>
<td>Ineligible</td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>1 $ 300.00 - $ 399.99</td>
<td>$ 8.00</td>
<td>$168.00</td>
</tr>
<tr>
<td>22</td>
<td>2 400.00 - 499.99</td>
<td>9.00</td>
<td>189.00</td>
</tr>
<tr>
<td>23</td>
<td>3 500.00 - 599.99</td>
<td>10.00</td>
<td>210.00</td>
</tr>
<tr>
<td>24</td>
<td>4 600.00 - 699.99</td>
<td>11.00</td>
<td>231.00</td>
</tr>
<tr>
<td>25</td>
<td>5 700.00 - 799.99</td>
<td>12.00</td>
<td>252.00</td>
</tr>
<tr>
<td>26</td>
<td>6 800.00 - 899.99</td>
<td>13.00</td>
<td>273.00</td>
</tr>
<tr>
<td>27</td>
<td>7 900.00 - 999.99</td>
<td>14.00</td>
<td>294.00</td>
</tr>
<tr>
<td>28</td>
<td>8 1000.00 - 1099.99</td>
<td>15.00</td>
<td>315.00</td>
</tr>
<tr>
<td>29</td>
<td>9 1100.00 - 1199.99</td>
<td>16.00</td>
<td>336.00</td>
</tr>
<tr>
<td>30</td>
<td>10 1200.00 - 1299.99</td>
<td>17.00</td>
<td>357.00</td>
</tr>
<tr>
<td>31</td>
<td>11 1300.00 - 1399.99</td>
<td>17.50</td>
<td>367.50</td>
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<td>32</td>
<td>12 1400.00 - 1499.99</td>
<td>18.00</td>
<td>378.00</td>
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<td>33</td>
<td>13 1500.00 - 1599.99</td>
<td>18.50</td>
<td>388.50</td>
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<tr>
<td>34</td>
<td>14 1600.00 - 1699.99</td>
<td>19.00</td>
<td>399.00</td>
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<td>35</td>
<td>15 1700.00 - 1799.99</td>
<td>19.50</td>
<td>409.50</td>
</tr>
<tr>
<td>36</td>
<td>16 1800.00 and over</td>
<td>20.00</td>
<td>420.00</td>
</tr>
</tbody>
</table>

### Article 7. Claim Procedure.

#### Section

8. Appeal from deputy's decision.
9. Finality of examiner's decision.
10. Board of review.

Section 8. **Appeal from Deputy's Decision.**—A claimant, last employer or any base period employer of a claimant, or other interested party, may file an appeal from the decision of the deputy within eight calendar days after notice of the decision has been delivered or mailed by registered mail to the claimant and last employer as provided in section four of this article. The period within which an appeal from the decision of the deputy may be filed shall be stated in such notice. The decision of
the deputy shall be final and benefits shall be paid or denied in accordance therewith unless an appeal is filed within such time.

Upon appeal from the determination of a deputy, an individual shall be entitled to a fair hearing and reasonable opportunity to be heard before an appeal tribunal as provided in section seven of this article.

Within eight days after receipt by the board of notice of appeal from the decision of a deputy, the board shall fix the time and place for hearing such appeal, and notify the claimant, last employer, the director, and any base period employer upon his request, ten days in advance of the date set for hearing.

Upon consideration of all evidence the appeal tribunal shall make a decision within twenty-one days after the date of the hearing, and shall notify the claimant, last employer, the director, and any base period employer upon his request, of its findings and decision.

Sec. 9. Finality of Examiner's Decision.—A claimant, last employer or any base period employer of a claimant, or other interested party may file an appeal to the board from the decision of an appeal tribunal within eight calendar days after notice of the decision has been delivered or mailed to the claimant and last employer as provided in section eight of this article. The director shall be deemed an interested party. The decision of the appeal tribunal shall be final and benefits shall be paid or denied in accordance therewith unless an appeal is filed within such time.

Sec. 10. Board of Review.—The board may, after notice to the claimant, last employer, the director, and any base period employer, upon his request, eight days in advance of the date set for hearing:

1. On its own motion affirm, modify, or set aside a decision of an appeal tribunal;
2. Direct the taking of additional evidence in a disputed claim;
3. Permit parties to the decision of an appeal tribunal to initiate further appeals before it.
(4) Where it deems necessary in the interest of any party that additional testimony be taken, refer a case on its own motion or at the request of any party to a trial examiner for the expeditious taking of such additional testimony; but no such referral shall be made at the request of any party except for good cause shown: Provided further, That where all parties are present at the hearing such additional testimony may be taken before the board.

Sec. 15. Report of Decision.—The board shall, within fifteen days after the conclusion of the hearing, notify the claimant, last employer, the director, and any base period employer upon his request, of its findings and decision on an appeal.


Section 11. Information.

Section 11. Information.—The director may require an employing unit to provide sworn or unsworn reports concerning:

(1) The number of individuals in its employ.
(2) Individually their hours of labor.
(3) Individually the rate and amount of wages.
(4) Such other information as is reasonably connected with the administration of this chapter.

Information thus obtained shall not be published or be open to public inspection so as to reveal the identity of the employing unit or the individual. However, a claimant of benefit or any other interested party shall, upon request, be supplied with information from such records to the extent necessary for the proper presentation or defense of a claim. Such information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices.

A person who violates the provisions of this section shall be guilty of a misdemeanor, and upon conviction...
shall be fined not less than twenty dollars nor more than
two hundred dollars, or imprisoned not longer than ninety
days, or both.

No action for slander or libel, either criminal or civil,
shall be predicated upon information furnished by any
employer or any employee to the director in connection
with the administration of any of the provisions of this
chapter.

Sec. 17. Savings Clause; Application of Certain Pro-
visions.—The Legislature reserves the right to amend or
repeal all or any part of this chapter and no private
rights shall vest against any legislative amendment or
change or repeal. All rights, privileges, or immunities
conferred by this chapter or by acts done pursuant there-
to shall exist subject to the power of the Legislature to
amend or repeal this chapter at any time.

The provisions of this chapter relating to article one,
section three, definitions of “annual payroll”, “average
annual payroll”, and “computation date”, and to article
five, sections seven, ten, and ten-b, shall apply for the
rate year one thousand nine hundred forty-eight and for
all rate years thereafter; for rate years prior to one thou-
sand nine hundred forty-eight the provisions then in ef-
fact 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 busi-
ness trusts; prescribing the form of execution and ac-
nowledgment 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 Any persons who are now or who have heretofore been voluntarily associated together for the transaction or doing of business under and pursuant to the terms and provisions of a declaration of trust or articles or agreement of association, commonly designated as a Massachusetts trust or business trust, or any other lawful voluntary association by whatever name known, may purchase, acquire, hold, deal in, sell, lease, convey, exchange, pledge, mortgage and encumber any real estate or personal property or interest therein within this state, and may execute all deeds, leases, contracts, or other instruments in writing with respect to real estate or personal property or interest therein as may be necessary or required, either in the name or names of the trustees for the time being designated in such declaration, articles or agreement, or their successors, or in the name or names of another person or persons designated in such declaration, articles or agreement, or by a descriptive, assumed
or trade-name, when signed by a duly authorized officer
or officers thereof, all as may be provided for and stated
in such declaration, articles or agreement: Provided, how-
ever, That such association or trust shall have qualified
to do business in West Virginia, as hereinafter provided
for in section five of this article.

Sec. 2. Adoption and Use of Trade-Names; Use of Seal.
—Any such association or trust may adopt and use a
descriptive, assumed or trade-name, subject to all ap-
plicable laws of the state relating to registration thereof
and may adopt and use a common seal.

Sec. 3. Recordation of Declaration of Trust or Agree-
ment of Association; Acknowledgment of Deeds and
Other Writings.—Every such association or trust shall
cause a copy of any such declaration, articles or agree-
ment, duly authenticated, to be filed and recorded in the
office of the clerk of the county court of the county in
which any such association, trust or trustees shall pur-
chase, acquire, hold, deal in, sell, lease, convey, exchange,
pledge, mortgage and encumber or otherwise dispose of
or execute any instruments with respect to real estate
or personal property or interest therein and such dec-
laration, articles or agreements providing for the use of
such descriptive, assumed or trade-name shall authorize
and designate or contain provisions for the authorization
or designation of persons by whom deeds, leases, con-
tracts and other instruments in writing shall be executed.
All such deeds, leases, contracts and other instruments
in writing shall be deemed to be properly acknowledged
for the purposes of recordation if acknowledged in the
form provided by statute for acknowledgments by cor-
porations, or, if executed by trustees or other persons.
then in the form provided by statute therefor.

Sec. 4. Validation of Deeds and Other Writings Here-
tofore Executed.—All deeds, leases, contracts and other
instruments in writing with respect to real estate or per-
sonal property or interest therein within this state here-
tofore made and delivered by any such association, trust
or trustees, which comply with the requirements of this
article shall be and each of them hereby is expressly
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 cor-
porations, including license fees and all other taxes. The
secretary of state shall thereupon issue to such associa-
tion 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 cor-
porations 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 other-
wise invalid, such invalidity or unconstitutionality shall
not affect the operation of the remaining provisions.

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 compensa-
tion and its administration.

[Passed March 7, 1947; in effect July 1, 1947. Approved by the Governor.]
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.

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.
Each employer shall make a payroll report to the commissioner for each quarter as heretofore specified, and such report shall be on the form or forms prescribed by the commissioner, and furnish all information required by him.

Failure to pay premiums as herein provided or to make the quarterly payroll reports required by the commissioner shall deprive the employer so delinquent of the benefits and protection afforded by this chapter, and shall automatically terminate the election of such employer to pay into the workmen's compensation fund as herein provided, and such employer shall be liable to his employees as provided in section eight of this article; and the commissioner shall not be required to notify the delinquent employer of such termination, but he shall notify the employees of such employer by written notice posted as hereinafter provided for in this section. The termination of election of such delinquent employer shall date from twelve o'clock p.m., of the last day of the month in which he fails to pay the premiums or make payroll reports, as above provided, for the preceding quarter.

The employer so delinquent may be reinstated upon application under such terms as are prescribed by this chapter and by the commissioner hereunder, after the payment into the workmen's compensation fund of all unpaid premiums, penalties and charges. Such reinstatement shall be in effect from and after the date that the new application is accepted by the commissioner: Provided, however, That such delinquent employer shall be entitled to the benefits and protection of this chapter until twelve o'clock p.m. of the last day of the month immediately succeeding the month in which his election is terminated, and his employees shall be entitled to compensation for injuries received during such period, but not thereafter unless such delinquent employer becomes reinstated as herein provided.

Any employer hereafter electing to avail himself of the benefits of this chapter shall at the time of making application to the commissioner deposit in the workmen's compensation fund an amount estimated to be equal to the
amount of the premium which shall be paid by him for the
next succeeding quarter. Any employer whose deposit is
less than the amount of his premium for the last quarter
shall, upon written request from the commissioner mailed
to his address as carried upon the books of the commis-
missioner by twelve o'clock p.m. of the twentieth of the
month in which request is mailed, pay to the commis-
er a sum sufficient to make his deposit at least equal to the
amount of his premium for the last preceding quarter, and
failure of any employer to comply with such written re-
quest within the time specified shall deprive him of the
benefits and protection afforded by this chapter, and shall
automatically terminate his election to pay into the work-
men's compensation fund as herein provided, and such
employer shall be liable to his employees as provided in
section eight of this article; and the commissioner shall
not be required to notify the delinquent employer of such
termination, but he shall notify the employees of such
employer by written notice posted as hereafter provided
for in this section. The termination of election of such
employer shall date from twelve o'clock p.m. of the last
day of the month in which he is notified by the commis-
sioner that his deposit is not equal to the sum of his pre-
mium for the last preceding quarter. Such employer may
be reinstated upon application under such terms as are
prescribed by this chapter and the rules of the commis-
sioner. The deposit hereinbefore described shall be cred-
ited to the employer's account on the books of the com-
missioner and used to pay premiums and any other sums
due the fund when such employer becomes delinquent
in the payment of the same.

Upon withdrawal from the fund or termination of
election of any employer, he shall be refunded the bal-
ance due him of his deposit, after deducting all amounts
owed by him to the workmen's compensation fund, and
the commissioner shall notify the employees of such em-
ployer of said termination in such manner as he may
deem best and sufficient.

Notices to employees in this section provided for shall
be given by posting written notice that the employer is
delinquent under the compensation law of West Virginia, and that neither the employer nor the employees of such employer are protected by said law as to any accidents happening after the date specified in said notice. Such notice shall be in the form prescribed by the commissioner and shall be posted in a conspicuous place at the chief works of the employer, as the same appear in records of the commissioner. If the said chief works of the employer cannot be found or identified, then said notices shall be posted at the front door of the court house of the county in which said chief works are located, according to the records in the commissioner's office. Any person who shall, prior to the reinstatement of the said employer, as hereinbefore provided for, or prior to sixty days after the posting of said notice, whichever shall first occur, remove, deface or render illegible the said notice, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed five hundred dollars, and the said notice shall state this provision upon its face. The commissioner may require any sheriff, deputy sheriff, constable, or other official of the state of West Virginia, who may be authorized to serve civil process, to post such notice and to make return thereof of the fact of such posting to the commissioner, and any failure of such officer to post any notice within ten days after he shall have received the same from the commissioner, without just cause or excuse, shall constitute a wilful failure or refusal to perform a duty required of him by law within the meaning of section twenty-eight, article five, chapter sixty-one of the code of West Virginia. Any person actually injured by reason of such failure shall have an action against said official, and upon any official bond he may have given, for such damages as such person may actually have incurred, but not to exceed, in the case of any surety upon said bond, the amount of the penalty of said bond. Any official posting said notice as herein required shall be entitled to the same fee as is now or may hereafter be provided for the service of process in suits instituted in courts of record in the state of West Virginia, which fee shall be paid by
Sec. 9. Election of Employer to Provide Own System of Compensation.—Notwithstanding anything contained in this chapter, employers subject to this chapter who are of sufficient financial responsibility to insure the payment of compensation to injured employees and the dependents of fatally injured employees, whether in the form of pecuniary compensation or medical attention, funeral expenses or otherwise as herein provided, of the value at least equal to the compensation provided in this chapter, or employers of such financial responsibility who maintain their own benefit funds, or system of compensation, to which their employees are not required or permitted to contribute, or such employers as shall furnish bond or other security to insure such payments, may, upon a finding of such facts by the compensation commissioner, elect to pay individually and directly, or from such benefit funds, department or association, such compensation and expenses to injured employees or fatally injured employees’ dependents. The compensation commissioner shall require security or bond from such employer, to be approved by him, and of such amount as is by him considered adequate and sufficient to compel or secure to such employees, or their dependents, payment of the compensation and expenses herein provided for, which shall in no event be less than the compensation paid or furnished out of the state workmen’s compensation fund in similar cases to injured employees or the dependents of fatally injured employees whose employers contribute to such fund. Any employer electing under this section shall on or before the twentieth day of the first month of each quarter, for the preceding quarter, file with the commissioner a sworn statement of the total earnings of all his employees subject to this chapter for such preceding quarter, and shall pay into the workmen’s compensation fund a sum sufficient to pay his proper proportion of the expenses of the administration of this chapter, as may be determined
by the commissioner. The commissioner shall make and
publish rules and regulations governing the mode and
manner of making application, and the nature and extent
of the proof required to justify the finding of facts by
the commissioner, to consider and pass upon such election
by employers subject to this chapter, which rules and
regulations shall be general in their application. Any
employer subject to this chapter who shall elect to carry
his own risk and who has complied with the requirements
of this section and the rules of the compensation commis-
sioner shall not be liable to respond in damages at com-
mon law or by statute for the injury or death of any
employee, however occurring, after such election and
during the period that he is allowed by the commissioner
to carry his own risk; provided the injured employee
has remained in his service with notice given, as pro-
vided for in section seven of this article, that his em-
ployer has elected to carry his own risk as herein pro-
vided. The continuation in the service of such employer
with such notice shall be deemed a waiver by the em-
ployee and by the parents of any minor employee of the
right of action, as aforesaid, which the employee or his
or her parents would otherwise have.

Any employer whose record upon the books of the
compensation commissioner shows a liability against the
workmen's compensation fund incurred on account of in-
jury to or death of any of his employees, in excess of
premiums paid by such employer, shall not be granted
the right, individually and directly or from such benefit
funds, department or association, to compensate his in-
jured employees and the dependents of his fatally injured
employees until he has paid into the workmen's com-
pensation fund the amount of such excess of liability
over premiums paid, including his proper proportion of
the liability incurred on account of explosions, catastro-
phes or second injuries as defined in section one, article
three of this chapter, occurring within the state and
charged against such fund.

All employers who have heretofore elected, or shall
hereafter elect, to pay compensation and expenses direct-
ly as provided in this section, shall, unless they give the
catastrophe and second injury security or bond herein-
after provided for, pay into the surplus fund referred to
in section one, article three of this chapter upon the same
basis and in the same percentages, subject to the limita-
tions herein set forth, as funds are set aside for the main-
tenance of the surplus fund out of payments made by
premium-paying subscribers, such payments to be made
at the same time as hereinbefore provided with respect
to payment of proportion of expenses of administration.
In case there be a catastrophe or second injury, as defined
in section one, article three of this chapter, to the em-
ployees of any employer making such payments, the
employer shall not be liable to pay compensation or ex-
penses arising from or necessitated by the catastrophe
or second injury, and such compensation and expenses
shall not be charged against such employer, but such
compensation and expenses shall be paid from the sur-
plus fund in the same manner and to the same extent as
in the case of premium-paying subscribers.
If an employer elect to make payments into the surplus
fund as aforesaid, then the bond or other security re-
quired by this section shall be of such amount as the
commissioner considers adequate and sufficient to compel
or secure to the employees or their dependents payment
of compensation and expenses, except any compensation
and expenses that may arise from, or be necessitated by,
any catastrophe or second injury, as defined in section
one, article three of this chapter, which last are secured
by and shall be paid from the surplus fund as herein-
before provided.
If any employer elect not to make payments into the
surplus fund, as hereinbefore provided, then, in addition
to bond or security in the amount hereinbefore set forth,
such employer shall furnish catastrophe and second in-
jury security or bond, approved by the commissioner,
in such additional amount as the commissioner shall con-
sider adequate and sufficient to compel or secure pay-
ment of all compensation and expenses arising from, or
necessitated by, any catastrophe or second injury that
might thereafter ensue.

All employers hereafter making application to carry
their own risk under the provisions of this section, shall
with such application, make a written statement as to
whether such employer elects to make payments as afore-
said into the surplus fund, or not to make such payments
and to give catastrophe and second injury security or
bond hereinbefore in such case provided for.

All employers who have heretofore elected to carry
their own risk under the provisions of this section shall
be deemed to have elected to make payments into the
surplus fund unless, within thirty days after the effective
date of this act, they notify the commissioner in writing
to the contrary: Provided, however, That such employers,
as have heretofore elected, under the rules heretofore
promulgated by the commissioner, not to make payments
into the surplus fund, shall be deemed to have elected
to give the catastrophe and second injury security or
bond hereinbefore provided for and not to make pay-
ments into the surplus fund. Any catastrophe and second
injury security or bond heretofore given under rules and
regulations promulgated by the commissioner and ap-
proved by him shall be valid under this section, and any
election heretofore made under rules and regulations of
the commissioner to make payments into the surplus
fund shall be valid and protective to the person so elect-
ing from and after the date of such election.

In any case under the provisions of this section that
shall require the payment of compensation or benefits
by an employer in periodical payments, and the nature
of the case makes it possible to compute the present
value of all future payments, the commissioner may, in
his discretion, at any time compute and permit or re-
quire to be paid into the workmen's compensation fund
an amount equal to the present value of all unpaid com-
ensation for which liability exists, in trust: and there-
upon such employer shall be discharged from any further
liability upon such award, and payment of the same shall
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.—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-
ful quantities over a period of not less than two years in the state of West Virginia. An application for benefits on account of silicosis shall set forth the name of the employer or employers and the time worked for each, and the commissioner may allocate to and divide any charges on account of such claim among the employers for whom the claimant was employed during a period of two years immediately preceding the filing of the application. The allocation shall be based upon the time and degree of exposure with each employer.

For the purpose of this chapter silicosis is defined as an insidious fibrotic disease of the lung or lungs due to the prolonged inhalation and accumulation, sustained in the course of and resulting from his employment, of minute particles of dust containing silicon dioxide (SiO₂) over such a period of time and in such amounts as result in the substitution of fibrous tissues for normal lung tissues; and the term “silicosis” as used herein shall also include silicosis accompanied by tuberculosis of the lungs.

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
this section shall on or before the twentieth day of the first
month of each quarter, for the preceding quarter, file with
the commissioner a sworn statement of the total earnings
of all his employees subject to this chapter for such preced-
ing quarter, and shall pay into the workmen's compen-
sation fund a sum sufficient to pay his proper proportion of
the expenses of the administration of this chapter, as may
be determined by the commissioner. The commissioner
shall make and publish rules and regulations governing
the mode and manner of making application, and the na-
ture and extent of the proof required to justify the finding
of facts by the commissioner, to consider and pass upon
such election by employers subject to this chapter, which
rules and regulations shall be general in their applica-
tion. Any employer subject to this chapter who shall
elect to carry his own risk and who has complied with
the requirements of this section and the rules of the com-
ensation commissioner shall not be liable to respond in
damages at common law or by statute for the injury or
death of any employee, however occurring, after such
election and during the period that he is allowed by the
commissioner to carry his own risk; provided the injured
employee has remained in his service with notice given,
as provided for in section seven of this article, that his
employer has elected to carry his own risk as herein pro-
vided. The continuation in the service of such employer
with such notice shall be deemed a waiver by the em-
ployee and by the parents of any minor employee of the
right of action, as aforesaid, which the employee or his
or her parents would otherwise have.
Any employer whose record upon the books of the
compensation commissioner shows a liability against the
workmen's compensation fund, incurred on account of
injury to or death of any of his employees, in excess of
premiums paid by such employer shall not be granted
the right, individually and directly or from such benefit
funds, department or association, to compensate his in-
jured employees and the dependents of his fatally in-
jured employees until he has paid into the workmen's
compensation fund the amount of such excess of liability
over premiums paid, including his proper proportion of
the liability incurred on account of explosions, cata-
strophes or second injuries, as defined in section one,
article three of this chapter, occurring within the state
and charged against such fund.

All employers who have heretofore elected, or shall
hereafter elect, to pay compensation and expenses di-
rectly, as provided in this section, shall, unless they give
the catastrophe and second injury security or bond here-
inafter provided for, pay into the surplus fund referred
to in section one, article three of this chapter upon the
same basis and in the same percentages, subject to the
limitations herein set forth, as funds are set aside for the
maintenance of the surplus fund out of payments made
by premium-paying subscribers, such payments to be
made at the same time as hereinbefore provided with
respect to payment of proportion of expenses of admin-
istration. In case there be a catastrophe or second injury,
as defined in section one, article three of this chapter,
to the employees of any employer making such pay-
ments, the employer shall not be liable to pay compen-
sation or expenses arising from or necessitated by the
catastrophe or second injury, and such compensation and
expenses shall not be charged against such employer,
but such compensation and expenses shall be paid from
the surplus fund in the same manner and to the same
extent as in the case of premium-paying subscribers.

If an employer elect to make payments into the sur-
plus fund as aforesaid, then the bond or other security
required by this section shall be of such amount as the
commissioner considers adequate and sufficient to compel
or secure to the employees or their dependents payment
of compensation and expenses, except any compensation
and expenses that may arise from, or be necessitated
by, any catastrophe or second injury, as defined in sec-
tion one, article three of this chapter, which last are
secured by and shall be paid from the surplus fund, as
hereinbefore provided.

If any employer elect not to make payments into the
surplus fund, as hereinbefore provided, then, in addition
to bond or security in the amount hereinbefore set forth, such employer shall furnish catastrophe and second injury security or bond, approved by the commissioner, in such additional amount as the commissioner shall consider adequate and sufficient to compel or secure payment of all compensation and expenses arising from, or necessitated by, any catastrophe or second injury that might thereafter ensue.

All employers hereafter making application to carry their own risk under the provisions of this section, shall with such application, make a written statement as to whether such employer elects to make payments as aforesaid into the surplus fund, or not to make such payments and to give catastrophe and second injury security or bond hereinbefore in such case provided for.

All employers who have heretofore elected to carry their own risk under the provisions of this section shall be deemed to have elected to make payments into the surplus fund unless, within thirty days after the effective date of this act, they notify the commissioner in writing to the contrary: Provided, however, That such employers, as have heretofore elected, under the rules heretofore promulgated by the commissioner, not to make payments into the surplus fund, shall be deemed to have elected to give the catastrophe and second injury security or bond hereinbefore provided for and not to make payments into the surplus fund. Any catastrophe and second injury security or bond heretofore given under rules and regulations promulgated by the commissioner and approved by him shall be valid under this section, and any election heretofore made under rules and regulations of the commissioner to make payments into the surplus fund shall be valid and protective to the person so electing from and after the date of such election.

In any case under the provisions of this section that shall require the payment of compensation or benefits by an employer in periodical payments, and the nature of the case makes it possible to compute the present value
of all future payments, the commissioner may, in his discretion, at any time compute and permit or require to be paid into the workmen’s compensation fund an amount equal to the present value of all unpaid compensation for which liability exists, in trust; and thereupon such employer shall be discharged from any further liability upon such awards, and payment of the same shall be 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.

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
such time as in the judgment of the commissioner, such surplus fund shall be sufficiently large to cover the catastrophe hazard, the second injury hazard, and all losses not otherwise specifically provided for in this chapter.

A catastrophe is hereby defined as an accident in which three or more employees are killed or receive injuries, which, in the case of each individual, consists of: Loss of both eyes or the sight thereof; or loss of both hands or the use thereof; or loss of both feet or the use thereof; or loss of one hand and one foot or the use thereof. The aggregate of all medical and hospital bills and other costs, and all benefits payable on account of a catastrophe is hereby defined as "catastrophe payment."

In case of a catastrophe to the employees of an employer who is an ordinary premium-paying subscriber to the fund, or to the employees of an employer who, having elected to carry his own risk under section nine, article two of this chapter, has heretofore elected, or may hereafter elect, to pay into the surplus fund under the provisions of that section, then the catastrophe payment arising from such catastrophe shall not be charged against, or paid by, such employer but shall be paid from the surplus fund.

If an employee who has a definitely ascertainable physical impairment, caused by a previous injury, irrespective of its compensability, becomes permanently and totally disabled through the combined effect of such previous injury and a second injury received in the course of and as a result of his employment, the employer shall be chargeable only for the compensation payable for such second injury: Provided, however, That in addition to such compensation, and after the completion of the payments therefor, the employee shall be paid the remainder of the compensation that would be due for permanent total disability out of a special reserve of the surplus fund known as the second injury reserve, created in the manner hereinbefore set forth.

If an employee of an employer, who having elected to carry his own risk under section nine of article two of this chapter, and who has not elected to pay into the
surplus fund under the provisions of that section, who
has a definitely ascertainable physical impairment caused
by a previous injury, irrespective of its compensability,
and becomes permanently and totally disabled from the
combined effect of such previous injury and a second
injury received in the course of and as a result of his
employment, the employee shall be granted an award
of total permanent disability and his employer shall,
upon order of the commissioner, compensate the said
employee in the same manner as if the total permanent
disability of the employee had resulted from a single
injury while in the employ of such employer.

Employers electing, as herein provided, to compensate
individually and directly their injured employees and
their fatally injured employees' dependents shall do so in
the manner prescribed by the commissioner, and shall
make all reports and execute all blanks, forms and papers
as directed by the commissioner, and as provided in this
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 defi-

nitely 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 ag-
gravation 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 im-
pairment. This section shall only apply to definitely as-
certainable 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.

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, re­
lating to the establishment of a general hospital in Cabell
county.

[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
as a member thereof; and no person who holds any other 
public office or public employment, except the president 
of the county court of Cabell county and the mayor of the 
city of Huntington, shall be eligible to membership on the 
board. The officers of the board shall be a president, vice-
president, secretary and treasurer, and such other officers 
as may be appropriate or necessary. Except as herein 
otherwise provided, the board shall have the power to 
establish by-laws, rules and regulations for its own gov-
ernment and respecting the construction, maintenance 
and operation of said hospital, and it may by appropriate 
resolution or resolutions designate one or more commit-
tees consisting of two or more members of the board to 
have and exercise the powers of the board in the manage-
ment, control and operation of the hospital to the extent 
provided for in any such resolution.

Sec. 5. Qualifications of Members of Board; Terms of 
Office; Vacancies.—All members of the board shall be cit-
izens of West Virginia and residents of Cabell county, and 
no more than two of such members shall be engaged in 
the practice of medicine or surgery. The term of office of 
the members of the board shall be three years, except that 
the court and city, or the court alone, as the case may be, 
shall divide those originally appointed into three classes; 
the term of office of those of the first class consisting of 
five members shall expire on March one, one thousand 
nine hundred forty-eight; of the second class consisting 
of five members on March one, one thousand nine hun-
dred forty-nine; and of the third class consisting of four 
members on March one, one thousand nine hundred fifty; 
at every third annual appointment after such classifica-
tion only four members shall be chosen for a full term of 
three years to succeed those whose terms expire, and at 
other annual appointments five members shall be chosen 
for a full term of three years to succeed those whose 
terms expire. Each of the organizations mentioned in sec-
tion three shall, on or before thirty days from the first day 
of March in each year, certify the name of one of its mem-
ers as its choice for appointment as a member of said
board of trustees, and the person whose name is so cer-
tified shall be appointed by the said court and city, or said
court alone, as the case may be, as a member of the board
of trustees. The present members of the board of trustees
shall continue in office until their successors are appoint-
ed in accordance with the provisions of this section. All
vacancies in the board shall be filled by the appointment
of a successor member for the unexpired term by the
court and city, or the court alone, as the case may be, and
in every occasion appointment shall be made and the
terms of office shall continue until successors have been
appointed and qualified. Every appointee to fill a vacancy,
or upon the expiration of a term on the board, shall be a
member of the same organization as the predecessor. The
members of the board shall be chosen with regard to their
business and professional experience and their standing
as citizens in the community and without regard to their
religious or political affiliations. Members of the board
may be removed for such cause as other public officers
may be removed from office.

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.

[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 Unexpended Funds from Its Works Progress Administration Bond Fund to Its General Fund.—The common council of the municipality of Ceredo in Wayne county is hereby authorized and empowered 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.

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
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.

Be it enacted by the Legislature of West Virginia:

Section 1. Ceredo-Kenova Flood Wall Board.—The common councils of the municipalities of the town of Ceredo and the city of Kenova in the county of Wayne and state of West Virginia are hereby authorized to create in the manner hereinafter provided a flood wall board to be known as the "Ceredo-Kenova Flood Wall Board", which board shall have the custody of and control of the administration, operation and maintenance of all flood walls located within and surrounding the territorial boundaries of said municipalities and including but not limited to, all instrumentalities necessary for the operation of said walls. The word "board", when hereinafter used, shall be construed to mean the "Ceredo-Kenova Flood Wall Board", and the word "municipalities", when hereinafter used, shall mean the town of Ceredo and the city of Kenova.

Sec. 2. Appointment of Board; Term; Filling Vacancies.—The board shall consist of three members, two of whom shall be residents and voters of the city of Kenova and the other member shall be a resident and voter of the town of Ceredo. Two members of the board shall be appointed by the common council of the city of Kenova and one member of said board shall be appointed by the common council of the town of Ceredo. The first two members of said board appointed by the common council of the city of Kenova shall hold office for a term of two years and six years, respectively, and their terms shall be designated by the resolution appointing them; and the first member of the board appointed by the common council of the town of Ceredo shall hold office for the term of four years. Thereafter the members of said board shall be appointed for a term of six years. The
members of the board shall be chosen without regard to their political affiliations. Any appointment to fill a vacancy arising from any cause shall be for the remainder of the unexpired term. Any member of such board may be removed for cause at any time by a majority of the common council appointing such members. Such removal shall be upon written charges and before being removed such member shall have the right to a public hearing.

Sec. 3. Board a Corporate Body.—The board provided for herein shall be a body corporate, may sue and be sued, shall have a common seal, shall keep records of its proceedings in a book provided for that purpose, and shall designate a presiding officer, a secretary-treasurer and such other officers as the board may desire.

Sec. 4. Powers and Authority of Board.—The board shall have the power and authority to establish by-laws, rules and regulations for its own government and for the operation, maintenance and control of the flood walls under its jurisdiction and all instrumentalities used in connection therewith. Such by-laws, rules and regulations shall not be in conflict with the provisions of this act, general law and the ordinances passed from time to time by the common councils of the municipalities, and said board shall have such additional powers and duties as the municipalities may by ordinance lawfully confer on it.

Sec. 5. Budget of Board.—The board shall once each year on or before the thirty-first day of May, prepare and present to the common councils of the municipalities a budget of the anticipated financial requirements necessary for the performance of the duties imposed by this act and ordinances passed in pursuance thereof.

Sec. 6. Acceptance of Act by Adoption of Uniform Ordinance.—The common councils of said municipalities in their discretion and pursuant to the authority vested in them by this act may adopt a uniform ordinance reciting therein their purpose to accept the provisions of this act to create the flood wall board herein provided for,
and thereby confer on said board the supervision and
control of the custody of, administration, operation and
maintenance of the flood walls and all instrumentalities
necessary for their operation, surrounding and within the
territorial limits of said municipalities, and may confer
on said board such other powers as may be proper and
necessary for the performance of their duties under this
act and any ordinance passed in pursuance thereof.

Sec. 7. **Funds of Board; Zoning; Levy; Special Assess-
ments.**—If the ordinance provided in section six hereof
shall be passed by the municipalities, they shall provide
in said ordinance for adequate funds to meet the financial
requirements as hereinbefore provided. Said funds may
be provided by a general levy on all real and personal
property situated within the municipalities; or the com-
mon councils of said municipalities may, in their discre-
ption, by ordinance zone said municipalities in a proper
manner and levy special assessments on the basis of bene-
fits accruing to property owners within the respective
zones as designated by said ordinance; either of the al-
ternative methods shall be taken to comply with the pro-
visions of this act. If either method is adopted for raising
the funds required herein, the provisions of the ordin-
ance providing for such tax or special assessment shall
be uniform as to persons and property throughout the
town of Ceredo and the city of Kenova. The funds de-
derived from either taxes or assessments shall not be ex-
pended by the common councils of said municipalities
for any purpose other than for the maintenance, opera-
tion, and control of said flood walls and their instrumen-
talities.

Sec. 8. **Collections by Sheriff of Wayne County; Bond.**
—The sheriff of Wayne county shall collect all funds in
accordance with the provisions of the ordinance to be
adopted, and shall pay to the proper officer of the board
on or before the fifth day of each month all funds there-
tofore collected by him. The sheriff shall execute a bond
to be approved by the board in a penalty to be fixed by
the board not to exceed the amount of money which may
come into his hands within a period of two months. The premium for such bond shall be paid by the board. If the sheriff shall fail to make payment when due, he shall be charged with interest at the rate of twelve per cent per annum.

Sec. 9. Delinquent Lists; Publication; Tax Lien.—Said sheriff, after ascertaining that any tax or special assessment, as provided in the ordinance, is unpaid, shall on or before the first day of July next of the succeeding year for which the tax or special assessment was levied, prepare a separate delinquent list for each of the municipalities and certify the same to said common councils. The common councils of said municipalities shall thereupon cause the lists of the municipality to which it pertains to be published in the same manner that delinquent lists for state and county taxes are published, and the common councils of said municipalities are hereby given all remedies conferred by law on municipalities for the collection of other taxes or special assessments. Any tax or special assessments levied as herein provided shall be a lien upon the real estate owned by the person charged therewith from and after the recordation of said lien in the office of the clerk of the county court of Wayne county, West Virginia. Said lien shall be recorded in the same manner as a judgment lien.

Sec. 10. Expenditure of Funds; Bonds of President and Secretary-Treasurer.—All moneys expended by the board shall be by order or check drawn on the funds at the disposal of the board, which check or order shall be signed by the presiding officer of the board and countersigned by the secretary-treasurer thereof. The president and secretary-treasurer shall give bond for the faithful performance of their duties and to account for and pay over all funds in their custody, which bond shall be in a penalty to be fixed by the board, but shall not exceed the sum of ten thousand dollars for each. The accounts of the board, its president and secretary-treasurer shall be audited in the same manner as the accounts of the municipalities 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.

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. —The county court of Fayette county is hereby author-
CHAPTER 170

(Com. Sub. for House Bill No. 465—Originating in the House Committee on Counties, Districts and Municipalities)

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.

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

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.

—The board of education of Gilmer county, West Virginia, may cause to be submitted to vote of the qualified electors of Glenville district of said county as provided by the general laws of the state, the question of issuance and sale of bonds to build a high school building and to 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 by the legal voters of Glenville magisterial district of said county, equal to twenty per cent of the votes cast in said magisterial district for governor in the last preceding general election.
Sec. 2. Amount of Bonds to be Issued.—The bonds to be provided for hereunder shall not exceed in amount five per cent of the value of the taxable property therein, as shown by the last assessment thereof, for state and county purposes, next prior to the issuance of said bonds.

Sec. 3. Submission, Calling and Conducting Election.—The order of submission, the calling of and conducting said election, declaring the results thereof, shall be in conformity to and with sections four, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen and sixteen of article one, chapter thirteen, of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

Sec. 4. Advisory Committee to Board of Education.—The board of education of Gilmer county shall name five citizens of said district to serve in an advisory capacity to said board of education in the conduct of said election, issuance and sale of the bonds and in the construction of said high school from a list of names submitted to said board of education by the parent-teachers association of 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.
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-
vation and protection of persons or property in such causes or proceedings.

The manner and modes of procedure, power and jurisdiction conferred by law upon the circuit court of Kanawha county in any and all of the foregoing matters and causes are hereby conferred upon and shall be exercised by the domestic relations court of Kanawha county.

It shall not be necessary in any such causes or proceedings to set forth upon the record the facts authorizing the court to take jurisdiction thereof, but jurisdiction shall be presumed unless the contrary plainly appears from the record.

Sec. 3. **Judge; Qualification, Term, Appointment and Election.**—The principal presiding officer of the court shall be a judge whose qualifications, term, appointment, election and tenure shall be as follows. The person elected or appointed to said office of judge shall be a member of the West Virginia state bar and a resident member in good standing of the organized bar of Kanawha county. At the general election to be held on the Tuesday after the first Monday in November, one thousand nine hundred forty-eight, and at the general election to be held at intervals of eight years thereafter, some attorney, qualified as aforesaid, shall be elected, in the manner provided by law for the election of circuit judges, to be judge of said court for the next ensuing term of eight years, beginning on January first next following such election. Candidates for the office of judge of the court shall be nominated in the same manner as are candidates for the office of judge of the circuit court. The judge of the court may be removed from office for the same reasons and in the same manner as a judge of the circuit court. If from any cause the office of judge of the court shall become vacant, the vacancy shall be filled in the same manner as in the case of a vacancy in the office of the judge of the circuit court. Any judge so elected or appointed shall continue in said office until his successor is elected and qualified.

Sec. 4. **Salary.**—The judge of the domestic relations
court of Kanawha county shall for his services receive
the sum of eight thousand five hundred dollars per an-
um, to be paid in monthly installments out of the county
treasury of Kanawha county. The county court of Ka-
 nawha county shall annually make provisions by appro-
 priate levy and appropriation for the payment of said
salary.

Sec. 5. Clerk; His Powers, Duties and Compensation.—
The clerk of the circuit court of Kanawha county shall,
ex officio, be, act as and perform the duties of clerk of the
domestic relations court of Kanawha county and shall
exercise the same power and duties arising within the
jurisdiction of the court as are performed by him as clerk
of the circuit court. All processes, rules and orders of the
court, in the exercise of its jurisdiction, shall be signed
by the clerk thereof to be directed to the sheriffs of the
proper counties wherein the same are to be executed
in like manner and with the same effect as processes is-
suming from the circuit court of Kanawha county. For his
services under and pursuant to this act, the clerk shall
receive, in addition to his annual salary as provided by
general statute, additional compensation not to exceed
two thousand dollars annually, payable in monthly in-
 stallments out of the county treasury of Kanawha county,
begining contemporaneously with salary payments
hereunder to the judge of the court, and the county court
of Kanawha county shall annually make provision by
levy and appropriation for the payment of said additional
compensation.

Sec. 6. Power and Duties of Sheriff.—The sheriff of
Kanawha county and the sheriffs of the several counties
in the state shall by themselves or their deputies execute
all processes of said court, issued by the clerk thereof,
directed to them respectively, and all processes emanat-
ing from said court shall be directed to and be executed
by them in the same manner as is provided by law as to
processes issuing from the circuit court by said clerk.
The sheriff of Kanawha county shall perform the same
duties and services for said court as he is now by law re-
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... required to perform for the circuit court of Kanawha county. In the execution of processes, rules and orders of the court, the sheriff shall have the same powers and rights, be subject to the same liabilities, govern himself by the same rules and principles of law and the statutes of the state, as though said processes issued from the circuit court of Kanawha county.

Sec. 7. Transfer of Pending Causes.—The judges of the circuit court and of the court of common pleas of Kanawha county may, in their discretion, on and after the first day of January, one thousand nine hundred forty-nine, certify to the domestic relations court of Kanawha county any portion or all of the divorce proceedings, suits for annulment of marriage and any and all other matters pending in said courts and properly coming within the jurisdiction of this court as defined in section two hereof, and all such matters, suits, actions, petitions and proceedings so certified to the domestic relations court of Kanawha county shall be docketed and thereafter proceeded with therein according to law. The judges of the said circuit court and court of common pleas, in their discretion, may also direct the clerk of their respective courts to certify to and to docket all such matters, suits, actions, petitions and proceedings properly within the jurisdiction of the domestic relations court of Kanawha county as may be instituted on and after the first day of January, one thousand nine hundred forty-nine, in either of their said courts, in the domestic relations court of Kanawha county. In the event of the absence or disqualification of the judge of either the circuit court or court of common pleas, any matter coming within the purview of this act, pending in either of said courts, may be certified to the domestic relations court of Kanawha county, docketed therein and proceeded with according to law.

Sec. 8. Terms of Court; Maturity of Causes; Procedure.—For the purpose of maturing, docketing, hearing and determining all matters, suits, petitions and other proceedings properly determinable in the domestic relations...
court of Kanawha county there shall be regularly con-
tinued and held four terms of court each year, beginning
on the second Monday in February, May, August and
November. Special terms of said court may be called and
held whenever, in the discretion of the judge of the
court, public interest requires such special terms. The
judge of the court shall have like jurisdiction and au-
thority, in vacation of the court, to make and enter such
proper orders in any matter, suit, action, petition or pro-
ceeding pending in the court as the judges of the circuit
courts have under the laws of the state. All matters aris-
ing under the jurisdiction of the court, other than suits
for divorce, separation and annulment of marriages, may
be heard and determined either in term time or in va-
cation: Provided, however, That proper notice of any such
proceedings be given as provided by law for the particular
case.

The mode of procedure in causes instituted in this court
shall be the same as that prescribed for the circuit court
in similar causes. The court is authorized and empowered
to appoint such additional officers, divorce commissi-
ners, commissioners in chancery, special commissioners,
jury commissioners and probation officers, and such med-
ical, clerical and secretarial assistance as shall enable the
court to discharge all of the duties required of it under
the provisions of this act and the general laws of the state.
The judge shall maintain a political balance between the
two major political parties of Kanawha county in his
appointments of divorce commissioners, commissioners in
chancery and special commissioners, so that at no time
will the number of either divorce commissioners or com-
missioners in chancery or of special commissioners of one
political affiliation exceed by more than one the number
of such commissioners affiliated with the other major
political party of the county. The court shall make pro-
vision for reference of such divorce and other matters
as may be proper from time to time to said commissi-
ners in rotation so as to effect, in so far as practicable, an
equitable distribution of work between and among them.
The judge of the court shall have power to make and
promulgate such rules for the transaction of the business
of the court as may be necessary, provided that all such
rules shall be in conformity with the laws of the state
of West Virginia and with any rules promulgated by the
supreme court of appeals of this state.

Sec. 9. Supplies; Finances; Seal; Court Rooms.—It shall
be the duty of the county court of Kanawha county to pro-
vide all record and other books and stationery that may be
necessary for the court. Likewise a seal for the court shall
be provided, but full faith and credit shall be given to the
records of the court and certificates of its judge or clerk,
whether the seal of the court be affixed thereto or not,
in like manner and with the same effect as if the same
were records of the circuit court similarly authenticated.
The county court of Kanawha county shall likewise fur-
nish such rooms, furniture and equipment for the proper
conduct and administration of the court and shall,
through annual levy and appropriations, make provi-
sion for the payment for all such rooms, supplies and
equipment and as well for such clerical, secretarial and
other official help and expenses as may be required by
the court.

Sec. 10. Contempt.—The court shall have the same
powers to punish for contempt as are conferred upon
the circuit court by law.

Sec. 11. Appeals; Limitations Thereon.—Appeals may
be allowed and writs of error and supersedeas awarded
to judgments, decrees, rulings and orders of the court,
or the judge thereof, by the circuit court of Kanawha
county, or the judge thereof, in all matters arising within
the jurisdiction of this court for which matters appeals
may be allowed and writs of error and supersedeas
awarded by the supreme court of appeals if such matters
had originally arisen in the circuit court of Kanawha
county. In the event the circuit court of Kanawha county
or the judge thereof refuses an application for writ of
error and supersedeas or an appeal, application therefor
may be made direct to the supreme court of appeals of
the state or to any judge thereof. In all such cases such
application shall be made within four months next fol-
lowing the date of the entry of the final order, judgment,
or decree of this court or the circuit court as the case may
be.

Sec. 12. Separability; Repeal.—The provisions of this
act shall be construed as separable and severable and,
should any provision or part hereof be held unconstitu-
tional or for any reason invalid, the remaining provisions
or parts shall not be thereby affected.
All acts or parts of acts in conflict herewith are hereby
repealed.

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-
ized to Convey Land.—The board of education of Marion
county, West Virginia, is hereby authorized to grant and
convey a tract of land containing eight and thirty-one
hundredths acres, more or less, situated in Lincoln dis-
trict of said Marion county, to the Marion County Four-H
Camp Association, for a nominal consideration, the same
being the real estate heretofore conveyed to the said board
of education by the Marion county court under deed of
April twentieth, one thousand nine hundred forty, and
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.

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 of Mercer County.—On and after January first, one thousand nine hundred forty-nine, the judge of said court shall for his services receive six thousand five hundred dollars...
per annum, payable out of the county treasury of said county, as provided by chapter fourteen, section one, acts of the extraordinary session of the Legislature of West 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.

The purchase or lease price for any real property so
acquired and the cost of establishing, constructing, equip-
ing, maintaining and operating any such airport or land-
ing field may be paid for by appropriation of moneys
available therefor or wholly or partly from the proceeds
of the sale of bonds of such county, city, town or village,
or the bonds of the county, and any one or more of the
cities, towns and villages in said county, as the county
court or legislative body shall determine, subject, how-
ever, to the provisions of general law for the issuance and
sale of bonds of counties and municipalities for public
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 of this act a high school shall be defined as a school consisting of all grades above the sixth to the completion of secondary education.

Sec. 2. Selection of Name.—The name of the said high school shall be selected jointly by the board of governors of the West Virginia university and the board of education of the county of Monongalia.

Sec. 3. Control and Supervision.—The university board of governors and any other controlling authorities of the university, as provided by law, shall have general control and supervision of the said high school as a part of West Virginia university.

Sec. 4. Advisory Committee.—The board of education of the county of Monongalia and the superintendent of schools of Monongalia county shall constitute an advisory committee to confer with the authorized agents of West Virginia university on questions affecting the policy of the said high school.

Sec. 5. Use of High School.—The said high school may be used for observation, demonstration, directed teaching, practice supervision, and educational laboratory work of the college of education of the West Virginia university.

Sec. 6. Admission and Selection of Pupils.—The authorities of West Virginia university and the advisory committee of Monongalia county as provided for in section four, shall from year to year determine the number of pupils to be admitted and the basis of pupil selection.

Sec. 7. Payment for Maintenance and Instruction.—The board of education of the county of Monongalia shall pay for maintenance and instruction of pupils enrolled in the said high school a tuition fee of one-half of the average per capita cost for instruction and maintenance, exclusive of transportation costs, in high schools of West Virginia, as determined by the last preceding report of the state superintendent of schools of West Virginia. The
Sec. 8. Levy for Buildings.—With the approval of the university board of governors and any other authorities provided by law, the board of education of the county of Monongalia shall have the right to lay a levy for the erection of such additions and buildings as may be deemed necessary by all parties concerned to provide adequate facilities for said high school.

Sec. 9. Gifts, Bequests or Federal Funds.—In the event that any gifts, bequests or federal funds are made available to the board of education of the county of Monongalia, for the benefit of said high school, said board is hereby authorized to make said funds available to the proper authorities of the West Virginia university for the use designated.

All acts and parts of acts inconsistent with this act are hereby repealed.
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.
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
Sec. 2. Board of Directors.—Upon the establishment of said Morgan county war memorial hospital, the county court shall appoint a board of directors equal in number to the magisterial districts of the county and select one director from each of such districts, from the citizens thereof, with reference to their fitness for such office. Such directors shall hold office for four years from the first day of July following their appointment. No person shall be ineligible to appointment by reason of sex, political or religious affiliations. Vacancies in the board shall be reported to the county court and filled by appointment in like manner as original appointments for the unexpired term. The county court may remove any director for misconduct or neglect of duty. No compensation shall be paid or allowed any director.

Sec. 3. Organization of Board; Duties; Deposit of Funds. —The board of directors of the memorial hospital established under this section shall, immediately after their appointment, meet and organize by electing one of their number as president and one as vice president and one as secretary; a majority of all the members of the board shall constitute a quorum for the transaction of business. They shall make and adopt such by-laws, rules and regulations from time to time, for their own guidance and for the government and use of the hospital and its facilities, as may be expedient and not inconsistent with this section. Such board shall have authority to contract for necessary improvements, additions, alterations and repairs to said hospital, the purchase, repair and replacement of necessary equipment, and shall generally have the supervision and management of said hospital and the care and custody of the grounds, structures and facilities. All moneys belonging to said war memorial hospital fund shall be deposited in the treasury of Morgan county to the credit of the war memorial hospital fund and shall be drawn therefrom from time to time on ord-
ers issued by the said board of directors to be expended by said board for the purposes enumerated. Such orders shall not be drawn except upon requisition of the said board of directors attached to proper authenticated vouchers, and said funds shall then be deposited in the board's treasury and checks drawn thereon.

Sec. 4. Appointment of Superintendent; Doctors; Nurses; Employees, etc.—The board shall have the power to appoint a suitable superintendent, assistant superintendent, doctors, nurses, technicians and other qualified staff members and employees necessary for the efficient operation of the memorial hospital, prescribe rules for their conduct, fix their duties and compensations, and the board shall have power to remove such appointees and employees and, in general, to manage and control the operation and maintenance of said memorial hospital. All appointees and employees shall be chosen upon the basis of their administrative, technical or other particular qualifications for the office or position for which they are employed and without regard to their religious or political opinions or affiliations.

Sec. 5. Rules and Regulations for Management of Hospital.—In addition to the other powers herein granted, the board shall make such rules and regulations in and concerning the management of the hospital as may seem necessary, needful or proper, and the adoption of such disciplinary measures as may appear expedient; and the board may delegate to the superintendent and to such other of the directing personnel, as it may from time to time determine, ample and plenary power to enforce its rules and regulations; the board shall formulate appropriate rules and regulations relating to the use of the hospital and its facilities by members of the medical and surgical profession, and by the members of the medical staff, and shall fix and establish appropriate rates and charges for the use of the hospital and its facilities and services by any patients who may be admitted thereto for care, hospitalization or treatment. In general, the board shall have complete authority to conduct the af-
fairs of the Morgan county war memorial hospital with all its appropriate facilities and services, and the enumeration of powers in this section shall not operate to exclude the exercise of other powers fairly incidental thereto and reasonably implied and within the purposes of this act.

Sec. 6. Board to Keep Books of Account; Method of Making Disbursements.—The board shall cause accurate and proper books of account to be kept and no money shall be paid out of the board's treasury except upon the approval of the board, and all checks shall be drawn in the name of the Morgan county war memorial hospital and signed by the treasurer and countersigned by the superintendent or by another officer or agent of the board designated so to do.

Sec. 7. Bonds of Officers, Agents and Employees.—All officers, agents or employees of the hospital authorized to receive money for the hospital shall be required to give bond in such sum and with such surety as may be deemed sufficient by said board.

Sec. 8. Deposit of Funds; Financial Statement; Reserve Accounts.—All funds of the hospital, from whatever source received, shall be deposited in such bank in Morgan county as the board may direct, and at least once each month the board shall render an itemized statement of the hospital's receipts and disbursements to the county court of Morgan county, and annually as of the first day of July in each year, the board shall also submit to the court a completely itemized statement of the hospital's financial condition. In said annual report to the court, the board shall state the condition of the property, the various sums received from the memorial fund and from all other sources, how much money was expended and for what purpose, and an itemized budget estimate of operating expenses for the ensuing year, with such other information and suggestions as the board may deem of general interest, or that may be required by the county court. The board may provide for such reserve accounts for operation, repair, replacement, in-
Sec. 9. Gifts; Grants-in-Aid.—The board may receive gifts of money or property, and may take by bequest or devise any gift or legacy and use or hold the same for the benefit of said memorial hospital, and shall have the right to apply for and receive for said use and benefits grants-in-aid from federal and state governments and agencies thereof.

Sec. 10. Recognition of Patron's Organization.—The board of directors may recognize the organization of an active auxiliary or circle comprising patrons and friends of the hospital to be affiliated with the board’s hospital management and maintenance policies.

Sec. 11. Employees to be Within Workmen’s Compensation Act, Insurance.—The board of directors shall carry workmen’s compensation on all employees of the hospital, eligible thereto, who are hereby declared to be within the provisions of the workmen’s compensation act of West Virginia, and the premiums on such workmen’s compensation shall be paid by the board from said hospital fund. Adequate insurance coverage against hazards shall at all times be carried in such amount as prudence and good management indicate.

Sec. 12. Title to Property.—Title to all property constituting or belonging to the Morgan county war memorial hospital shall be vested in the county court of Morgan county.

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 Court.—The said judge shall, from and after January first, one thousand nine hundred forty-nine, for his services receive seven thousand dollars per annum, to be paid out 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 8, 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
the hiring, operation and maintenance of a dog catcher in
Summers county, to be selected by and operated under
the direction of the said county court.
All acts, or parts of acts, inconsistent herewith, are
hereby repealed, in so far as they may apply to Summers
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
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.
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

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.

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.

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.

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-
fve, 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.

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-
HOUSE CONCURRENT RESOLUTIONS

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.

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.

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 recovery 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.

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.

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 Mountainers 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 homeland 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.

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.”

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. Doringer)
[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.

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.

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.

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.

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;
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. Doringer)
[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 regu-
lar 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 ex-
tended 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 as-
sistant clerk is extended for ninety days; an assistant superin-
tendent 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 ex-
tended for thirty days; the time of the clerk, assistant clerk,
and stenographer to the Committee on the Judiciary is ex-
tended 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 hun-
dred fifty dollars per month, said salaries to be payable from
the contingent fund of the House of Delegates upon requisi-
tions 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:
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

"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."
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.

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."

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.
SENATE JOINT RESOLUTION

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.

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.

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.

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.

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.
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.
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
stationery $1,000.00

Sec. 4. Payment of Bills After Adjournment.—The
Clerk of the Senate, with the approval of the President of
the Senate, and the Clerk of the House of Delegates, with
the approval of the Speaker, are authorized to draw their
requisitions upon the Auditor, payable out of the contin-

gent fund of the respective Houses, for any bills for sup-
plies and services that may have been incurred by the
Senate and House of Delegates and not included in this
act, and for bills and services incurred after adjournment,
the requisitions for same to be accompanied by a bill for
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 thou-
sand nine hundred thirty-one, as last amended by chapter
forty-one, acts of the Legislature, regular session, one thou-
sand nine hundred forty-seven, providing for the designa-
tion of a state official, in some cases the auditor and in other
cases the secretary of state, as attorney in fact for all cor-
porations 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.]

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
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 any business or occupation, upon which the state imposes an annual privilege tax under article thirteen, chapter eleven of this code, as amended, is engaged in or carried on within any city, town or village of the state, the council or similar governing body may by ordinance, unless prohibited by existing law, impose a similar privilege tax
thereon for the use of the city, town or village: Provided, however, That in no case shall the rate of such municipal privilege tax on a particular activity exceed the rate imposed by the state, exclusive of surtaxes.

Any taxes levied pursuant to authority of this section may be made operative as of the first day of the current fiscal year and each year thereafter.

If any sentence or paragraph of this section shall for any reason be adjudged invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the sentence or paragraph or part thereof, directly involved in the controversy in which such judgment shall have been rendered.

All acts, special or general, inconsistent with the provisions 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.]


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.

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<td>County clerk</td>
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<td>County commissioners</td>
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<tr>
<td>Prosecuting attorney assistant</td>
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and

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EXTRAORDINARY SESSION
(March 18-23, 1946)

OF THE

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

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<td>Fourteenth</td>
<td>Don J. Eddy (D)</td>
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<tr>
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<tr>
<td>Fifteenth</td>
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<td></td>
<td>G. O. Young (R)</td>
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<tr>
<td>Sixteenth</td>
<td>*Ralph J. Bean (D)</td>
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<td>William P. C. Perry (D)</td>
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</table>

(D) Democrat .................................. 21
(R) Republican ................................ 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.*

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<td>Herman J. Poling (D)</td>
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<td>Clarence L. Hall (D)</td>
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(*) 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 0. 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.

(1) Appointed to fill unexpired term of the Honorable J. Harper Meredith, resigned.
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<tr>
<td>Wyoming</td>
<td>C. A. Blankenship (D)</td>
<td>Pineville</td>
</tr>
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</table>

(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.
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. Senate.—Compensation and per diem of officers and attaches $ 3,500.00
2 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. House of Delegates.—Compensation and per diem of officers and attaches $ 2,500.00
3 Mileage of members 2,600.00
5 Current expenses and contingent fund 5,000.00
6 Contingent Fund (S. C. R. No. 3) 7,500.00
Sec. 3. Joint Expenses.—Printing and stationery $7,500.00

Sec. 4. Payment of Bills After Adjournment.—The clerk of the senate, with the approval of the president of the senate, and the clerk of the house of delegates, with the approval of the speaker, are authorized to draw their warrants upon the auditor, payable out of the contingent fund of the respective houses, for any bills for supplies and services that may have been incurred by the senate and house of delegates and not included in the appropriation bill, and for bills and services incurred after adjournment, the requisition for same to be accompanied by a bill for same to be filed with the auditor.

CHAPTER 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
   Auditor's office—Acct. No. 150 3

   EDUCATIONAL
   Bluefield state college—Acct. No. 329 7
   Concord college—Acct. No. 325 6
   Fairmont state college—Acct. No. 321 5
   Glenville state college—Acct. No. 322 5
   Marshall college—Acct. No. 320 4
   Shepherd college—Acct. No. 324 5
   West Liberty state college—Acct. No. 323 5
   West Virginia institute of technology—Acct. No. 327 6
   West Virginia state college—Acct. No. 328 6
   West Virginia university—Acct. No. 300 3
   West Virginia university (Potomac state school)—Acct. No. 315 4.

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 to the appropriations made by chapter eleven, acts of the Legislature, regular session, one thousand nine hundred forty-five, there be and are hereby appropriated out of the treasury for the fiscal year ending June thirtieth, one thousand nine hundred forty-six and for the fiscal year ending June thirtieth, one thousand nine hundred forty-seven, the following sums of money for the following purposes:

150—Auditor's Office
Acct. No. 150

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<th>Fiscal Years</th>
<th>1945-46</th>
<th>1946-47</th>
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<td>1 Personal Services</td>
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<td>2 Current Expenses</td>
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<td>3 Equipment</td>
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<tr>
<td>4 Totals</td>
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39—West Virginia University
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<tr>
<td>2 Current Expenses</td>
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<tr>
<td>3 Equipment</td>
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</tr>
<tr>
<td>4 To provide sites for Federal housing units</td>
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</tr>
<tr>
<td>5 To equip Federal dormitories or housing units</td>
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<td><strong>APPROPRIATIONS</strong></td>
<td>[Ch. 2]</td>
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<tr>
<td>8</td>
<td>To reimburse capital expenditure appropriations</td>
<td>$30,000.00</td>
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<tr>
<td>9</td>
<td>For purchase of surplus war properties</td>
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<td>12</td>
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400—Potomac State School of West Virginia University
Acct. No. 315

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<td>8</td>
<td>To equip Federal dormitories or housing units</td>
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401—Marshall College
Acct. No. 320

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<td></td>
<td></td>
<td></td>
<td></td>
<td>$8,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>To provide sites for Federal housing units</td>
<td>$5,000.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>To equip Federal dormitories or housing units</td>
<td>$10,000.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>To reimburse capital expenditure appropriations</td>
<td>$5,000.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Total</td>
<td>$223,500.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 402 — Fairmont State College
**Acct. No. 321**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Personal Services</td>
</tr>
<tr>
<td>2.</td>
<td>Current Expense</td>
</tr>
<tr>
<td>3.</td>
<td>Equipment</td>
</tr>
<tr>
<td>4.</td>
<td>Total</td>
</tr>
</tbody>
</table>

### 403 — Glenville State College
**Acct. No. 322**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Personal Services</td>
</tr>
<tr>
<td>2.</td>
<td>Current Expense</td>
</tr>
<tr>
<td>3.</td>
<td>Equipment</td>
</tr>
<tr>
<td>4.</td>
<td>Total</td>
</tr>
</tbody>
</table>

### 404 — West Liberty State College
**Acct. No. 323**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Personal Services:</td>
</tr>
<tr>
<td>2.</td>
<td>For staff returning from military leave</td>
</tr>
<tr>
<td>3.</td>
<td>For other</td>
</tr>
<tr>
<td>4.</td>
<td>Current Expense</td>
</tr>
<tr>
<td>5.</td>
<td>Equipment</td>
</tr>
<tr>
<td>6.</td>
<td>To provide sites for Federal housing units</td>
</tr>
<tr>
<td>7.</td>
<td>To equip Federal dormitories or housing units</td>
</tr>
<tr>
<td>8.</td>
<td>Total</td>
</tr>
</tbody>
</table>

### 405 — Shepherd College
**Acct. No. 324**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Personal Services</td>
</tr>
<tr>
<td>2.</td>
<td>Current Expense</td>
</tr>
<tr>
<td>3.</td>
<td>Equipment</td>
</tr>
<tr>
<td>4.</td>
<td>To provide sites for Federal housing units</td>
</tr>
</tbody>
</table>
### Appropriations

<table>
<thead>
<tr>
<th>6</th>
<th>To equip Federal dormitories or housing units</th>
<th>15,000.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Total</td>
<td>23,400.00</td>
</tr>
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</table>

#### 406—Concord College

**Acct. No. 325**

<table>
<thead>
<tr>
<th>1</th>
<th>Personal Services:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>For staff returning from military leave</td>
</tr>
<tr>
<td>3</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>For other</td>
</tr>
<tr>
<td>5</td>
<td>Current Expense</td>
</tr>
<tr>
<td>6</td>
<td>Equipment</td>
</tr>
<tr>
<td>7</td>
<td>To provide sites for Federal housing units</td>
</tr>
<tr>
<td>8</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Total</td>
</tr>
</tbody>
</table>

#### 407—West Virginia Institute of Technology

**Acct. No. 327**

<table>
<thead>
<tr>
<th>1</th>
<th>Personal Services:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>For staff returning from military leave</td>
</tr>
<tr>
<td>3</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>For other</td>
</tr>
<tr>
<td>5</td>
<td>Current Expense</td>
</tr>
<tr>
<td>6</td>
<td>Equipment</td>
</tr>
<tr>
<td>7</td>
<td>To provide sites for Federal housing units</td>
</tr>
<tr>
<td>8</td>
<td>To equip Federal dormitories or housing units</td>
</tr>
<tr>
<td>9</td>
<td>To reimburse Governor's Emergency Fund</td>
</tr>
<tr>
<td>10</td>
<td>Appropriation</td>
</tr>
<tr>
<td>11</td>
<td></td>
</tr>
</tbody>
</table>

#### 408—West Virginia State College

**Acct. No. 328**

<table>
<thead>
<tr>
<th>1</th>
<th>Personal Services:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>For staff returning from military leave</td>
</tr>
<tr>
<td>3</td>
<td></td>
</tr>
</tbody>
</table>
Ch. 2] APPROPRIATIONS 7

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>For other</td>
<td>27,000.00</td>
</tr>
<tr>
<td>5</td>
<td>Current Expense</td>
<td>3,500.00</td>
</tr>
<tr>
<td>6</td>
<td>To provide sites for Federal housing units</td>
<td>6,375.00</td>
</tr>
<tr>
<td>7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>To equip Federal dormitories or housing units</td>
<td>6,725.00</td>
</tr>
<tr>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Total</td>
<td>$ 50,100.00</td>
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</tbody>
</table>

410—Bluefield State College

Acct. No. 329

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>$ 21,000.00</td>
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<tr>
<td>2</td>
<td>Current Expense</td>
<td>$ 1,500.00</td>
</tr>
<tr>
<td>3</td>
<td>Equipment</td>
<td>2,500.00</td>
</tr>
<tr>
<td>4</td>
<td>To provide sites for Federal housing units</td>
<td>6,000.00</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>To equip Federal dormitories or housing units</td>
<td>15,000.00</td>
</tr>
<tr>
<td>7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Total</td>
<td>$ 4,000.00</td>
</tr>
</tbody>
</table>

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
thousand nine hundred forty-five. Upon the approval of the budget director and the board of public works, such appropriations or any part thereof may be expended for the construction of buildings, or for the acquisition of land and buildings, or for the purchase of equipment.

Sec. 4. Expenditure of Appropriations Heretofore Made for West Virginia University and Marshall College.—The Legislature hereby authorizes the expenditure of the appropriations, or any part thereof, made for West Virginia university in item nineteen and for Marshall college in item twenty-one, section three-a, title two, chapter eleven, acts of the Legislature, regular session, one thousand nine hundred forty-five, for the construction of buildings, or for the acquisition of land and buildings, or for the purchase of equipment, upon the approval of the 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-
lic 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 this 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.

Sec. 2. Amendment to be Known as the "Education Amendment".—For convenience in referring to the proposed amendment and in the preparation of the form of the ballot hereinafter provided for, the proposed amendment is hereby designated and shall be known as the "Education Amendment".

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

Ballot on constitutional “Education Amendment”,
amending section two of article twelve of the state con-
stitution.

☐ For ratification of “Education Amendment”.
☐ Against ratification of “Education Amendment”.

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

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

“We, the undersigned who acted as commissioners (or
canvassers, as the case may be), of the election held at
precinct number .........., in the district of.........., in the county of......................, on the fifth day of No-
vember, one thousand nine hundred forty-six, upon the
question of the ratification or rejection of the Proposed
constitutional amendment to section two of article twelve,
do hereby certify that the result of that election is as
follows:

For ratification of 'Education Amendment'

................. votes.

Against ratification of 'Education Amendment'

..................... votes.

Given under our hands this .......... day of No-

vember, one thousand nine hundred forty-six.

The two certificates shall correspond with each other
in all respects, and contain the full and true returns of
the election at each place of voting on the question of
the proposed amendment. The commissioners, or any
one of them (or the canvassers, or any one of them, as
the case may be), shall within four days, excluding Sun-
day, after that on which the election was held, deliver
one of the certificates to the clerk of the county court
of the county, together with the ballots, and the other to
the clerk of the circuit court of the county.

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

"We, the board of canvassers of the county of ..........,

having carefully and impartially examined
the returns of the election held in this county, in each
district thereof, on the fifth day of November, one thou-
sand nine hundred forty-six, do certify that the result
of the election in this county on the question of the
ratification or rejection of the proposed constitutional
amendment to section two of article twelve is as fol-
lows:

For ratification of 'Education Amendment'

............... votes.
Against ratification of 'Education Amendment'

Given under our hands this ______ day of _____________________,
one thousand nine hundred forty-six.”

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

Sec. 5. Proclamation of Result of Election by Governor.—On the twenty-fifth day after the election is held,
or as soon thereafter as practicable, the certificates shall
be laid before the governor, whose duty it shall be to
ascertain therefrom the result of the election in the state,
and declare such result by proclamation published in one
or more newspapers printed at the seat of government.
If a majority of the votes cast at the election upon the
question be for the ratification of the proposed amend-
ment, such amendment so ratified shall be of force and
effect from and after the time of such ratification as part
of the constitution of the state.

Sec. 6. Publication of Proposed Amendment by Governor.—The governor shall cause the proposed amend-
ment, with its proper designation as hereinbefore adopted,
to be published one time, at least three months before
such election, in some newspaper in every county in this
state in which a newspaper is printed, at a price to be
agreed upon in advance in writing, and the cost of such
advertising shall in the first instance, if found necessary
by him, be paid out of the governor’s contingent fund
and be afterwards repaid to such fund by appropriation
of the Legislature.
CHAPTER 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.
7. Required provisions in contracts made by the corporation with hospitals and physicians.
9. Payroll deductions of governmental employees.
10. Investment; bonds of corporate officers and employees.
11. Dissolution.

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 the desirability of making available to the people of the state increased hospital and medical services on a distributive cost basis, the declared policy of the Legislature in the enactment of this article is to encourage the organization, promotion and expansion of hospital service corporations and medical service corporations by exempting them from the payment of all taxes and from the operation of the general insurance laws of the state, but at the same time subjecting them to such regulation as may be
necessary for the adequate protection of those members of the public who subscribe for the services offered by such corporations.

Sec. 2. Definitions.—For the purposes of this article:
   (1) “Corporation” shall mean either a hospital service corporation or a medical service corporation.
   (2) “Hospital service corporation” shall mean a non-profit, nonstock corporation, organized in accordance with the provisions of article one of this chapter for the sole purpose of contracting with the public and with hospitals for hospital service to be furnished to subscribers under terms of their contract with the corporation.
   (3) “Hospital service” shall mean only such hospital care, to be provided by approved hospitals, or such payment therefor, as may be specified in the contract made by the subscriber with the corporation.
   (4) “Medical service corporation” shall mean a non-profit, nonstock corporation, organized in accordance with the provisions of article one of this chapter for the sole purpose of contracting with the public and with duly licensed physicians for medical service to be furnished to subscribers under terms of their contract with the corporation, and controlled by a board of directors, the majority of whom are duly licensed physicians.
   (5) “Medical service” shall mean only such medical and surgical care, to be provided by duly licensed physicians, or such payment therefor, as may be specified in the contract made by the subscriber with the corporation.

Sec. 3. Corporations Affected; Eligibility of Hospitals and Physicians.—Every such corporation operating within the state, whether organized before or after the effective date of this article, shall on and after such date be subject to the provisions hereof, except that no such corporation doing business on that date shall be required before the first day of July, one thousand nine hundred forty-six, to obtain the license provided for in section six of this article. Every approved hospital in this state shall be eligible for participation in the hospital service plan operating in the area in which such hospital is located. Every duly licensed physician in this state shall be eligible
for participation in the medical service plan operating in
the area in which he resides or practices.

Sec. 4. Exemptions.—Every such corporation is hereby
declared to be a scientific, nonprofit institution, and as
such exempt from the payment of all property and other
taxes. Except as otherwise provided in this article, such
corporations shall also be exempt from the operation of
the general insurance laws of the state. If, however, any
such corporation shall be converted into a corporation
organized for pecuniary profit, or if it shall transact busi-
ness without having obtained a license as required by
section six of this article, it shall thereupon forfeit its
right to these exemptions.

Sec. 5. Supervision by Insurance Commissioner; An-
nual Reports.—The auditor as state insurance commis-
sioner shall, to the extent specified in this article, have
general supervisory control over every such corporation,
and it shall be his duty to see that the provisions hereof
are properly executed and administered.

No such corporation shall, without the prior approval
of the commissioner, make any change in the terms of
its contract with subscribers or in the form of its appli-
cations, renewals, riders or endorsements; nor, after the
first year of its operation, shall any such corporation use
for administrative expenses more than twenty per cent
of its gross collections without first having obtained the
approval of the commissioner. No such corporation shall
include in its name the words “insurance”, “casualty”,
“surety”, “health and accident”, “mutual”, or any other
words descriptive of the insurance or surety business;
nor shall such name be so similar to that of any insurance
or surety company, which was doing business in the state
when such corporation was formed, as to tend, in the
opinion of the insurance commissioner, to confuse the
public.

The insurance commissioner, and any deputy or ex-
aminer appointed by him for the purpose, shall in respect
to every such corporation have the power of visitation,
shall have free access to all books, papers and documents
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
44 On or before the first day of March of each year, every
45 such corporation shall file with the insurance commis-
46 sioner an annual report for the preceding calendar year,
47 in such form as may be prescribed by him. Such report
48 shall show the financial condition of the corporation on
49 the last day of the preceding year, and shall be verified
50 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
insurance commissioner shall, upon payment to him of a license fee of one hundred dollars, issue a license authorizing the corporation to transact business in the state in the area to be served by it, if he is satisfied (1) that the applicant is incorporated in this state, under the provisions of article one of this chapter, as a bona fide non-profit corporation, (2) that the contracts between the corporation and participating hospitals and physicians contain all the terms required by the following section, (3) that the working capital available to the corporation will be sufficient to pay all operating expenses, other than payment for hospital or medical services, for a reasonable period after the issuance of the license, and (4) that the proposed plan will serve the best interests of all the people of the area in which the corporation intends to operate, regardless of their race, color or economic status. Any license so issued may be renewed annually upon payment to the insurance commissioner of a renewal fee of one hundred dollars. The license of any corporation may be revoked by the commissioner if he finds that the corporation has violated any of the provisions of this article.

The provisions of the general insurance laws relating to the licensing of agents, solicitors and brokers shall apply to such persons employed by hospital or medical service corporations, except that the license fee shall be one dollar a year.

The provisions of the general insurance laws relating to the refusal to issue a license and to the revocation of a license shall, insofar as practicable, apply to the licenses provided for in this section.

All licenses issued by the insurance commissioner under the provisions of this section shall, unless sooner revoked, continue in force until the first day of April following their issuance. If the expiration date of any license issued to a corporation is less than nine months after its issuance, the license fee shall be prorated on a quarterly basis.

Sec. 7. Required Provisions in Contracts Made by the 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 may accept from governmental agencies payment of all or part of the cost of subscriptions for hospital or medical service to be rendered needy persons, and may accept from private agencies, corporations, associations, groups or individuals, similar payment for such service to be rendered needy or other persons. All contracts for hospital or medical service shall, however, be made by the corporation with the persons entitled to receive such service.

Sec. 9. Pay Roll Deductions of Governmental Employees.—The officer charged with the duty of preparing the pay roll of any subscriber, who is an employee of the state government or of any of its political subdivisions, may upon request of the subscriber deduct from his pay roll the amount of the fee owed by the subscriber to any hospital service corporation or medical service corporation, in which case the officer shall pay over such amount directly to the corporation.

Sec. 10. Investments; Bonds of Corporate Officers and Employees.—The funds of any such corporation may be invested only in securities of the United States, the state of West Virginia, or one of its political subdivisions. With the approval of the insurance commissioner, however, part of such funds may be spent by the corporation for the purchase or erection of a building to be used as its office.

Every officer or employee of any such corporation, who is entrusted with the handling of its funds, shall furnish, in such amount as may with the approval of the insurance commissioner be fixed by the board of directors of the corporation, a bond with corporate surety, conditioned upon the faithful performance of all his duties.

Sec. 11. Dissolution.—Upon the insolvency of any such corporation, its dissolution or liquidation shall be conducted under the supervision of the insurance commissioner, who shall have in respect thereto all the powers conferred upon him by the provisions of the general
insurance laws in respect to the dissolution or liquidation of insurance companies.

Sec. 12. Judicial Review of the Orders Issued by the Insurance Commissioner.—All official orders of the insurance commissioner issued under the authority conferred upon him by this article shall be subject to such judicial review as is provided for in section fourteen, article four, chapter thirty-three of the code.
RESOLUTIONS

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.

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.

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.

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.

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. Doringer)
[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.

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**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 intra-state 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 hereinafter 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.

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.

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 extraordi-
nary 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 Super-
visor 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;
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
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<td>Hall, A. M.</td>
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<td>Hardesty, C. Howard</td>
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<td>Harmer, Hardin R.</td>
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<td>Jackson, Glenn</td>
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<td>McKown, C. H.</td>
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<td>Wylie, Ward</td>
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<td>Young, G. O.</td>
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<td>Vickers, Arnold M.</td>
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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.
Resolutions

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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**EXTRAORDINARY SESSION, 1946**

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